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The European Union and the politicization of gender and sexuality in the reforms of the Common European Asylum System (1999-2020)

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Abstracts

The history of the Common European Asylum System (CEAS) is often considered to be tightly intertwined to that of European security, and late developments in European cooperation indeed seem to demonstrate that asylum has become first and foremost a matter of security in Europe. Yet, this tightening of policies contrasts with the flourishing of proposals claiming to mainstream equality throughout European legislation. This dissertation examines the way a politicized issue in the field of equality—LGBTI rights—has become incorporated into a cooperation mechanism that is itself divisive among Member States, the CEAS. It answers the following question: what does the European LGBTI asylum debate demonstrate about the role played by politicization in shaping the meaning and form taken by equality in European policies? Through a qualitative inquiry, it shows that while the CEAS has been a key space of renegotiation of LGBTI equality in Europe, this deepening came at the cost of the disarticulation of LGBTI emancipation from migrants' rights. Contrarily to what has been assumed by the literature on homonationalism, this disarticulation was not strategically constructed by LGBTI activists. It rather originated from the predominance of the paradigm of "migration governance", which depoliticizes exclusions and divides causes to better manage populations. Consequently, even though politicization is often perceived as a negative phenomenon by policymakers, this dissertation shows that what is needed to make the CEAS hold its promises of protection is not less, but more political debate. Only through this re-politicization will new and collective forms of equality emerge.

Keywords: Common European Asylum System, migration policies, LGBTI rights, politicization processes

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Le Régime d'Asile Européen Commun (RAEC) est souvent critiqué pour la vision sécuritaire de l'asile qu'il incarne. Il est vrai que son histoire reste marquée par la volonté des Etats-Membres de contrôler la mobilité humaine sur le sol européen. Toutefois, bien que les récents durcissements des politiques communautaires semblent confirmer cette sécuritisation du droit d'asile, ceux-ci contrastent avec l'affirmation croissante de la nécessité de « mainstreamer » le principe d'égalité au sein du droit européen. Prenant cette contradiction pour point de départ, cette thèse examine la manière dont un enjeu controversé au sein du champ de l'égalité – les droits LGBTI – fut incorporé au sein d'un mécanisme de coopération lui-même conflictuel pour les Etats-Membres, le RAEC. Elle répond à la question suivante : en quoi le débat européen sur l'asile LGBTI interroge-t-il le rôle joué par la politisation dans la redéfinition des politiques d'égalité en Europe ? A partir d'une enquête qualitative, cette thèse montre que si le RAEC fut un espace-clé de l'approfondissement de l'égalité LGBTI en Europe, ce fut au prix de la construction des droits LGBTI et des droits des migrants comme deux enjeux distincts. Cette division, toutefois, prend sa source non pas dans une instrumentalisation homonationaliste, mais plutôt dans les dispositifs dépolitisants de gouvernance et de triage des populations qui prédominent désormais au sein des politiques européennes, dépolitisant les exclusions et fragmentant les causes. Face à cette logique individualisante, seule la repolitisation du débat permettra d'inventer de nouvelles formes de politiques d'égalité porteuses d'émancipation collective.

Mots-clés : Régime d'Asile Européen Commun, politiques migratoires, droits LGBTI, processus de politisation

Acknowledgements

Doing research is always a deeply individual and intimate experience. However, this individual experience can only become truly meaningful when it is shared with others—be they researchers, friends, interviewees, or the anonymous reader who is stumbling upon this manuscript several years after it was submitted for evaluation.

As I am writing these final words, I have—of course—learnt to renounce exhaustivity, and I sincerely apologize to the many people I will not be able to mention explicitly in this section. If you have been part of this intellectual journey, whether it was for a few minutes or for a few years, please do accept all my gratitude, for it often was in these interactions with others that I found inspiration for many of the ideas I sought to develop here.

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As illustrated by the above paragraph, my PhD experience was marked with multiple travels and periods abroad, both for fieldwork-related reasons and for the purpose of my joint international supervision. I realize how fortunate I was to have several institutions materially supporting my work and my mobility, especially in a context of rarefication of research funding. I am very much obliged to the University of Trento for granting me a doctoral scholarship, and for supporting my travels with a generous mobility scheme. I am also appreciative of Sciences Po's and the Île-de-France Region's support on travel expenses. I would have never applied to the OxPo exchange programme without their support. Lastly, I am extremely grateful to the City of Paris for having awarded me their annual Scholarship in Gender Studies, thus allowing me to work peacefully on my dissertation in its final stages.

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INTRODUCTION

Gender, Sexuality, and European Asylum Policies

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> "Each of these three movies [Flee, Great Freedom, and Quo Vadis Aida?] sheds light upon a different angle of our European history. LGBTIQ+ rights, human rights, genocide – these are important stories which we need to tell more than ever, and which must be heard by European society and by decision makers"
>
> (Europarl press release, 13/12/2021)

These were the words of Klara Dobrev, European Parliament Vice-President in charge of the LUX Audience Film Award when she introduced the movies nominated for the 2022 prize: Flee, Quo Vadis Aida?, and Great Freedom. Although it did not win the prize, Flee caught the attention of cinephiles, politicians, and lesbian, gay, bisexual, trans, and intersex (LGBTI) activists alike. The movie tells the story of Amin, an Afghan refugee and academic living in Copenhagen, who fled Afghanistan with his family in the late 1980s and who, after a long and violent journey that resulted in him being separated from his family, obtained protection in Denmark. Amin is also gay, and although he was not granted the status of refugee for this reason, the movie was a great success among activists supporting LGBTI asylum seekers in Europe today. Amin's story, often described as touching, was also received positively by European deputies in charge of organizing the LUX Award. While Klara Dobrev, quoted above, described it as "shed[ding] light upon a different angle of our European history", Sabine Verheyen, chair of the European Parliament's committee in charge of culture, also praised the selection by stating that "European cinema is a mirror of our society" and a way "to communicate our European values such as equality, freedom of expression and democracy".[1]

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[1] The full text of the press release can be read at the following link (last consulted 17/06/2022): https://www.europarl.europa.eu/news/fr/press-room/20211205IPR18809/flee-great-freedom-et-la-voix-d-aida-en-competition-pour-le-prix-lux-du-public

The association of Amin's life story to "European values" testifies to the increasingly positive visibility of LGBTI asylum at the European level. In recent years, indeed, European decision-makers have produced a growing body of statements on the issues faced by these asylum seekers—in Europe and abroad. Reports, press releases, and joint motions for a resolution have flourished. Most of these productions acknowledge and lament the ill-treatment to which LGBTI asylum seekers are submitted in many national asylum systems of European Member States. This, they argue, is not compatible with European values; and LGBTI asylum seekers' claims should be processed with respect and in a dignifying manner. This position is consistent with the official discourse held by governments of a growing number of European countries today, where mistreating LGBTI asylum seekers has become nothing to be proud of— at least on a discursive level. However, it is also, at the same time, largely contradictory with the analysis of researchers working on European asylum and migration policies.

For many policymakers and scholars alike, indeed, the history of European asylum policies is tightly intertwined to that of European security. With free movement came the strengthening of external borders, for no state will accept integration if it is a threat to its internal security; and with external borders came the harmonization of asylum procedures, to control and discourage the internal mobility of foreigners. It is against this background that a first set of shared asylum policies, named the Common European Asylum System, was developed after the Tampere European Council of 1999. Although this system is aimed primarily at harmonizing asylum practices throughout Member States—it is a sort of "mini-regime"[2] of international protection (Durieux 2013)—it has often been described as being dependent on European security politics. Indeed, early European cooperation on migration, starting from the 1980s, has always been infused with security concerns, and this dynamic strengthened after the end of the Cold War (Bigo 1998; Huysmans 2000; Engelmann 2014). While the first reform of the system (2008–2013) did not appear to be guided by major security concerns, the second one (2016–ongoing) emerged as a reaction to the 2015 European "refugee crisis". This crisis, along with the negative framing of foreigners it was associated to, has had a perennial effect upon asylum policies in Europe (Guiraudon 2018; Krzyżanowski, Triandafyllidou, and Wodak 2018; Bauman 2020). Even though the situation has stabilized and the number of first arrivals steadily declined in the months preceding the Russian war on Ukraine, European institutions never quite

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[2] As of today, the Common European Asylum System is composed of three directives (Qualification, Procedures, Reception) and two regulations (Dublin, EURODAC). Other directives are associated to it but do not apply only to asylum seekers (the Return directive for example). A further regulation establishes the European Union Asylum Agency, previously European Asylum Support Office, which supports Member States in the implementation of the system. A timeline of events and a list of directives can be found in the annexes of the dissertation.

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managed to quit the emergency mode. The new proposals put forward by the European Commission in 2020 to unblock the 2016 reform of the Common European Asylum System were denounced by human rights organizations as entrenching the marginalization of foreigners; and scholars were numerous to criticize the approach of the Commission, denouncing the externalization of European borders along with their increased digitalized control (Hess and Kasparek 2017; Maiani 2017; Glouftsios 2021).

Yet, if the security agenda has definitively taken over the field of asylum, then, one could expect policymakers to be reluctant to strengthen existing procedural guarantees or to extend the grounds upon which the status of refugee can be granted. The enthusiastic reception of Amin's story, one of persecution and violence outside and inside Europe, could also appear somewhat contradictory with this presumed consubstantiality of European asylum and security policies. Indeed, why would European politicians applaud a denunciation of the very system they set up? And, considering how gender-based violence has long been dismissed in mainstream migration policies (Bhabha 1996; Winter 2012; Gerard 2014), should not we expect gender and sexual minorities to be the least of the European Union's concerns? However, we cannot but notice that it is the exact contrary that has happened. Over the years, European policymakers have worked earnestly to extend the protection of women and LGBTI claimants. Persecutions based on sexual orientation have been recognized as a legitimate ground for asylum as early as in 2004, at a time where many Member States were wary about the demands of the gay and lesbian movement. In 2011, this recognition was extended to gender identity. In recent debates, policymakers have even envisioned to add gender expression and sex characteristics to European asylum policies. If these proposals succeed, the Common European Asylum System will be the first piece of binding European legislation to explicitly cover all the letters of the lesbian, gay, bisexual, transgender, intersex (LGBTI) acronym.

Why, thus, despite this securitizing context, are we witnessing such a broadening of protection categories? Of course, one might advance that this is not entirely illogical, since the ideal of an inclusive Europe has gained importance in the past decades. Researchers have shown that concerns for LGBTI rights are increasingly embedded in discourses about Europeanness, sometimes for purposes of distinction—the enlightened Europe, the backward Others (Ayoub and Paternotte 2016; Eigenmann 2021). However, there is a difference between affirming that LGBTI rights are important to the European Union, and effectively codifying this protection in law. The European Commission is cautious about recognizing new grounds for protection beyond those already present in European treaties, and, while sex and sexual orientation are

protected characteristics under European anti-discrimination frameworks, this is not the case for gender identity, gender expression, and sex characteristics (Bell 2009). Moreover, even if we take seriously the explanation of a new centrality of LGBTI rights to the European Union, this does not fully explain why asylum policies would be such a key arena for LGBTI issues. Indeed, both migration and gender issues are highly politicized topics within and between Member States (Paternotte and Kuhar 2018; Wodak 2019; Zaun 2020). In this context, finding an agreement on LGBTI asylum is a delicate task, and, given that these claims are likely to be numerically marginal,[3] one could wonder why the Commission would make it its priority.

This paradox is the point of departure of my doctoral research. My aim, here, is twofold. First, I seek to investigate the processes through which a set of directives, regulations, resolutions, tools, formal and informal practices that aim to guarantee the protection of those persecuted for gender- or sexuality-related reasons—what I call "LGBTI asylum policies"— was gradually embedded into European asylum legislation, despite a context that could appear unfavorable to such development. This phenomenon has not been documented empirically so far, because, as we shall see later, the literature focusing on LGBTI asylum has generally focused on national case studies. As a consequence, we know next to nothing about how LGBTI protection came into being in European asylum policies. Yet, these policies, through transposition and through influence, set the framework for asylum within but also beyond the borders of the European Union, especially for Member States but also in accession countries. Analyzing national asylum policies without knowledge of European dynamics offers only a partial view of LGBTI asylum politics in Europe, and this research aims at remedying this gap.

However, beyond that, what I am concerned with is not just to document how a policy came into being, but also to understand what it reveals of the making and meaning of equality in the European Union. Contrarily to family law or anti-discrimination legislation, asylum is not a domain of policymaking that traditionally revolves around gender and sexuality. Looking at it allows us to shift our perspective away from mainstream lines of conflict and to examine how LGBTI equality came to permeate the whole European legislative corpus. LGBTI asylum, precisely because it is located at the nexus of two controversial issues, is a key case study for understanding the strategies European institutions may develop when trying to legislate on sensitive subjects. Given the tense political context these institutions are facing on LGBTI issues right now, this question is of particular significance for future scholarly research. I

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[3] There is no official data about the number of LGBTI asylum claims in Europe, though outdated estimates from Belgium indicate that between 2008 and 2012, these claims represented around 4,5% of the total (Gartner 2015).

therefore believe that in the same way that the European case study can contribute to the literature on LGBTI asylum, inversely, LGBTI asylum will prove crucial to our analysis of European policymaking in general.

The remaining part of this introduction introduces the reader to the theoretical and methodological challenges that flow from this case study. Before moving to a review of the literature published on LGBTI asylum, however, some semantic choices must be justified. In the first few paragraphs of this dissertation, I have referred to people seeking protection for gender- or sexuality-related reasons as "LGBTI asylum seekers". I would like to underline that, in the field of LGBTI asylum studies, there is no consensus over that term. Some authors prefer to differentiate between sub-groups of claimants—separating "gay" from "trans" asylum seekers for example. While this differentiation does make sense if one looks at the processing of asylum claims, it does not work at the institutional level, because authorities often consider LGBTI claims altogether, as a single and relatively coherent object. To designate all these claims together, three main adjectives have been in competition in the past few years: LGBTI, SOGI, and queer. All have their limitations. The LGBTI acronym, along with its derivatives, has been described as historically and culturally situated, so non-European people may not identify by these labels (Massad 2002; Jackson 2009). The term "SOGI", standing for "Sexual Orientation and Gender Identity", has sought to circumvent the words "gay", "lesbian", etc; and it has therefore known some success lately, both among activists and researchers who do not want to impose labels to asylum seekers, and among institutional actors who are happy to use a more neutral-sounding term. However, despite its neutral appearance, it does not allow to overcome cultural situatedness: it is not just labels that are occidental, but the very notion of gender and sexuality as inherent to one's identity (Waites 2009). Finally, although the advantage of "queer" is its flexible meaning, this term is far from being consensual within the LGBTI community, so its generic use can be problematic—not to mention that "queer" has a non-normative connotation, and that assuming that non-Europeans all have disruptive identities because they are foreigners is, itself, a form of essentialization.

This debate on terminology is not limited to gender and sexuality: we could also question whether it is best to talk about "asylum seekers", "migrants", or "refugees"—not to mention other alternatives that emerged during fieldwork, such as "people who seek asylum" (suggested by the founder of the British charity African Rainbow Family), or "asylum activists" (used by a LGBTI organization in Denmark). In sum, from a normative viewpoint, there is no consensual and inherently good way of referring to gender- and sexuality-related claims for international

protection. It is against this background that the choice was made in this dissertation to go by "LGBTI asylum" and "LGBTI asylum seekers"—and not "queer migrants", "SOGI refugees", or any other adjective-word combination. This decision is not motivated by the belief that the category of "LGBTI asylum seekers" is superior to others. Rather, my use of the term "LGBTI asylum" refers to the policy object this term represent. It is, indeed, how European institutions perceive these claims, as shown by press releases from the European Parliament LGBTI Intergroup and publications of European agencies[4]. Words are never innocent: attached to them comes a set of representations and meanings (Benford and Snow 2000). Against this background, using this term makes sense because it delineates my European object of study.

Finally, to avoid any surprises to the reader, one final thing must be mentioned. Several national research traditions have influenced my research. This dissertation is written in English, and in fact, most of the manuscript was written at the University of Oxford. However, my institutional affiliations are in Italy (University of Trento) and in France (Sciences Po Paris). Dissertation structures vary between these three different contexts. With that in mind, I decided to organize my work according to the standards I am most used to, by habit and training: that of French research in political science. This means that chapters are exclusively dedicated to the presentation and discussion of findings. The literature review, methodology, and theoretical framework are not treated separately, but are part of the introduction. In the next few pages, thus, I first review the literature published on LGBTI asylum, allowing the theoretical framework I am building on to emerge from this exercise. I then move onto the research question and hypothesis. The third section of is dedicated to methodology. Finally, the introduction concludes with an outline of the chapters.

1. Literature review: LGBTI asylum policymaking, three approaches and two theories

The literature on LGBTI asylum has grown exponentially over the past two decades. The first national court to recognize sexual orientation as a legitimate ground on which protection could be granted was the Dutch *Raad van State*, in 1981 (Jansen 2013). Other countries, such as Austria, Australia, Belgium, or the United States, followed this position throughout the 1980s and 1990s (Millbank 2013; Raj 2015; Hamila 2019). Researchers became interested in this issue

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[4] LGBTI Intergroup (2016), "European Parliament demands protection LGBTI refugees, also from 'safe' countries" (online). EUAA (2015), "Researching the situation of lesbian, gay, and bisexual persons (LGB) in countries of origin" (online). FRA (2017), "Current migration situation in the EU: Lesbian, gay, bisexual, transgender and intersex asylum seekers" (online).

around the same time, and research evaluating whether LGBTI asylum seekers could qualify as refugees started being published in the 1990s. This literature was then followed by more sociological studies examining the obstacles they faced during the asylum procedure, especially as LGBTI protection was gradually granted legitimacy by supra-national institutions—by the United Nations High Commissioner for Refugees in 2002, and by the European Union in 2004. However, it is in the late 2000s and early 2010s that LGBTI asylum truly gained momentum in academic research. It was often associated with a new paradigm of research: that of homonationalism, a concept introduced by Puar (2007) to describe the instrumentalization of LGBTI rights against Muslim populations in the context of the United States war on terror.

Very few of these studies, nonetheless, have focused on the making of LGBTI asylum policies. Sociological and legal standpoints focusing on the challenges of LGBTI claimants during and after the asylum procedure are still predominant, and we often know very little about how and why institutions decided to make their protection explicit in law (for an exception, see Hamila 2019). This is even more true at the European level. While the existence of a European framework is often acknowledged by authors writing on Member States, the genealogy of such framework generally goes unexamined—when European directives are not treated as if they were of mere contextual relevance. These gaps probably have something to do with the unwillingness of political scientists to consider sexuality as a legitimate object of study (Dayan-Herzbrun 1991; Paternotte and Perreau 2012), and with their tendency to consider the European Union in isolation from national case studies and *vice versa* (Hassenteufel and Surel 2000). What is sure, in any case, is that the making of a European-level LGBTI protection, perhaps because it is located precisely at the nexus of these two gaps, has never been really analyzed.

One could argue, however, that it is not because researchers have often focused on national case studies that their analysis is irrelevant to the European case. On the contrary, the European Union has been described by some scholars as a magnifying glass that allows to better observe dynamics operating in a more subterranean way elsewhere (Hassenteufel and Surel 2000). This literature review therefore establishes a dialogue between the literature on LGBTI asylum on one hand, and European studies on the other. The underlying objective is to assess the potential explanatory power of some theories developed at the national level to study the Common European Asylum System. The next three sub-sections therefore discuss the main axes of analysis present in the literature on LGBTI asylum. Two of them (section 2.2 and 2.3) rely on clear theoretical premises, while the first one (section 2.1) has remained rather under-theorized but still provides useful insights regarding policymaking. The first sub-section brings together

studies focusing on the obstacles faced by LGBTI claimants in asylum systems. It questions the extent to which these struggles have shaped policymaking processes. The second sub-section focuses on homonationalism. It connects this concept, more broadly, to the role of politicization in public action. The third section, finally, analyzes a recent trend of research, which has placed the emphasis on LGBTI identities as a category of administration in asylum.

1.1. Homo-transphobia in occidental asylum systems and the emergence of a LGBTI advocacy

The definition of who qualifies as a "refugee" has always been an ideological battlefield. Indeed, even though people always fled violence throughout history, "refugees" strictly speaking have not always existed. The term "asylum" first had a religious meaning, designating in ancient times a sanctuary from which no one could be forcibly removed, and, later on, an institution in charge of the most excluded parts of the population (Andreopoulos 2018). Until well into the 19th century, there was no unified way of referring to refugees in Europe (Marrus 1985). The term already existed in English, but was mostly used to designate French protestants settling in the United Kingdom between the 16th and 18th centuries (Hintermaier 2000). Refugees as we know them today—as a problem and as a category of population—emerged in the 19th century, when passports became widespread (Bundy 2016). It is only during the interwar period that European countries started implementing concerted strategies to manage displaced populations. At that time, the individualist perception of asylum that had predominated until then—refugees as political or religious dissidents—was replaced by a collective definition, as refugees were framed in terms of national belonging (Lochak 2013).

At the end of the Second World War, it became clear that earlier practices of management of refugees, characterized by their *ad hoc* character, were inadequate to the situation. It is against this background that the 1951 Geneva Convention related to the Status of Refugees was negotiated. As of today, the Convention (along with its 1967 Protocol) is still the cornerstone of the international protection regime. Drafted in the early moments of the Cold War, it was also a battlefield upon which two opposed visions of refugeehood met: that of socialist states, advocating for protection on socio-economic grounds but reluctant to include political dissidents, and that of occidental countries, standing behind political opponents but unwilling to consider economic vulnerability as a legitimate ground for protection (Bhabha 1996). The occidental viewpoint prevailed, and the framing of refugees became, once more, individual-based. Refugees are now defined as individuals who, "owing to a well-founded fear of being

persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion", are forced to flee their countries. Of course, historians have shown that behind these principled discourses, occidental states always had a pragmatic approach to asylum. When delegations visited camps to select those who would be admitted in their country, such selection was based not so much on political persecution but on their contribution to the national economy (Noiriel 1991). The European Volunteer Workers in Britain are a good illustration. They were refugees recruited as economic migrants, and they benefited from limited rights to residence and work protection (Kay and Miles 1988; McDowell 2003).

Nevertheless, the figure of the political opponent remained the official standard against which asylum seekers were measured (Tissier-Raffin 2019). As an example, in France, when the status of refugee was attributed to entire groups—ex-Indochinese people for example—these populations were still portrayed as political opponents by asylum authorities (Akoka 2011). This emphasis on political opponents and the initial dismissal of other forms of violence, especially economic and private violence, was detrimental to women (Valji 2001). For a long time, asylum authorities perceived gender and sexuality not just as private matters, but also as areas of legitimate state interference (Millbank 2005; 2013). Up until the 1990s, American courts used culturally relativist arguments to deny protection to Iranian women refusing to wear the veil and Chinese women fleeing forced sterilization (Bhabha 1996). Interestingly, after the end of the Cold War and the beginning of the war on terror, these same culturalist arguments became levers of protection, as they justified the protection of some women from their "backward" cultures (Sinha 2001; Mohanty 2003; Akoka 2016). Scholars, however, have shown that women asylum seekers still face gender-based violence and dismissal in occidental asylum systems, therefore questioning the transformative potential of this new context for women (Edwards 2011; Shuman and Bohmer 2014; Keygnaert et al. 2015; Freedman 2016).

In sum, historically, the relationship between asylum law and gender-based violence has been a strained one. Against this background, there is a need to examine the consequences of this tension for LGBTI asylum seekers. Sexism and homophobia are, after all, tightly interrelated—and even, some authors would argue, co-constitutive of each other (Neisen 1990; Chamberland and Lebreton 2012). A similar argument can be developed in relation to sexism and transphobia (Clochec and Grunenwald 2021). This argument has led scholars to underline how the public/private divide played against LGBTI asylum seekers too. The violence faced by these claimants has been historically downplayed by asylum institutions, and what would qualify as persecution if it targeted a political dissident—harassment, death threats, police

refusal of protection—is often considered to be acceptable when it targets LGBTI people (Spijkerboer 2013). Moreover, the persistence of the figure of the political dissident has resulted in higher standards of qualification for LGBTI asylum seekers, who may be expected to prove that they are not just LGBTI, but also publicly out (Tissier-Raffin 2019).

Nonetheless, even though the roots of the issues faced by women and LGBTI asylum seekers are likely to be the same, an important and distinct literature has developed on the specific struggles of LGBTI claimants in the past two decades. This literature is not just abundant: it is also the most historical and classical axis of analysis in LGBTI asylum studies. Law scholars were at its forefront in the 1990s and were followed by other disciplines in the mid-2000s. Initially, in the 1990s, most articles published on the subject examined the legal rationale for granting asylum to persecuted LGBTI people (Henes 1994; Godfrey 1994; McGhee 2001). This legal literature was particularly dynamic in the United States, after the Immigration Act of 1990 repealed the clauses that prevented homosexuals from entering the national territory (Foss 1994; McGoldrick 1994). A few years later, when the idea that LGBTI people could claim asylum became more accepted, this literature was reoriented toward the analysis of the social, political, and legal challenges met by these claimants during the asylum procedure. In particular, several studies analyzed the racial and sexual stereotypes asylum decision-makers operate with (Morgan 2006; O'Dwyer 2007; Millbank and Berg 2009).

In Europe, the obstacles faced by LGBTI claimants have been documented by two large-scale studies, the Fleeing Homophobia report (2010–2011), and the SOGICA project (2016–2020). The Fleeing Homophobia report covered 24 Member States and three non-Member State countries (Jansen and Spijkerboer 2011). The SOGICA project covered three Member States, the European Union, and the Council of Europe (Andrade et al. 2020; Danisi et al. 2021). While the conclusions of these studies were published ten years apart, their findings share important similarities. In both cases, asylum seekers struggled to have their claims considered as credible. Asylum authorities often relied on stereotypical accounts of what it means to be LGBTI and dismissed those who did not correspond to their expectations (this was also documented by scholars such as LaViolette 2013; Murray 2014; Kobelinsky 2015; Vogler 2016; Tschalaer 2019). The lack of documentation on countries of origin was reported to be a major issue. Asylum authorities often seemed at best unaware or at worst dismissive of LGBTI-specific violence. The idea that LGBTI people could be expected to conceal their identity or to live discreetly was pervasive, even though the Court of Justice of the European Union has ruled out

this requirement in 2013. Finally, the conclusions of both studies were that LGBTI claimants often face exclusion and violence within their host societies, and not just during the procedure.

Many smaller-scale studies have backed up the argument that European asylum systems are still infused with sexism, homophobia, and transphobia, and that LGBTI asylum seekers face important normative pressures therein (Akin 2017; Giametta 2018; Dhoest 2019). Citing them all is impossible in this literature review, but it is not desirable either. The question I am interested with rather is: to what extent can the development of LGBTI asylum policies be explained by a will to fight this persisting violence? Of course, it would probably be naïve to argue that European policymakers decided to act on LGBTI asylum simply because they noticed the situation of these claimants and found it unfair. This is unrealistic given the context of hesitation on LGBTI rights that existed in the late 1990s, an hesitation that has been replaced, since then, by major controversies. Nonetheless, research has shown the importance of local and national mobilizations in advancing international causes or changing the course of law (Israël 2001; Scheingold 2004; Simmons 2009; Freedman 2010). Against this background, we could wonder whether subgroups of actors—LGBTI activists, law professionals, but also LGBTI refugees themselves—could have played a role in contesting existing asylum policies.

The literature that tackles this question explicitly is scarce, even at the national level. This is so because most of today's research focuses on the asylum procedure, and not on the broader advocacy work that may surround it. The few articles that exist on the matter examine activist groups. The role of other actors, such as social workers or law professionals, is often ignored or approached unreflexively (see for example Chelvan 2021; two notable exceptions are Heller 2009; McGuirk 2018). Beyond that, activists groups are often analyzed whether through the prism of everyday cooperation with asylum authorities (Mulé 2020; Cesaro 2021) or through that of conflict and street-level mobilizations (Held and McCarthy 2018; Bécasse, Cesaro, and Chossière 2020; Falquet 2020; Lewis 2021). This literature, although essential to understand how these organizations are structured and the kind of claims they uphold, says little about their role in shaping legislation. Recently, though, two studies have partially remedied this gap by analyzing the influence of non-state actors on the practices of asylum authorities. Miaz (2014) has shown that activists could influence the practices of asylum institutions, by providing them with information and ideas. Schnyder (2020), on her side, analyzed the discursive strategies developed by activists groups in Europe to legitimize LGBTI protection. She showed that these organizations strategically framed LGBTI asylum in terms of human rights and vulnerability to make it appear consensual to policymakers and to achieve legal protection.

Whether they directly tackled policymaking or not, the different studies presented in this first section hint at the importance of specific non-state actors—mostly activists—in problematizing homophobia and transphobia in European asylum systems. But unfortunately, they often focus on mechanisms of influence that are difficult to apply at the European level—such as when they study the interaction of asylum activists and officials in charge of processing claims. As the European Union does not have the competence to process asylum claims, this argument sheds only limited light on European LGBTI asylum policies. Moreover, while Schnyder (2020) did argue that activist groups present at the national level might try to discursively influence European policies, she eluded the question of how they could do so. The concrete mechanisms that could make their claims resonate (or not) with European political actors were simply not evoked. This is an issue given that researchers have shown that national actors often face difficulties when seeking to transfer their claims at the European level (Guiraudon 2001; Monforte 2014; Sanchez Salgado 2014).

This shortcoming is one of the main weaknesses of the literature on homo-transphobia in occidental asylum systems. This literature has shown that the inclusion of LGBTI people in asylum law did not participate into a "natural" process of extension of international protection but was the result of a long uphill struggle. However, it is often vague on the stages through which this struggle went through. It has also underlined the persistence of homophobic and transphobic discourses and practices within European asylum systems, but without necessarily developing on the relationship between the observation of this violence and the development of new, supposedly inclusive policies. Overall, it is a literature that simultaneously demonstrates the importance of collective and calls for a better analysis of its mechanisms, which remain rather imprecise.

1.2. Homonationalism: politicizing gender and sexuality against Muslims and migrants

This literature on homo-transphobia in occidental asylum systems has been partially outshone, recently, by studies working with the concept of homonationalism. This literature shares some similarities with its predecessor, in particular its focus on asylum procedures. However, the argument it offers is distinct from that of homo-transphobia. These studies flourished in the 2010s, and even though their development has somewhat stalled lately, one could easily argue that they still represent the dominant paradigm of research on LGBTI asylum today. Even though many tackle, once again, asylum hearings, some do examine political discourses

surrounding LGBTI refugees. Their arguments are therefore of interest to this research. In this sub-section, I first trace the history of homonationalism, showing its analytical interest in the European context. I then review the literature on homonationalism and LGBTI asylum, before concluding on the possible use and limitations of this framework.

The term of homonationalism was coined by Puar in 2007. In her book "Terrorist Assemblages. Homonationalism in Queer Times", Puar analyzed and denounced how, in the post-2001 context, the United States government used narratives depicting Muslim countries as culturally backward—and specifically as misogynistic and homophobic—to morally justify the country's military intervention. Central to her book was the denunciation of the complicity of the American LGBTI movement in supporting the war, but also in upholding nationalist and racist ideals in the name of patriotism. In other words, what she argued was that while historians had shown that 19th century nationalisms were built on the exclusion of Jewish, homosexual, and Black people (Mosse 1985), these modern nationalisms had known a drastic turnaround on gender and sexuality (Jaunait, Le Renard, and Marteu 2013a). Such turnaround resulted in the inclusion of LGBTI people to justify the exclusion of Muslims and all those suspected of being so—Black and Arabic persons in particular (Yılmaz 2015).

Puar's argument was, originally, very specific to the American context. However, like its feminist counterpart "femonationalism" (Bracke 2012; Farris 2017), "homonationalism" belongs to the broader history of feminist post-structuralist and decolonial thought (Winer and Bolzendahl 2021). This means that this concept was then easily adopted by scholars to analyze environments outside the United States. It was used in relation to Israel and Canada, sometimes under the term of "queer settler colonialism" or "pinkwashing"—although there are debates over the equivalence between homonationalism and these two other terms (Morgensen 2012; Fobear 2014; Jackman and Uphadhyay 2014). In Europe, most of the research focused on the Netherlands and the United Kingdom (Mepschen 2016; Dudink 2017; Quinan, Theewis, and Cienfuegos 2020). However, no country has been spared. To cite a few, homonationalism has been used in relation to France (Falquet 2011), Germany (Haritaworn 2012), Italy (Colpani and Habed 2014), Denmark (Hansen 2021), along with Eastern European countries such as Kosovo (Rexhepi 2016), or Serbia and Croatia (Kahlina 2015). In these last cases, authors underlined the role played by the European Union in inciting governments to adopt pro-LGBTI stances.

The compatibility of a homonationalist rhetoric with the European Union has indeed been underlined by several scholars. This compatibility has a historical component: throughout European history, sexual imaginaries have played an important role in the symbolic

construction of Europe and its Others—be they located on the other side of the Mediterranean, or farther in the East (Stoler 2002; Najmabadi 2005). The status of women was used to evaluate one's degree of civilization, demonstrating Oriental "obscurantism" or Occidental "decadence". Non-European sexuality was often depicted as primitive and symbolized the inferiority of colonized populations (Alloula 1986; Stasiulis and Yuval-Davis 1995; Bessis 2019). The same logic of opposition can still be found in today's debates around the veil (Joan W. Scott 2010; Abu-Lughod 2013). Interestingly, this historical context was not favorable to homosexuals. Well into the 20th century, homosexuality was often considered as a foreign vice (Dubost 1997; Tamagne 2002; Sénac 2006). However, as LGBTI rights became associated with ideals of equality, inclusion, and human rights, scholars have argued that they have ceased to be symbol of foreign primitiveness to become one of European enlightenment (Dudink 2013).

This new centrality of LGBTI rights in the European Union has been largely documented. Historically, LGBTI activists played a crucial role in the European construction, by pushing for more integration and investing the European community with their ideals of equality and protection (Ayoub and Paternotte 2014; 2015; 2016). Gay-friendliness then gradually became part of "European values" for decision-makers, an evolution which was facilitated by their perception of human rights as foundational to the European project (Smismans 2010; Eigenmann 2021). European courts produced a growing body of decisions in favor of LGBTI protection (van der Vleuten 2014; Helfer and Ryan 2022). This positive relationship to LGBTI rights also expresses itself in the external action of the European Union (Slootmaeckers, Touquet, and Vermeersch 2016; Danisi 2017; Jenichen 2020; Saltnes and Thiel 2021a). In parallel, it is hard not to notice the tightening of European asylum and migration policies (Costello and Hancox 2015). Migrants, in this context, have been increasingly framed in cultural terms—as "Muslims" or "Arabs"—and portrayed as incompatible with European values (Yılmaz 2015; Gastaut 2019). This has led some researchers to argue that one could, in fact, talk apply homonationalism to Europe in general (Fassin 2010).

Most of the research published specifically on LGBTI asylum and homonationalism in Europe has focused on the processing of asylum claims. For researchers, homonationalism may push occidental decision-makers to relate to LGBTI claims in a positive way. The sexuality or gender of LGBTI claimants comes to symbolize their detachment from their supposedly backward culture (Aydemir 2012; Bracke 2012). As long as they are willing to assume the role of victim and to conform to occidental standards of visibility and consumerism, these asylum seekers would be welcome in European societies (Murray 2014; Tschalaer 2019). The

drawback of this, however, is that those who do not conform to these stereotypes are even more excluded than before (Llewellyn 2017; Giametta 2017). Moreover, performing the right stereotype at the right time is always a delicate balance to strike (Ricard 2014; Fassin and Salcedo 2019). In other words, homonationalism puts LGBTI asylum seekers in a position where, to formulate their claim to inclusion, they need to rely on the very discourses that were used to exclude them (Spijkerboer 2018).

The literature taking this discussion to the policymaking level is, again, scarce. In my master's thesis, I argued that homonationalist arguments did facilitate the inclusion of gender identity and sexual orientation into French asylum law in 2015 (Le Bellec 2018). As one of my interviewees, a right-wing senator, told me, France, due to its history as the country of human rights and of the Enlightenment, simply *had* to protect LGBTI foreigners fleeing from persecution. For him, however, this did not mean that we should not fight against abuses of the French asylum system, nor that we should grant positive rights to the French LGBTI population. LGBTI people had the right to live, but not the right to have rights (Arendt 1951). Raboin (2017) found a similar trend in the United Kingdom, where he analyzed the discursive construction of the country as a "queer haven" despite high levels of rejection of LGBTI claims. In this context, homonationalism may result in positive developments for LGBTI refugees, whether that means the abandon of preexisting homophobic legal practices (dos Ventos Lopes Heimer 2020) or the development of special guarantees for these claimants (Hiller 2021). However, it is not always the case. In the Netherlands, authors have argued that homonationalist discourses are used to punish non-LGBTI migrants when they are accused of homophobia or transphobia, but not to implement measures to protect LGBTI claimants (Quinan, Theewis, and Cienfuegos 2020).

Could European LGBTI asylum policies be explained by homonationalism? Based on the literature reviewed in this section, this hypothesis should be seriously considered. Such policies could be the result of the European Union's willingness to posit itself as the savior of oppressed populations while at the same time keeping exclusionary policies in place, all this at a minimal cost since LGBTI asylum seekers are not numerous and European institutions do not process their claims. However, at the same time, an increasing number of researchers have expressed their doubts about the universal applicability of homonationalism. For some, the concept has been over-extended, and does not say much about the lived realities of the racialized queer minorities it seeks to help, especially when they live outside the occidental world (Ritchie 2015). For others, the problem rather is that homonationalism has evolved from the status of concept, useful to analyze specific policies or politics, to that of a totalizing paradigm (Schotten

2016). The main risk here is that of a homogenization of public action, and ultimately, that of a framework that is so well-ordered and comprehensive that it does not tolerate contradiction (Currah 2013). This is an issue because the few quantitative studies done on this subject in European public opinion show that in general, people who are tolerant to homosexuality tend to be less racist and xenophobic (Bartos, Fife-Schaw, and Hegarty 2019; Freude and Vergés Bosch 2020). In other words, it is not because homonationalist discourses do exist that homonationalism necessarily explains public opinion or policymaking.

In sum, the homonationalist hypothesis should not be dismissed too quickly, but it should not be taken at face value either. What is sure is that it needs to be confronted with empirical data. Its application to European policymaking raises several questions. Europe is marked by the presence of a strong anti-gender movement and the coexistence of different nationalisms (Paternotte and Kuhar 2017). In the current context of tension over LGBTI equality, one may legitimately wonder if homonationalism really is the common denominator among Member States. In any case, if we consider the position of decision-makers to be informed by the national public opinion, the question of how these national positions are then (re)articulated in the European debate remains open. The lack of public interest for Europe been documented to increase the freedom of European deputies (Costa 2009; Rozenberg 2009). Against this background, we could very well imagine, for example, radical right deputies abandoning their national homonationalist stances in European debates; or inversely, conservative deputies voting in favor of gay rights because they are not constrained by public opinion.

To conclude, the literature on homonationalism constitutes an important part of the research being published on LGBTI asylum today. Even though it has proven intellectually challenging in its early years, this literature now needs to catch a second wind. A potential path to such revival could be to understand homonationalism not as a unique phenomenon, but rather as one of the (multiple) facets of a broader concept—that of the politicization of gender and sexuality in asylum systems. Such broadening would allow to open new research perspectives, and to consider the role of homonationalism in policymaking without dismissing other forms of politicization of LGBTI rights. It would also allow a finer-grained approach to homonationalism itself, allowing to explore how it can be a form of sur-politicization (when it serves to pit LGBTI people against migrants) or of sub-politicization (when it serves to make everyone agree on "shared values").

1.3.LGBTI asylum as a depoliticized category of administration?

The idea that the concept of politicization could be useful to approach LGBTI asylum policymaking is what characterizes the last—and most recent—trend of literature examined in this literature review. To be fair, these contributions focus more often on *de*-politicization than on politicization; and their argument is not always explicitly articulated in such conceptual terms. They are united, however, by their emphasis on the bureaucratic production of the category of "LGBTI refugee", and often develop of fine-grained analysis of the tools, discourses, and knowledge that serve to legitimize this category. This argument connects very well to the broader literature on European policymaking, which has been historically described by scholars as "technical", "compromise-oriented", and "depoliticized"—independently of whether researchers consider this depoliticization as a good thing or not (Zürn 2019).

Before moving further into this literature, it is essential to define politicization and depoliticization. Without entering in complex debates, it is worth specifying that "the political", in this dissertation, is understood not as a preexisting sphere which boundaries are merely negotiated and extended through time, but rather as an activity that allows the arbitrage of conflict in a society (Leca 1973; 2001; Fraser 1989). This means that every matter has the potential to be political, but not all will become so, because success depends on the power relationship between the groups of actors involved in this definitional struggle (Leca 1973). Politics, in sum, are about the channeled conflict between well-distinguishable political projects (Mouffe 2003). Based on this definition, two main understandings of politicization coexist in the literature. Déloye and Haegel (2019) offer a typology of these two approaches. The first approach, born out of historical studies on French peasantry, is that of individual politicization. It looks at the degree of knowledge and interest for politics present in individuals or communities and examines the effect of inequalities of politicization in a given society. The heirs of these studies, today, look at politicization in relation to polls, parties, and how individual behavior can result in mass politics. In relation to the European Union, some of their main research questions are the following: to what extent are European populations becoming more interested in the European Union? What form does this interest take? Is it impacting European integration? (Hutter and Grande 2014; Ivaldi 2018)

The second approach to politicization identified by Haegel and Déloye (2019) is articulated at the meso- rather than micro-level. It is less interested by individuals, and rather considers politicization as the process through which intermediary groups (organizations, movements, institutions) seize an issue and try to mark it as relevant to the sphere of politics. This approach

emerged out of the sociology of mobilizations and public action. Many classical authors from this branch have traditionally focused on political elites (Kingdon 2003), though others have called for more attention to be granted to social movements and activists (Kenney 2003; Boussaguet 2009; della Porta and Caiani 2007). These two arguments, however, are not incompatible. In the European case for example, researchers have underlined the role of both elected politicians and associative actors in influencing European agenda-setting and negotiations (Thiel and Uçarer 2014; Guinaudeau and Costa 2021). Politicization, here, does not necessarily entail mass mobilization, but rather designates a change in the quality of attention granted to a given issue. If, along with Kauppi, Palonen, and Wiesner (2016), we consider politics as an activity, politicization therefore becomes the speech-act that marks something as political—or, in other terms, politicization becomes "politics in progress". This is the definition of politicization that will be adopted in this thesis.

However, for many researchers, it is not so much politicization that prevails in international and European policymaking, but rather its opposite: depoliticization. Depoliticization is not defined as an absence of politics, but as "a political process which consists in minimizing, concealing, even eliminating politics" (Louis and Maertens 2021, 3). Depoliticization, in this context, should always be analyzed in tandem with politicization. For some authors, it even represents a specific form of politicization itself, because the objective of decision-makers is often not to negate the need for public action on a given topic, but to present it as being in need of technical solutions. Depoliticization, in this context, can paradoxically result in the broadening of the political actors in charge of the issue at stake, as decision-makers launch consultations with experts and nongovernmental organizations in order to present their own decisions as consensual and un-ideological (Jaeger 2007). This phenomenon is characteristic of European politics. In several classical studies, indeed, researchers have argued that depoliticization is inherent to the design of the European Union, both because of the importance it grants to the participation of experts, and because of its specialization, as a polity, in the production of regulatory norms (Majone 1996; Radaelli 1999). In sum, reliance on a form of knowledge depicted as "rational" and "objective" is one of the main sources of legitimation of European action (Boswell 2008; Sebastiani 2017). The main risk of this form of governance is that citizens lose sight of the political direction underlying policy choices, therefore resulting in a collective loss of meaning or in the impossibility to debate the premises of choices (Chopin 2010). However, despite this critique, it is politicization—and not depoliticization—that has

been depicted as a negative phenomenon by many Europeanists, who considered it as a threat to the smooth functioning of institutions (see, for example, Bauer and Ege 2012).

The diagnosis of the depoliticization of supra-national political action is not unique to the European Union. Scholars working on international organizations share this analysis, though they approached it in a more critical way than Europeanists did (Louis and Maertens 2021). Working on the International Organization for Migration, Pécoud (2017) showed that one of its *modus operandi* is to present the organization as a neutral actor that produces technical solutions to the problems encountered by others. By doing so, the International Organization for Migration contributes to the production of what the author calls "international migration narratives" (Pécoud 2015). The paradox of these narratives is that they depoliticize migration through the promise of its effective "management", yet they are modelled on the interests of occidental countries and promote this specific vision at the international level. This ultimately results in an increased control over migrants (Georgi 2010; Singler 2021). Pécoud is voluntarily provocative (Thiollet 2016), but his argument is consistent with empirical studies on this topic. Authors have underlined the importance of experts and bureaucrats, operating at the *guichet* or in higher diplomatic spheres, in the production of legitimate categories of refugeehood (Spire 2007; Fresia 2014; Brücker 2019). Similarly, at the European border, researchers have showed how technical and neutral-looking tools contribute to border closures (Glouftsios 2021).

To come back to LGBTI asylum, research has shown that depoliticization may govern it too, both in terms of constitution of this category of claimants and processing of individual claims. The recent legitimation of sexual orientation and gender identity as valid grounds for asylum has clashed with the impossibility to objectify homosexuality (Kobelinsky 2015; Fassin and Salcedo 2019). This has resulted in the development of administrative practices that seek to manage these claims in the best possible way—*id est*, in a rational and evidence-based manner. Medical tests, which were long pervasive in Europe (McGhee 2000; Fassin and D'halluin 2005) are now being replaced by subtler forms of objectivation of sexuality. This includes psychological assessments and certificates of participation delivered by LGBTI associations (Murray 2016; Ferreira and Venturi 2017; De Bruyckere 2018). At a more macro level, the tendency has been to the development of "guidelines" and "best practices" that offer guidance in the assessment of LGBTI claims without touching upon sexual matters. This is the case, for example, of the "DSSH model" (Difference, Stigma, Shame and Harm), which evaluates the account of claimants based on its correspondence to scripts of difference and suffering. This model has been adopted by European and international institutions. Although it is presented as

a positive step for LGBTI claimants' rights, it is critiqued by researchers who say it has resulted in new normative issues for LGBTI claimants, who need to produce a standardized discourse of difference and suffering that many are unable to provide (Jansen 2018; Prearo 2020).

In contrast with the homonationalist hypothesis, some researchers have argued that it is the development of these administrative tools that led to the production of "LGBTI asylum" as a valid category of protection. Relying on the idea of continuous creation of legal norms (Lascoumes 1990), Miaz (2014, 65) showed that, in Switzerland, "before, in parallel, and as a consequence of legal and jurisprudential changes, norms were produced from below, *via* the elaboration of internal practices on 'gender-related persecution' that contributed to redefine asylum law". Hamila (2019) developed a similar argument in the case of Belgium, although he diverged from Miaz by relativizing the impact of activist mobilizations. For him, the emergence of LGBTI asylum was the consequence of the development, by authorities, of *ad hoc* tools designed to help them process asylum claims. These administrative tools then got "locked-in" national practice (Pierson 1993). Inspired by researchers working on theories of instrumentation (Halpern, Lascoumes, and Le Gales 2014), Hamila's argument, in sum, is that of an inversion of temporalities: tools and policies preceded what is often portrayed as their cause—the legitimation of LGBTI asylum. However, his argument, strong at the national level, is more hesitant at the supra-national one. Writing about the High Commissioner for Refugees, Hamila argued that the category of "LGBTI refugee" emerged at the nexus of debates on violence against women and on the definition of "particular social group" (Hamila 2021), but remained vague on the concrete process through which this change occurred. This shows the need to complement his findings with studies that examine actors and their involvement in normative struggles, especially in settings where institutions are not in charge of processing claims.

This critical appraisal of studies on the bureaucratic production of LGBTI asylum shows that this literature has the potential to greatly revitalize the field of study. However, the limits underlined above do raise the question of the appropriateness of an "all-bureaucratic" approach to LGBTI asylum. Without neglecting the importance of this dynamic, can we really think about LGBTI asylum policymaking only from the perspective of bureaucratic management? Miaz (2014) made the choice to intertwine administrative logics to collective mobilizations, and his approach seems fertile at the supra-national level given how researchers have been calling, recently, for more attention to be granted to the "resilient politicization" of international bureaucracies (Petiteville 2017). It is not because these institutions like to portray themselves as apolitical that they are insensitive to challenges coming from activists and governments, nor

that they cannot become a subject of political contention. This is particularly true for the European Union, which has become increasingly politicized lately—both in the sense of taking decisions that are explicitly political, and of being a subject of heated debates (della Porta and Caiani 2009; Monforte 2014; Hutter, Grande, and Kriesi 2016; Schmidt 2019).

In the end, it is perhaps necessary to understand depoliticization as part of the game of politicization. Phases of politicization and depoliticization—and of sur-politicization and sub-politicization—may succeed each other in public action, resulting in an oscillating, back-and-forth movement (Petiteville 2017; Déloye and Haegel 2019). Under this framework, politicization and depoliticization cannot be dissociated. This could be useful to think about European LGBTI asylum policies, which are expressed, like most European asylum policies, in a depoliticized way, even though the very fact that the European Union legislates on this topic is highly political act. Unfortunately, though, this framework, despite its analytical promises, has not been used in the literature on LGBTI asylum so far.

Conclusion: finding a way out of the triangle homophobia-homonationalism-bureaucratization

The objective of this literature review was to unwind the different threads of literature on LGBTI asylum and to rearrange them based on discernable arguments. In recent years, the literature on LGBTI asylum has evolved from the status of marginal topic to that of almost "over-studied" research object (Chossière, Desvaux, and Mahoudeau 2021). Research projects have multiplied and diversified, though this diversification has concerned primarily the geographic contexts being studied, and less the theory being applied. Moreover, despite the influence of supra-national frameworks on national practices, few studies have focused on the texts produced by supra-national institutions, and fewer even have adequately analyzed their genesis. The process through which gender and sexuality were included into the Common European Asylum System has simply not been studied. In this context, this literature review has identified the main theories of LGBTI asylum policymaking existing at the national level and assessed their explanatory power for the study of European policymaking.

Three main approaches were identified, two of which are underpinned by clear theoretical premises. The first approach is that of homo-transphobia in asylum systems. This research has often looked at the interaction between actors involved in asylum procedures. However, it does not offer a clear theory to explain the development of LGBTI asylum policies. Some studies pertaining to this line of analysis have underlined the influence of collective mobilizations in

producing change, but the "what", "why", and "how" of these mobilizations has seldom been studied. These questions, on the contrary, are central to the second approach identified in the literature: homonationalism. The analysis of political discourses is central to this branch of research, which argues that LGBTI asylum has become acceptable because it allows European states to portray themselves as enlightened while closing their borders. However, even though homonationalism was groundbreaking at its time, its main problem, today, is probably the opposite of its predecessor: it is its over-theorization. This theory is now being used to explain anything and everything, to the risk of artificially homogenizing complex realities. This pitfall is partly remedied by the third and last approach to LGBTI asylum. This approach brings together recent studies and is therefore rather heterogeneous. We could say that it is united, overall, by an attention to policy instruments. Its strengths are its ability to move beyond homonationalism and to propose a causal link between the governance of claims and the construction of categories of protection. Its weakness is its tendency to brush aside a key aspect of LGBTI asylum: that this is a highly controversial issue that can hardly be approached solely through the lens of bureaucratic action.

In sum, none of the three approaches evoked above suffices in and of itself to look at European LGBTI asylum policies. This assessment calls for researchers to find a way out of the triangle homophobia-homonationalism-instrumentation. Such escape route can only emerge, paradoxically, by zooming out of LGBTI asylum, and, instead of deepening existing analyses of the specificity of this research object, by seeking, perhaps, to reintegrate it into classical debates of political science. This broadening is essential to revitalize the academic debate over LGBTI asylum and to allow it to overcome the stalemate it has progressively reached in the past few years. In my discussions with other young researchers, I was often surprised to hear that their more senior colleagues had sometimes told them to find another research topic, because this one "had already been done". Yet, I believe that there is still a lot to say about LGBTI asylum, provided that we stop looking at it only from the viewpoint of claim processing and start broadening our focus.

A conceptual opening had already been sketched in section 2.3: that of the use of the notion of *politicization.* This concept is indeed useful to climb one step up on Sartori's (1970) ladder of abstraction, and to bridge together the three literatures evoked above without dismissing them too quickly. Homonationalism is indeed a type of politicization of LGBTI rights, but it is not the only one. Institutional homo-transphobia—or inversely, collective mobilizations against this violence—are also forms of politicization of LGBTI rights in a migration context. And if

we consider depoliticization as a sub-type of politicization, the framing of LGBTI asylum as a technical matter is a way of politicizing it and for some actors to gain control over it. Politicization, in other words, allows to understand homonationalism, homo-transphobia, and bureaucratization as different facets of the same phenomenon, but without losing on analytical grip and conceptual coherence. Approaching LGBTI asylum through these lenses is therefore what this dissertation seeks to do. For this approach to be fruitful, however, it is essential to focus not just on the diagnostic of whether there "is" or there "is not" politicization (though this can be part of the process), but to be committed to the analysis of the nuances this phenomenon may take, its mechanisms, its combinations, its strategic usages, along with its circumventions. And, beyond that, it is also crucial not to stop at describing the form taken by politicization, but to also analyze what this phenomenon *does* to European politics and policies, in order to explain how it interacted with the making of LGBTI asylum policies.

2.   Equality in the European polity: research question and hypothesis

The question of what politicization does to Europe as a polity appears even more relevant if we come back to the initial proposition I started this thesis with, namely, that of studying LGBTI asylum to interrogate the meaning of equality in Europe. When I referred to equality, at that time, I meant LGBTI equality—understood not just as the achievement of group-specific rights, but as a principle of justice deconstructing the unequal order of heterosexism[5] (Sénac 2017), thus enabling the collective and individual emancipation of LGBTI people. However, what emerged from the literature reviewed above is that LGBTI asylum is not just about equality between LGBTI and non-LGBTI people in Europe. It is also about equality between LGBTI foreigners and non-LGBTI foreigners, as shown by the literature on homo-xenophobia, which reveals the specific violence faced by LGBTI asylum seekers in many Member States. And, importantly, LGBTI asylum also is about equality between foreigners and Europeans, as illustrated by the literature on homonationalism, which documents the structural exclusion of migrants in Europe. To use the term "equality" to describe the relation between Europeans and foreigners might seem surprising at first sight, because while researchers widely agree on the fact that foreigners face structural exclusion in Europe, very few are those who dare to frame this situation in terms of (in)equality—as if these two populations were too different to be

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[5] The term "heterosexism" is preferred here to that of "LGBTIphobias" because it offers the advantage of pushing aside the notion of "phobia" while at the same time underlining the interconnection that exists between sexism, anti-gay and anti-trans violence.

compared. Yet, without minimizing the existence of rights that non-nationals do not possess (especially political rights), it is important to underline that discrimination based on nationality is supposed to be prohibited in the European Union today.[6] Moreover, if we move away from the rights-based conception of equality to understand it more broadly as a principle of justice, one can hardly see why considering a whole group of people—foreigners—as less deserving of justice and respect would be justifiable. In other words, equality is not as foreign to foreigners as it is often perceived to be. Questioning the state of inequality that exists between Europeans and foreigners—along with the one between LGBTI and non-LGBTI people, and among the category of "foreigners" itself—thus has all its place in a dissertation on LGBTI asylum.

Therefore, what analyzing European LGBTI asylum policies through the prism of politicization can inform us about is the place and meanings of equality in Europe today, and the role played by politicization dynamics in shifting them. This conceptual broadening renders this case study of interest to scholars working on Europe, migration, and nondiscrimination. Against this background, the question I answer in this dissertation is the following: *what does the European LGBTI asylum debate demonstrate about the role played by politicization in shaping the meaning and form taken by equality in European policies?*

My initial hypothesis, prior to fieldwork, was that politicization is crucial to the extension of the scope and meaning of equality to include new groups to the European polity, but that it might have ambivalent effects depending on the predominant form it takes. "Polity" was understood, here, as designating the European political community—as a material system, but also as a metaphorical space of belonging. The frontiers of this space of belonging are regulated by "policies", which embody specific visions of the polity, and by "politicization", which shapes these policies (Burawoy 2001; Palonen 2003; Bruch, Ferree, and Soss 2010). These definitions help clarifying the hypothesis stated above. In sum, I thought that politicization, by shaping and reorienting policies and helping activists to formulate new demands for inclusion, could play a key role in (re)defining the "who" and "how" of equality in Europe.

On an empirical level, however, my sub-hypothesis was that in the case of the European asylum debate, what would prevail would be the sub-politicization of LGBTI rights—sub-politicization being understood here in Lascoumes' (2009) sense of minimization of political disagreement through a reliance on a discourse of "shared values". I supposed that this would

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[6] This is what the Charter of Fundamental Rights of the European Union states; and it has in fact been reappropriated by European lobbies working on migrants' rights, such as the European Council on Refugees and Exiles, which has produced a brochure about the use of the Charter in the asylum procedure.

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favor a form of "exclusionary equality", where the inclusion of some individuals becomes considered as politically relevant, while the exclusion of the broader group they belong to remains unquestioned. While this argument might resemble to the one developed in the literature on homonationalism, it is crucial to underline that I did not necessarily presuppose the existence of dynamics of nationalist instrumentalization. Exclusionary equality is also a concept compatible with the bureaucratization of asylum, as authorities may try to filter and classify people into sub-categories, this triage thereby allowing them to better manage individual claims without calling into question the premises of the system under which they operate. Nationalist instrumentalization and bureaucratic triage put aside, my idea, in the end, was that the development of European LGBTI asylum policies was probably more illustrative of a willingness to establish and deepen equality between LGBTI and non-LGBTI Europeans, than between foreigners and Europeans. This would be symptomatic of a polity where equality is in the process of being extended through political struggle to individuals who already belonged but were marked as "different", but not to groups that are perceived as "outsiders" and therefore as fundamentally different from the population.

3. Methodology

The research question and hypothesis identified above call for a methodological approach sensitive to the role played by ideas in policymaking. Indeed, this research is concerned with imaginaries of equality, views about the European polity and its (material and metaphorical borders), and normative beliefs about what is fair and what ought to be transformed. At the same time, however, the reader will have understood at that point that I am not concerned *just* with ideas, but also with their actors, and with the processes through which these people manage to influence (or not) policies and policymaking. This dual concern is at the heart of the discursive-sociological theoretical framework developed by Forest and Lombardo (2012), based on the work of Schmidt (2008; 2010).

Schmidt is known for having theorized discursive institutionalism. Her main point was that discourses constitute a key vector for ideas in the making of public policies, and that looking at how different actors appropriate discourses helps understanding how and why policies may change in the absence of an exogenous shock. Forest and Lombardo offered a variation of this framework, based on the input of gender studies. They proposed two adjustments. First, whereas Schmidt considers discourses in a relatively neutral manner, they called for greater

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attention to be granted to the "deeper normative assumptions that are present in political discourses" (Forest and Lombardo 2012, 229). Discourses, in other words, are not a-normative constructs, but are underpinned by underlying structures, such as heterosexism or xenophobia for example. This is useful to explain why discourses that look different on the surface can still merge under certain conditions, as they may share essential components at the foundational level. The second adjustment suggested by Forest and Lombardo (2012, 231) is to grant more attention "to actors and their interactions in producing changes", hence their call for an approach that is not solely "discursive" but "discursive-sociological". Inspired by the work on abortion of Ferree et al (2002), the authors called to differentiate, on analytical level, between frames (how an issue is understood and put into discourse) and the process and actors of framing (how actors use frames to achieve change).

This theoretical framework enables us to understand LGBTI asylum not in isolation from other domains of European policymaking, but as participating into broader political structures—which is precisely the objective of this research. In the following sub-sections, I present the methodological framework I used to this theoretical framework operational. My objective was to collect data that allowed to examine how demands related to LGBTI asylum emerged and circulated in European politics, how they were connected (or not) to migration policies, and how they—and the conception of equality that was associated to them—evolved through this process. Before getting into the details of data collection, though, the first part of this methodological section is dedicated to the delineation of my European case study. The second part then looks at data—its sources, collection, and analysis. Finally, the third section reflects on the challenges met during fieldwork and on the limitations deriving from them. An important part of this section is dedicated to the Covid-19 pandemic because fieldwork was mostly conducted in 2020.

3.1. *"Travelling along the paths carved by policies themselves": a mobile approach to the European fieldwork*

The initial challenge I faced when seeking to study European LGBTI asylum policymaking was that of the delineation of my case study. Indeed, it quickly appeared that European LGBTI asylum policymaking overflowed the limits of the concrete policy object represented by the Common European Asylum System. Despite a recent political momentum around LGBTI asylum claims, researchers have found traces of mobilization on this issue among European

associative actors as early as in the late 1970s (Paternotte, Cosials Apellaniz, and Tong 2017). Moreover, the preliminary research done at the master's level made it clear that LGBTI policymaking could not be understood solely by looking at institutional actors operating in Brussels. It had shown that a multitude of actors should be considered; and that these policies were as much negotiated by Brussels policymakers as by local associative actors, as they interacted with national authorities and European actors. This entailed that possible vantage points from which to study LGBTI asylum policymaking multiplied and disappeared at the same time, as no single all-encompassing field site really existed.

This issue is not unique to European LGBTI asylum policymaking. Anthropologists working on public policies have noted how, "today, 'the field' often consists of loosely connected actors with varying degrees of institutional leverage located in multiple 'sites' that are not always even geographically fixed" (Wedel et al. 2005, 10). This is particularly true for the European Union, which, as a polity, is characterized by its polycentrism and its mechanisms providing for the consultation of diverse "stakeholders"—experts, associations, businesses (Hassenteufel and Surel 2000; Rayner and Jordan 2013). Under these circumstances, traditional understandings of fieldwork as a single long-term insertion into a geographically bounded place appeared insufficient to study the European politics of LGBTI asylum. Therefore, I made the choice to envision fieldwork as a network, and to adopt a "distended case approach" to European LGBTI asylum policymaking (Burrell 2009; Peck and Theodore 2012).

Peck and Theodore's (2012) "distended case approach" is inspired by the work of Marcus (1995) and his proposal to develop a multi-sited ethnography in which the researcher follows his object of study. Similarly, Peck and Theodore proposed to travel "along the paths carved by the policies themselves" (Peck and Theodore 2012, 24). This travel can have a geographical component, but it is above all methodological. It means moving with policies by looking at the network of actors that supports their circulation and examining their sites of emergence and mutation. By doing so, the researcher must remain open to unexpected paths. Indeed, following the policy "cannot be reduced to the relatively straightforward task of tracking norms, practices, and agents 'downstream' from sources of conspicuous authority, or outward from dominant centers of calculation; it must be multidirectional and it must span not only the spaces of intensive exchanges but also those of contingent connection, marginalization, and exclusion" (Peck and Theodore 2012, 28). This multidirectional aspect is crucial because it is what differentiates networks from hierarchies (Ansell 2000). In hierarchies, actors are connected to

each other, but some nodal points—those in power—concentrate all relations. In networks, relations span multilaterally, though it does not mean that power relations do not exist.

The field site of this research was thus built by looking at social relations between actors rather than by selecting them solely based on their professional characteristics or on their institutional legitimacy (Burawoy 2001; Burrell 2009). The same logic was applied on a temporal level: I focused field research on the period that spans from 1999 to 2020 (official start of the Common European Asylum System to the end of fieldwork), but I simultaneously kept an eye on prior relations that were still meaningful to actors today. The main challenge posed by this field site structure is that of its limits. Indeed, the number of possible connections between actors is virtually unlimited. A solution was found in the sociological notion of "inter-knowledge" (*interconnaissance*), which designates situations where actors know of each other, even vaguely, prior to meeting. This concept helps identifying connections that actors imbue with meaning (Olwig and Hastrup 1997).

However, one cannot apply inter-knowledge to European policymaking in the same way as to a village. Though many actors in European affairs know of each other, hence the notion of "Brussels bubble", a local association working with asylum seekers may be in contact with a European lobby or even an agency, but it is unlikely that the Commission know of them. This issue was solved by adopting a broadened approach to inter-knowledge. What mattered then was that interlocutors were not separated by more than one or two intermediaries. This provided for asymmetries of inter-knowledge without losing the methodological benefits of the notion in setting boundaries to the field site. By adopting this approach, the network studied in this research can be schematized as follows:
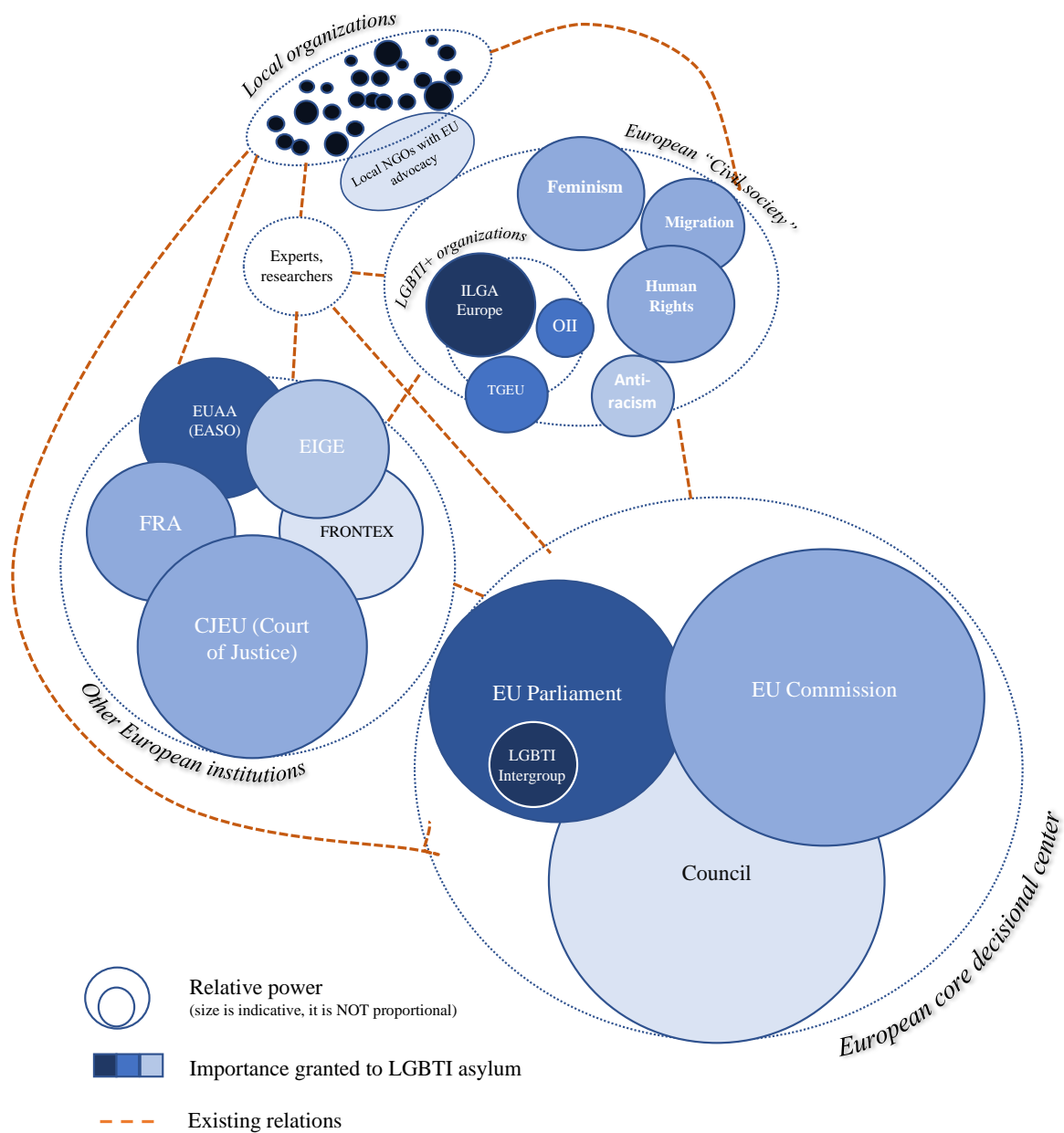
Figure 1. Network of actors involved in European LGBTI asylum policies

This schema features the different actors involved in LGBTI asylum policymaking at some stage of its development (initiation, negotiation, mutation, implementation). The importance granted to this issue is represented with shades of blue: the more important, the darker. The power of these actors is indicated with differences of sizes. This evaluation of the power of actors can only be indicative, because in European policymaking power is at the same time unbalanced—it is impossible to represent on the same page the power of the Council and that of local associations—and hard to objectify. It is difficult, for example, to assess the balance of

power that exists between nongovernmental organizations. Similarly, all agencies are represented with the same size, even though there are good reasons to believe that Frontex is more powerful than others (Tsourdi 2021). Finally, power varies in quality, not just in quantity: the power of the Court of Justice is different from the power of the Commission.

Still, despite these flaws, this representation helps picturing the network studied. It shows the existence of three main categories of actors—though many individuals move between these spheres, so it is more accurate to speak of "poles" in an "ecosystem" than of discrete categories. These three poles are: the associative world, European "satellite" arenas, and core European institutions. The associative world brings together nongovernmental organizations operating on LGBTI asylum at the national, European, and global level. At the European level, their most powerful representative is the European branch of the International Lesbian and Gay Association, ILGA-Europe. In European speech, these different actors are often referred to as "civil society". However, because this concept covers very different realities, in this research the choice was made to use more specific terms when designating them—local association, lobby, European nongovernmental organization—to avoid confusions between levels of action and to avoid falling into the fiction of a unified field of actors (Weisbein 2003; Sanchez Salgado 2011). The term "satellite arena", on its side, is used to designate non-elected institutions gravitating around the European decisional center. These arenas include European agencies, but also the European Court of Justice, and networks of experts. The term "satellite" stresses their crucial but non-initiator role: they are essential to the mutation, implementation, and correction of policies, but they do not possess the competence to start them. Finally, "core institutions" designate the decisional trio constituted by the Commission-Parliament-Council.

Within this network of policy actors, policies travel across levels and across sites; and by doing so, they Europeanize. Europeanization is defined here not just as top-down diffusion of European legislation, but as a process of mediation through which frames, policies, instruments, and actors mutate as they traverse—and are traversed by—European politics (Irondelle 2003). In other words, Europeanization is what happens when issues, policies, and actors become different from what they would have been had the European Union not existed. Within this framework, policies circulate across levels of action because LGBTI asylum is the result of interactions between the national and the European level. Local associations speak with national authorities and European agencies, European lobbies ask for testimonies from refugees, the Commission consults experts, and the Court of Justice rules on the application of European legislation in Member States. At the same time, policies also travel across sites, as they carve

their way from activists to civil servants, from civil servants to politicians, and from politicians to experts—and vice-versa. By passing through these different geographic and institutional layers and as they are appropriated by actors with different goals and different understandings of equality, European LGBTI asylum policies mutate, both in their shape and in their content. Elements are lost or downplayed, others added or emphasized. The meaning and form taken by "equality", to come back to our initial question, changes.

In the end, if the final result of LGBTI asylum policymaking in the European Union is indeed binding legislation that can appear monolithic, one could paraphrase Burawoy's analysis of globalization, and argue that "from the vantage point of its production", Europeanization "appears more contingent and less inexorable than it does from the standpoint of its experience or reception (…). There is a hierarchical chain, but like all social chains it can be disrupted and diverted" (Burawoy 2001, 150). This attention to the mutation, deviation, and disruption is what is to be gained from adopting a network-centered approach to European policymaking.

3.2. Data sources, collection, and treatment

To study these policy travels, I conducted field research in Brussels and online between November 2019 and December 2020, with a more intensive period of data collection between February 2020 and June 2020. However, it should be underlined that experiences that informed this research also took place outside these periods. This is the case mostly because of my prior involvement with a French association providing support to LGBTI foreigners, the *Association pour la Reconnaissance des Droits des Personnes LGBTI à l'Asile et au Séjour* (ARDHIS). I was a volunteer in the section dedicated to binational couples from 2016 to 2018, and I had a brief experience as a board member in 2018–2019. My involvement then decreased when I moved to Italy to start my PhD, but I stayed in touch with members of the organization and was sometimes asked to participate to events—both before and after fieldwork. For example, I went to ILGA-Europe's annual conference in 2017. I did not approach my time at the ARDHIS as fieldwork, but it did inform my analysis and its existence should therefore be acknowledged.

To come back to the field research I conducted between 2019 and 2020, studying policymaking networks often entails both "studying out" and studying up" (Peck and Theodore 2012). Studying out means looking at fieldworks where the researchers' personal connections may be scarce. Studying up, on the other hand, entails looking at those who are in power, and not just those who are marginalized (Nader 1974). This was indeed my case when I started this

European research. This explains the centrality I had to give to interviews, which are one of the main ways to circumvent the obstacles of studying up and out (Peck and Theodore 2012). These interviews were complemented, however, with observation, a documentary analysis, and an online survey. Associating these four types of sources was useful to triangulate information but also because they shed light on different angles of LGBTI asylum policymaking. Looking at documents allowed to examine the discourse that actors want to uphold in public. Observation was crucial to gain a finer-grained understanding of negotiation dynamics. Interviews, allowed not just to collect data but also to (co)produce it. This was essential given the scarcity of public declarations on LGBTI asylum by European officials. Finally, the online survey enabled me to broaden the range of my interviewees located in Member States.

Observation took place in Brussels (February to mid-March 2020) and online (until December 2020). Initial plans were constrained by the Covid-19 pandemic because access to the European Parliament LGBTI Intergroup and to the Committee on Civil Liberties, Justice and Home Affairs could not be gained. The activities of these structures were slowed—at some point, stopped—in the first months of the pandemic. However, I attended the annual presentation of ILGA-Europe's report at the Parliament and subsequent talk with the new Commissioner for Equality, participated in a ILGA-Europe meeting on asylum as an association representative, had some informal interactions (coffees, dinner) with members of nongovernmental organizations in Brussels, and participated to exchanges on ILGA-Europe's mailing list "Sexual Orientation, Gender Identity and Expression and Sex Characteristics" (SOGIESC). This mailing list brings together associations, lawyers, and academics working on LGBTI asylum and constitutes a privileged forum of transnational exchanges on this issue. My documentary analysis, on the other hand, focused mostly on regulations, directives, reports of the European Parliament, minutes of Parliamentary debates (including written explanations of votes), reports published by European agencies and nongovernmental organizations, and archival documents from ILGA-Europe. These archives included internal notes from the 1990s and early 2000s sent by two interviewees, and all monthly newsletters published by the organization starting from 1992 (retrieved online via the Way Back Machine).

Regarding interviews, 72 actors of LGBTI asylum policymaking were interviewed, most of the time individually, to the exception of three group interviews. The panel of interviewees was composed as follows: 17 were Parliament-based actors (12 deputies, three assistants, two past general secretaries of the LGBTI Intergroup), seven worked as civil servants (Commission and European Union Asylum Agency), 17 were involved in European nongovernmental

organizations, 27 in local associations, and four were experts. The detailed list of interviewees can be found in the annexes. Participants interviewed were selected based on their involvement in European asylum or LGBTI policies. For local associations, the focus was on activists connected to the European Union, and this criterion was objectified by looking at associations that were inserted in European networks (ILGA-Europe membership, participation to the SOGIESC mailing list, presence on transnational contact lists available online for refugees). Furthermore, for matters of time and because it was impossible to do several in-depth interviews in each Member State, an online survey based on my interview schedule was sent to other local associations. Both the survey and the interview schedule can also be found in the annexes. The survey's objective was to collect data to complement interviews. It was filled by representatives of 66 associations based in 21 European countries. Finally, it must be underlined that although I did not have a panel of asylum seekers because I focused exclusively on policymaking processes, this does not mean that refugees were not interviewed. Two refugees participated to this research in their position as directors of an association, and several other interviewees, though they were not refugees, also had a migrant background.

In general, interviews were semi-directive and lasted around one hour. Three interviews were done face-to-face, but most others took place by phone or Skype, and three interviewees submitted written answers. Most interviews were recorded for transcription, and the vast majority of interviewees accepted to be quoted with their full names. Interviewees that preferred anonymity are referred to with a fake name (no surname). All data coming from interviews will be quoted in italics, to differentiate it from extracts of documents. The data collected through interviews, documentary analysis, and observation was then analyzed manually—without resorting to software-based analysis, to the exception of Excel for the survey sent to local associations. Indeed, because this topic has not been analyzed at the European level yet, preexisting frames or categories of analysis that could have buoyed a software-based analysis did not preexist in the literature. Against this background, preference was given to in-depth reading of the materials. This appeared essential to avoid missing valuable knowledge, and to offer a finer-grained analysis of the way LGBTI asylum is treated at the European level. The preliminary work done in this dissertation might serve, in the future, to researchers willing to take this discussion further by working with more extensive databases—for example by looking at all European Parliament debates and questions for oral or written answer.

3.3.Methodological challenges: doing qualitative fieldwork under Covid-19

As in all research projects, this dissertation possesses its own limitations. Some are inherent to its design, because the European Union is vast, and choices had to be made for this study to be feasible in three years. These are evoked at the end of this section. Others were not envisioned prior to fieldwork and were a consequence of the hazards inherent to research. As written earlier, indeed, most of my fieldwork research took place during the early months of the Covid-19 pandemic. This entailed that alternative methods for data collection had to be found when fieldwork abruptly closed between March and May 2020. The choice was made to increase the use of digital tools—emails, phone, services of online calls—to pursue field research. That fieldwork should have a digital dimension was part of my initial plans, as I wanted to speak to associations operating throughout Europe. Developing a digital fieldwork in articulation to face-to-face field research is not something new in the social sciences. The situation is more problematic, however, when fieldwork was not planned to be exclusively digital but ends up to be so (Clouet, Oudot, and Noûs 2021; Héas and Régnier 2022).

This turn to a digital field research generated some issues. For example, my access to some very busy interviewees was limited: had I been in Brussels, I could have used social gatherings to secure interviews, but this became impossible. Some interviewees also cancelled planned meetings at the beginning of the pandemic and no interview could be rescheduled. Finally, a few interviewees could not secure a space of discussion free of interference, as they had to tend to children at the same time. However, these issues remained relatively marginal. This is probably related the fact that my panel was composed of socially privileged people: they had access to a good internet connection, to a space where they could isolate, their income remained stable, and in fact many had more time to devote to my research than what they would have had on a normal day. Contrarily to researchers working with marginalized populations, this digital reorganization did not make interviewees unreachable (Clouet, Oudot, and Noûs 2021). It could even be said that the pandemic allowed me to secure more interviews with high-level politicians in the first weeks of the lockdown, as their normal activities were cancelled.

Regarding the quality and the reliability of the data collected, the impact of this digital reorganization appears to be acceptable. Researchers agree, overall, that synchronous environments—when the interviewer and the interviewee interact in real-time—share many similarities with face-to-face interviews (Miller 1995; O'Connor and Madge 2001). Written contributions are more problematic because they are asynchronous; and I made the choice to use these contributions (there were three of them) only to corroborate arguments present in

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interviews. The main issue researchers have identified with phone interviews rather is the loss of nonverbal and contextual data (Novick 2008). However, this loss can also be an advantage, because it uniformizes interviews: as the interviewer and the interviewee cannot see each other, the absence of gaze makes mutual judgement more difficult, and the potential for environment-based distractions is also lesser (Héas and Régnier 2022). Beyond that, researchers publishing on their fieldwork during the pandemic have also underlined the sense of "collective intimacy" that derived from this specific experience (Howlett 2021; Clouet, Oudot, and Noûs 2021; Héas and Régnier 2022). This is something I noted too, as I found participants willing to talk longer and to touch upon more intimate matters than they had in face-to-face interviews. The fact that they spoke from their home perhaps played a role in there, as they were not surrounded by colleagues. Most importantly, these online interviews did not appear to be less complex—in terms of content—compared to the few face-to-face interviews I did. The interview schedule was often requested by interviewees and complex questions were thus asked and answered. Consequently, while switching fieldwork to digital methods entailed methodological changes, biases and loss of data quality appear reasonably limited.

More important than these pandemic-related challenges are two by-design limitations in the scope of this research. Indeed, the choice was made in this research not to tackle transposition and implementation mechanisms. Transposition is the mechanism through which European legislation, especially directives, becomes embedded into domestic legal orders. It is a complex process that possesses its own rationales (Zhelyazkova 2013; Baratta 2014). Despite having done extensive research on the French asylum law reform of 2015, which transposed European directives from 2011 and 2013, I decided not to use this data, because the questions that were asked were too different from the ones explored here. Transposition deserves future analysis, such as the one successfully started by Hamila (2020). A similar remark can be made regarding implementation. Implementation covers more broadly all mechanisms aiming to make policies active and effective. This includes, for example, training for decision-makers. The key actor of this process is the European Union Asylum Agency. Even though a few interviews with civil servants working at this agency were done, they were not sufficient to fully understand how the agency manages LGBTI asylum and supports the enforcement of related policies. This represents a fascinating avenue for future research, especially if the researcher manages to negotiate access to the agency's everyday work. Given the recent increase in the powers of the European Union Asylum Agency, there is no doubt that such a study would make a valuable contribution to research on Europe and on LGBTI asylum.

These limitations being acknowledged, I still hope that this dissertation, by documenting historical processes and analyzing recent trends, will provide to its readers—especially researchers and activists—some useful and innovative insights into the politics of LGBTI asylum in Europe today. I also hope that by connecting the debate over equality in Europe to that over borders and bordering processes, this work will participate in current attempts to make LGBTI asylum a topic more broadly relevant to those interested in political science, and not just to specialists. This attempt to take LGBTI asylum out of its niche is illustrated, I believe, in the following section, which details the structure of this thesis.

4. Dissertation structure

Analyzing the role played by politicization in the making of equality in European policies is a challenge, both because of the multiple forms that politicization may take, and because of the diversity of actors whose work shapes LGBTI asylum policies. In order to avoid adding unclearness to complexity, this dissertation is structured in a relatively simple manner, based on two main axes—one temporal, the other spatial. At the temporal level, this dissertation examines the constitution of European LGBTI asylum policies on a chronological basis. The two first chapters focus on events that took place prior to 2015, a central chapter operates as a pivot and revolves around the 2015 crisis, and the two last chapters are concerned with current developments. The objective was of course not to write a descriptive history of LGBTI asylum. Yet, adopting such a chronological structure was meaningful because of the major transformations that have affected the European political space over the past two decades. The context in which LGBTI asylum actors evolved in the 2000s is much different from the one of today, so it did make sense to reflect these moments of rupture in the structure of this dissertation. To further avoid the pitfall of descriptiveness, this temporal progression is combined with a journey through the different spaces LGBTI asylum policymaking, allowing to analyze the relation of their actors—associative actors, elected politicians, high level civil servants—to politics and politicization. It must be noted that this movement is more circular than linear; and the dissertation closes where it starts, with associative actors The combination of these spatial and temporal axes helps fulfilling the promises formulated in the methodology section, namely, that of "travelling along the paths carved by policies themselves".

The dissertation is therefore structured as follows. The first chapter focuses on the phase of emergence of LGBTI asylum on the European agenda. Following the recommendation of

Jacquot and Boussaguet (2009), it looks at this phase as a puzzle *in itself,* and not just in relation to successive policies. Looking at this emergence helps producing an analysis that moves beyond the dichotomy between "radical grassroot activism" and "professionalized European lobbying". It shows the intertwinement of repertoires, strategies, and levels of action in making LGBTI asylum relevant not only to the European Union, but also to LGBTI activists themselves—who started mobilizing on asylum at a time when their own rights as European nationals were far from being respected. This chapter shows that LGBTI asylum emerged in articulation to the broader fight for LGBTI equality in the European Union, and not necessarily as an extension of the struggle for migrants' rights. Politicization was crucial to make the violence faced by LGBTI people abroad relevant to European action.

The second chapter elaborates on this argument and takes further the discussion on the role played by politicization in renegotiating the meaning and scope of equality. Through a focus on trans recognition as the key demand of LGBTI activists during the first period of reform of the Common European Asylum System (2008–2013), it examines how sub-politicization—a form of politicization that relies on the downplaying of conflict—was a condition for the extension of the realm of equality to new groups. This is exactly what happened on trans rights, as the Qualification Directive of 2011 was the first European binding text to recognize trans people as a group in need of protection. This recognition occurred through an avoidance of public debate, because European associative actors took advantage of the lack of interest for gender issues of migration policymakers from that period to picture their demands as consensual. This chapter therefore deepens the discussion on forms of politicization by questioning the divide between politicization/depoliticization in producing political change.

As the second chapter closes on the limits of sub-politicization as a long-term strategy, the third chapter takes back this argument by examining the way it is the intertwinement of sub- and sur-politicization that has enabled the increased support for LGBTI asylum around 2105. It focuses on the European Parliament during and after the "refugee crisis". It analyzes how representations of LGBTI asylum as part of "shared European values" promoted by progressive actors interacted with the vocal statements of opposition produced by the radical right. Its objective is to show that if these radical right deputies rejected LGBTI asylum, it is because they had (rightly) understood it as embodying a version of the European project they despised— one that considers LGBTI rights as central to the European polity. Their opposition had an ambivalent effect on LGBTI asylum policymaking. On one hand, it resulted in a simplification of the debate over this question and fed a feeling of imminent threat and discouragement among

progressive actors. On the other, however, it resulted in the clarification of partisan alternatives and in the repolicization of the support for LGBTI rights at the European Parliament. This repoliticization is crucial to the future construction of more demanding and more explicitly political strategies on LGBTI equality—policies that do not negate their own transformative potential but rather acknowledge it.

Nonetheless, and quite paradoxically, what the fourth chapter of this dissertation shows is that despite a brief period of heated debate in 2015–2016, the driving force behind the constitution of a common European LGBTI asylum policy was not so much nationalist instrumentalization, but rather processes of strategic circumvention of the political debate. What has prevailed after 2015 is the depiction of LGBTI asylum as an issue that should be better removed from the political arena and dealt with through the sharing of "best practices". European satellite arenas have played a crucial role in this depoliticization, which they have presented as a way out of a democratic debate that would be "too" polarized, "too" extreme, and in the end, "too" political. Through the operational knowledge they produce and disseminate, these actors are at the forefront of LGBTI asylum policymaking today. This raises important questions, because even though the body of knowledge they produce seeks to improve the treatment of LGBTI asylum seekers, they are still major actors of the governance of borders in Europe. In the end, what this chapter argues is that depoliticization may very well be more detrimental to the protection of LGBTI asylum seekers than sur-politicization, because it naturalizes exclusions and consolidates their treatment as "different" from other foreigners, therefore foreclosing any possibility to better articulate migrants' rights and LGBTI rights.

The fifth and last chapter concludes on a more hopeful note, by examining the role that local associations supporting LGBTI asylum seekers in Member States could play in shifting the terms of the debate over LGBTI asylum. These associations, indeed, often challenge the disarticulation of LGBTI rights from migrants' rights in European migration policies, because it does not correspond to what they are observing on the field. While they have reduced power in European policymaking and are often coopted by more powerful lobbies, the past few years have revealed the presence of an increasing political critique over the content of European migration frameworks. This dissertation therefore closes on the observation that, if LGBTI asylum is far from having allowed the emergence of more inclusive ideals of justice at the European level, it does not mean that it will never be the case. For that to happen, though, it is important that European actors accept that not all critique of European policies is necessarily rooted in Euroscepticism.

CHAPTER 1

Getting Gay Refugees on the European Agenda:
A LGBTI Affair

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Interest for asylum is often thought to be recent among European associations. It is true that this matter has gained visibility during the 2015 migration crisis. The humanitarian frames that briefly prevailed in the early months of the crisis resonated with many European citizens who had not been interested in migration previously (Georgiou and Zaborowski 2017; Castelli Gattinara and Zamponi 2020). In this context, information about the plight of LGBTI refugees flourished. This is not to say that gender- and sexuality-based asylum claims became well-known from the general public: mainstream media coverage of this issue was still very limited, and often restricted to liberal news outlets (Kenix and Jarvandi 2016). However, in the LGBTI and migrants' rights movements, awareness of the presence and needs of LGBTI asylum seekers increased, to the point that this issue has been granted a form of "sur-attention" recently (Chossière, Desvaux, and Mahoudeau 2021). In the years following the crisis, activist groups supporting these claimants mushroomed, and specific programmes dedicated to gender and sexuality issues were developed in mainstream migrants' rights associations.

However, a brief look at the literature shows that this impression of novelty is erroneous. As stated in the introduction of this research, the recognition of sexual orientation as a relevant persecution ground dates back to the early 1980s. Researchers started to get interested in this issue slightly after. At the activist level, asylum was mentioned in the first annual conference of what would become one of the most enduring international LGBTI nongovernmental organizations, the International Gay Association (IGA), as early as in 1979 (Paternotte, Cosials Apellaniz, and Tong 2017). These few elements of context show that LGBTI asylum is not a new or merely fashionable issue. At the same time, that asylum was present on the agenda of

LGBTI activists for such a long time raises several questions. The call voiced by IGA activists in 1979 was formulated by an audience composed mostly of European and North American militants. Yet, in many of these countries, LGBTI people were repressed. Governments often considered the criminalization of homosexuality to be necessary for the greater good of society (Borrillo 2005). In the United States, it is only in 2003 that sodomy laws were entirely struck down. In many European countries where same-sex practices were decriminalized earlier on, restrictions on freedom of assembly and expression were still present until the 1990s, sometimes later (Jackson 2009). In the United Kingdom, for example, the decriminalization of consensual sex between men in 1967 paradoxically resulted in a surge of arrestations for "gross indecency" or "conspiracy to corrupt public morals"(Cocks 2016). These two categories targeted some aspects of private life, such as having group sex, but also and above all public expressions of homosexual lives—advertising, dancing, flirting.

In this context, it seems highly unlikely that governments that considered discrimination against homosexuals as a legitimate practice on a domestic level would be willing to look into the practices of other states and declare them to be "persecutory". Moreover, unlike today, neither migration nor equality were not part of European competences. Migration only became so in 1992 with the Maastricht Treaty, and anti-discrimination only dates back to 1997 and the Treaty of Amsterdam. In other words, getting LGBTI asylum on the agenda of any government—or onto that of the nascent European Community—seemed not only to be a project doomed to failure, but also an unlikely one. Indeed, why would people who are themselves persecuted or discriminated against in their own country start to advocate for the right to asylum of homosexual and transgender foreigners? And would these foreigners even come to Europe? And yet, this is exactly what happened just a few years later, when the 2004 Qualification Directive of the Common European Asylum System declared, from the outset, that sexual orientation should be considered when determining the existence of a particular social group (Tsourdi 2013). In light of this, there is a need to examine the process through which LGBTI asylum entered the agenda of the European Union.

Studies focusing on such processes, even at the national level, are a handful. Nonetheless, by connecting them to broader inputs from the literature on LGBTI recognition, three main lines of argument can be identified. There are, first, the researchers who claim that the granting of rights to LGBTI people principally derives from broader societal change. This is the historical argument of Inglehart (1990), who recently argued that European post-war societies, as they found physical and material security, moved away from pro-fertility norms to pro-

individual choices norms, paving the way for gay recognition (Inglehart, Ponarin, and Inglehart 2017). The argument of modernization is latent in many studies on LGBTI asylum, although seldom made explicit. Its correlate—the idea that countries caught in tension between tradition and modernization may struggle with LGBTI asylum recognition—has benefited from more attention (Śledzińska-Simon and Śmiszek 2013; Badali 2019). This approach, however, does not explain how countries relating differently to ideals of progress and modernization can agree on a common policy on the recognition of LGBTI asylum seekers.

Arguing that this model is too generalizing and, in the end, of little specific explicative value, other researchers have looked at the legal and administrative processes through which policies come into being. As evocated in the literature review, both Miaz (2014) and Hamila (2019) have shown, in their research, how the recognition of sexual orientation as a ground for asylum in Switzerland and in Belgium derived from the production of instruments specific to these claims. In a slightly different way, other researchers have underlined how small incremental changes are the underlying structure that enable future symbolic recognition (Millbank 2013). However, while this approach is fruitful at the national level, one could question its adequacy to look at the European Union, as European institutions are not in charge of examining asylum claims and have started to produce instruments on LGBTI asylum after their first directives.

A third and last strand of literature, in which this research falls into, has emphasized the importance of political mobilization in relationship to change in asylum law and practices. This argument is not incompatible with the model of legal-administrative processes (Miaz, in fact, relies on both), but it grants more attention to its actors, especially policymakers and activists. These studies demonstrate the key role played by activists in putting gender- and sexuality-related persecution on the agenda of national, European, and international institutions (Freedman 2010; Bécasse, Cesaro, and Chossière 2020). This standpoint seems more fertile to look at European agenda-setting processes, because it helps reconstructing the negotiations that took place at that time, without closing the door on the importance of changes of mindset or of instrument production. Actors, after all, exploit the windows of opportunity they perceive; but they are also bound by their own productions and that of the institutions they work with. Politicization, in this context, plays an ambivalent role (Ayoub 2014; 2015). By increasing the visibility of a given issue, it can contribute to its advancement (Joachim 2003; Ayoub, Page, and Whitt 2021). However, it can also result in increased resistance (Slootmaeckers 2021; Saltnes and Thiel 2021a). As a consequence, recent research has underlined how actors

mobilizing in favor of the legal recognition of LGBTI claims have sometimes chosen to avoid politicized modes of action, and rather privileged arguments based on expertise (Miaz 2014).

One may wonder whether it was also this avoidance of politicization that enabled activists to bring LGBTI asylum onto the European agenda. There are arguments in favor of that: European lobbies are known for having adapted to European Union ways of doing, in particular for what concerns the adoption of expertise-based discourses (Saurugger 2006). But, on the other hand, this observation is posterior to the 2001 European "White Paper on Governance", in which the Commission pledged to increase the participation to policymaking of civil society organizations. The context LGBTI activists faced in the 1980s was much different. Their goal was not to achieve dominance over policymaking but was much humbler: to make European policymakers aware of their claims. Politicization, in this context, may have appeared as a key strategy for them to make their demands politically relevant.

For that reason, this chapter examines the following question: what can the setting of LGBTI asylum at the European agenda teach us about the role of politicization in extending the scope of equality and inclusion to new groups in European policies? My initial hypothesis was that in the context of the 1990s, where LGBTI rights in general—and LGBTI asylum even more— were considered as barely legitimate issues by many policymakers, politicization was crucial to the extension of the domain of equality so as to include a concern for these populations. However, I also hypothesized that the processes of formulation, by activists, of claims related to LGBTI asylum would have followed different trajectories at the domestic and at the European level. Based on the findings of my master's thesis, I expected national activists to start mobilizing out of concrete individual cases they diagnosed as "problematic", organizing protests targeted at their national authorities. By contrast, I expected European-level mobilizations to be a consequence of this national activism. I also expected these mobilizations to be more "principled" and rights-oriented, and less marked by intense logics of politicization, because protests are not in the accepted repertoire of European influence, and because the European Union initially had no competence over asylum.

Based on the literature and on data collected during fieldwork, it appeared that in its initial stages, LGBTI asylum advocacy principally emerged out of LGBTI activism, and that it became included to the advocacy of migrants' rights movements only *a posteriori.* For this chapter, I therefore focused data collection on the advocacy of European LGBTI activists. In the late 1970s and up until the 2000s, the main—when not sole—structure embodying this activism was the International Gay Association (IGA), which became the International Lesbian and Gay

Association (ILGA), from which a European branch (ILGA-Europe) spawned in 1996. It is important to underline the high degree of continuity between these three organizations. The European branch did not emerge in rupture with its predecessors: historical activists of the IGA were part of the initiators of ILGA-Europe. Focusing on the IGA and ILGA-Europe is also useful to look at the interaction between domestic and European mobilizations, because this organization has always been an umbrella group. The analysis presented in this chapter thus relies on interviews with early members of the IGA/ILGA and of ILGA-Europe and on a corpus of archival documents (ILGA-Europe newsletters from 1992 to 2020, annual reports, internal notes from the late 1990s, personal documents).[7]

My initial hypothesis was largely confirmed by fieldwork: politicization was indeed essential to mark the situation of LGBTI asylum seekers as a public issue European institutions should care about. However, I was led to nuance my sub-hypotheses on the form taken by this politicization and the division between national and European mobilizations. What appeared was that the early moments of the IGA/ILGA were marked by a relative undifferentiation of the domestic and the supra-national level, entailing a multi-level circulation of frames and strategies. It is only later that expertise-oriented and right-based strategies became characteristic of ILGA-Europe's advocacy. This transformation, however, should not be equated to the depoliticization of European LGBTI asylum activism. Adopting a rhetoric audible to European institutions was crucial to the precocious legitimization of LGBTI asylum in European action. This was an important leap forward in terms of inclusion in Europe because this subgroup had not benefitted from any recognition until that moment. However, it is also within this initial experience that the main limitations of a European LGBTI asylum advocacy were constituted. Among them was the pitfalls of an approach that cannot afford a frontal opposition to asylum policies if these policies comprise reasonable accommodations specific to LGBTI refugees.

This chapter is organized as follows: the first section shows that the legitimization of LGBTI asylum indeed originated from LGBTI activism, and it examines how these activists politicized

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[7] Two persons ought to be thanked here, especially because the Covid-19 pandemic prevented me from accessing to the archival funds I intended to consult. Nigel Warner, early member of the IGA/ILGA and then of ILGA-Europe, sent me all the excerpts of documents related to asylum he could found in his personal archives. In general, I managed to confirm the information provided through an online search, with a few exceptions—such as personal emails, etc. He also sent me a 30-pages document he wrote to synthetize the history of ILGA-Europe. His contribution was invaluable, and he cannot be thanked enough. Mark Bell, Regius Professor of Law at Trinity College Dublin, activist, and expert for ILGA-Europe in the 1990s and 2000s, also sent me several position papers and internal notes he wrote during the first negotiations of the Common European Asylum System. Again, I would like to thank him for his contribution and support. The interviews of both Nigel Warner and Mark Bell were rich and dense, and writing this chapter, without them, would have been very difficult.

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it—sometimes out of political principles of solidarity, sometimes out of personal interests. The second section shows that it is the alternance of phases of sub- and sur-politicization that allowed LGBTI asylum to finally become a legitimate domain of European intervention. The third section studies the limitations constituted during this first experience of a European LGBTI asylum advocacy, in particular for what concerns the "who" of equality and inclusion. A last specification: throughout the text, the choice was made to use the labels most historically accurate when dealing with specific periods of history ("homophile", "gay", etc), and to use "LGBTI" as a more generic formula in lesser specific contexts.

1. Political solidarities: asylum, immigration, and gay activists

Today, it is common to consider LGBTI associations as those who are logically in charge of developing a LGBTI asylum advocacy. However, from a historical viewpoint, this cannot be taken for granted. The construction of a "problem" is a largely cognitive process, and the question of how something that did not preexist in the thought of the actors who are then going to defend it and uphold it is always worth studying (Gilbert and Henry 2012). This is particularly important when the actors in question are not directly affected by the problem at stake. In the 1980s and 1990s, indeed, many generalist gay associations had no direct experience of migration-related activism. Their recent priorities—be they those of the gay liberation movement or those of the HIV emergency—often had been much different. They were more focused on obtaining freedom, access to medical treatment, and material rights. As we will see, interest for asylum already existed, but it was still in its infancy. Of course, this rudimentary interest was still better than the ambivalences of the mainstream human rights movement.[8] If LGBTI activists had not mobilized on LGBTI asylum, it seems unlikely that someone else would have done it for them. However, this still raises the question of how and why they came to consider this issue as relevant to them, and of the way they tried make it politically relevant.

This section therefore analyzes the development of an asylum activism within the nascent European LGBTI movement. It shows that, because LGBTI activists were in a marginal and dominated position, politicization was one of their key resources in trying to mark gender- and sexuality-based violence as intolerable in Europe and abroad. This politicization took different forms. The first sub-section shows how an initial period of emulation and indeterminacy in the

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[8] Amnesty International, for example, refused for a long time to recognize people jailed for their sexual orientation as prisoners of conscience. They only did so in 1991, after a decade of intense ILGA-Europe lobbying.

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European LGBTI movement operated as a structure of opportunity for a form of contentious politicization of LGBTI asylum that posited equality among LGBTI people, be they European or foreigners, as a matter of political solidarity. This was different from the action of binational same-sex couples, analyzed in the second sub-section. These actors gave a real-life texture to statements of solidarity and were key to the entrenchment of asylum into ILGA-Europe's priorities, but they also privileged lobbying and frames related to private family life and equality between couples. Overall, these different elements show that the agenda-setting of LGBTI asylum was above all a LGBTI affair, but also that even within a single movement, different visions of equality—of its "who" and "how"—coexisted, right from the start.

1.1. *Transnational solidarity and contentious mobilization(s) in a period of indeterminacy*

Throughout the first two decades of the life of the IGA/ILGA/ILGA-Europe, uncertainty and indeterminacy marked the political and institutional context they evolved in. At that time, even appraised scholars had difficulties foreseeing the future of the European Union, and many were uncertain about the structure of opportunity it would open for social movements (Marks and McAdam 1996). This was to change: just a few years later, researchers showed that the fundamental rights architecture set up by the European Union starting from 1997—especially the Amsterdam Treaty and the Charter of Fundamental Rights—operated as a key structure of opportunity for associative actors (Engel 2001; Fella and Ruzza 2006; Ruzza 2014). But in the 1980s and 1990s, this perspective was still hypothetical. This uncertainty could easily be thought to be a handicap to organized action, as it made the identification of access points and pathways to influence more difficult (Kriesi 1995; Van Der Heijden 1997). However, it seems that it is the exact contrary that occurred. The absence of clear cognitive limits as to what would be future European competences, in a period of drastic expansion of European Union normative powers, was favorable to LGBTI activists, who seized it as an opportunity to shape the future of Europe (Muir 2014; Ayoub and Paternotte 2016). Negotiations over the Amsterdam Treaty then made LGBTI rights enter the realm of the "imaginable" for policymakers.

This context of structural indeterminacy is important to understand the setting of LGBTI asylum at the European agenda on two levels—one structural, the other strategical. On a structural level, it is crucial to underline the role played by the fact that the European LGBTI movement was still in its infancy. Of course, there had been prior initiatives seeking to unite homosexuals, homophiles, or gays—depending on how they referred to themselves—on a

transnational level throughout the 19th and 20th century (Rupp 2011; Huard 2012; Prearo 2012). However, these initiatives failed, and when the IGA was founded in Coventry in 1978, its first moments were characterized by enthusiasm and collective emulation. In that sense, it is no coincidence if demands related to asylum emerged at the very first conference of the IGA/ILGA, in 1979. This is well illustrated by the memories of Nigel Warner, past member of the Campaign for Homosexual Equality (a British association instrumental in the founding the IGA/ILGA) and founding member of the IGA/ILGA. When asked what motivated people to mobilize on asylum despite their own difficulties, he replied:

> *"You know, right from the beginning, everyone was interested in everything! The IGA conferences were full of stuff, everyone dreaming to take action in many different fields. But it was an organization without resources, communication was very difficult, and people attended as they could, coming and going. Proposals for a project on asylum came up as early as the first IGA conferences in 1979. The idea involved both lobbying governments, and providing support to gay refugees, whether through legitimate means, or through providing potential spouses to enable them to gain residence rights through marriage. But there were neither the necessary resources, nor the openness on behalf of governments to accept gay refugees, and the project soon fell away."* [9]
>
> (Nigel Warner, personal communication, 06/10/2020)

What appears in Warner's contribution is the idea that, for him, the absence of organizational structure and the lack of official agenda was, paradoxically, part of the conditions that enabled the emergence of discussions over niche topics during conferences. Because activists had little prospects of immediate success, the initial moments of the life of the IGA/ILGA were less marked by logics of prioritization of claims and strategic allocation of resources than today. The organization was not yet constrained by inherited priorities (Marks and McAdam 1996), and this provided the space necessary to the formulation of marginal interests.

This structural indeterminacy, combined to the hesitations and ambivalent openings of European and international institutions *vis-à-vis* gay activism, were key to explain the choices then made by IGA/ILGA and ILGA-Europe activists when mobilizing on LGBTI asylum. In recent years, ILGA-Europe has taken up the role of expert for European institutions, and it collaborates with the Commission, the Parliament, and European agencies. The provision of expertise and legal arguments is key to this strategy of influence. But, in the 1980s and 1990s, IGA/ILGA activists had no such political clout. They were in a position of inferiority, submitted to the good will of more powerful actors. European institutions were not a space free from discrimination for them: as late as in 1997, despite having adopted a resolution affirming homosexual rights a few years earlier, the Parliament denied equal treatment for same-sex

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[9] A stated in the introduction, all extracts from interviews are in italics, to differentiate them from written sources.

partners of civil servants working in European institutions (Elman 2000). In this context, strategies of influence exclusively grounded upon non-contentiousness could not suffice to get their claims heard. Politicization, in a sense, is part of the repertoire of the weak: research has shown how it is used by associative and human rights actors to influence debates, and how, on the contrary, secrecy often serves the interest of those with greater power (Dionigi 2019).

As a consequence, while research has shown that the IGA/ILGA rapidly privileged conventional advocacy strategies (Paternotte 2014; 2016), it seems that the tension between convention and non-conventional strategies persisted for several decades in relation to asylum. This tension is perceivable right from the start of the IGA/ILGA's interest for asylum, in the Lifeline project, a solidarity with gay refugees project mentioned above by Nigel Warner. The initiative, developed in 1979, called participants to take the following action:

> "Governments [are] to be asked to specify if gays are eligible for political asylum and if not, why not.
> [Organizations are] to create a register of potential spouses to marry foreign nationals in order to gain security residence or rights of entry (where applicable).
> Each organization [is] to appoint an individual to provide help and immediate accommodation to gay refugees emergency.
> Each organization [is] to consider how best to integrate any refugees into their new country of residence."
>
> (1979 Annual Conference report, IGA/ILGA)

These guidelines show how, from the very beginnings, different types of strategies cohabited in the IGA/ILGA approach to asylum. Asking whether gays are eligible for asylum, for example, falls within more reformist approaches such as lobbying—although at that time it was also a bold statement to affirm the legitimacy of gay refugees. Providing accommodation or supporting integration is part of accepted humanitarian repertoires of action, but it is also related to traditions of direct intracommunity solidarity. Constituting a register of potential spouses is far more controversial: this is a promotion of marriages of convenience, because at that time no state recognized same-sex partnerships. This shows that, far away from the right-based and expertise-oriented approach privileged today by the organization, in its early moments, activists envisioned a wide range of tactics, some of which were quite subversive.

Other elements corroborate this analysis. In 1984, the IGA/ILGA participated to a march on the United Nations organized by the Lesbian and Gay Organization (LGOC), demanding, among others, "an end to violence against LGB (…) and to anti-gay immigration laws, and civil and human rights worldwide" (Paternotte, Cosials Apellaniz, and Tong 2017). The march brought together around a thousand of activists. Around the same period, protests against homophobic violence were held by IGA/ILGA members in Iran in 1979, in Russia in 1980, and

in front of Mexican and Iranian embassies in 1992.[10] Of course, this did not prevent the organization to negotiate, in parallel, meetings with European and international officials. According to Nigel Warner, they met with the United Nations High Commissioner for Refugees in 1991 to evoke the plight of gay refugees. A few years later, the first annual report of ILGA-Europe (1996–1997) also mentions a meeting with the cabinet of the European Commissioner for Immigration, Justice, and the Interior. However, what is interesting to note here is that it would be simplistic to assume a division between, on one hand, "politicized action" led by national activists, and on the other, "consensual strategies" developed by European actors.

The situation was indeed much more complex than that. The IGA/ILGA had been initially constructed as a loose network enabling transnational communication between grassroot groups, and debates about whether this should change raged for several years. The authorization for the secretariat to enact policies autonomously was not voted until 1990 (Paternotte, Cosials Apellaniz, and Tong 2017). The real turning point, however, was the Amsterdam Treaty, which resulted in the institutionalization of the organization (Paternotte 2016). But the two decades that preceded it were a rare moment where European and national frames, strategies, and activists often merged and intermingled. Activists from national associations often used IGA/ILGA newsletters not as a source of authoritative information, but as a platform to exchange information—and, in return, their activism shaped ILGA-Europe's interest for asylum and immigration. Activists from Scandinavia were particularly active on asylum: the National Danish Lesbian and Gay Association set up an ILGA Asylum Information Pool that produced regular information starting from 1992, and in 1995, the Swedish Federation for LGBTQI Rights asked activists to write protest faxes to the Swedish Immigration Board (newsletter n°33), opposing the deportation of gay asylum seekers. This is one of the first documented trans-European mobilization on LGBTI asylum, and while it was not initiated by the IGA/ILGA, the organization did provide the underlying structure that made it possible.

Furthermore, because the organization was not yet specialized in European politics, asylum was constituted as a matter of solidarity between members of a shared transnational community. This is clearly perceivable in the title of the 1985 IGA/ILGA annual conference, "Smashing Borders and Opening Spaces: General Oppression of Gay and Lesbian People", which echoes historical narratives of solidarity beyond borders developed by homosexual activists throughout

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[10] Enzo Francone, from the Italian organization FUORI!, protested in Tehran in 1979 and in Moscow in 1980. Other activists protested in front of the Parisian embassies of Mexico and Iran in 1992.
Sources: https://www.wikipink.org/index.php/Vincenzo_Francone and https://ilga.org/ilga-history (last consulted 12/01/2022).

the 20th century (Rupp 2014; Prearo 2012). This transnational interest is also illustrated, again, in Nigel Warner's contribution:

> *"It seemed very important to document what was going on around the world. This became a regular activity through the 1980s, with the information being published in the IGA Pink Books – have you come across them? These were three books that were published, in the 80s-90s, by the IGA and its members, and they always had at the back an appendix covering the information we had collected on the situation of lesbians and gays around the world. It was the beginning of mapping persecution across the globe. And of course, that showed just how many countries had criminalization and other forms of persecution, and that highlighted the need for work on asylum."*

(Nigel Warner, personal communication, 06/10/2020)

The Pink Books were critiqued by some scholars, who have argued that the IGA/ILGA positioned itself as the "savior" of the Arab world, and that their activism was based on orientalist stereotypes (Massad 2008). It is true that in the extract above Warner evokes principally extreme forms of violence (criminalization, persecution), and that the idea that European countries are better off compared to the rest of the world is present. However, it would be simplistic to reduce the narrative of "gay solidarity" developed by activists of the IGA/ILGA to misplaced humanitarianism. Warner's interview and IGA/ILGA newsletters from that period show that these activists understood violence as taking place everywhere, including—and perhaps above all—in Europe. Cases of anti-LGBTI violence in European countries were often the subject of newsletters. Newsletters from the early also 1990s mention asylum being granted to European and non-European nationals alike (newsletter n°22, 1994; newsletter n°33, 1995). In sum, homophobic violence was not framed as a "Muslim-only" issue; and asylum was not understood as the mere humanitarian rescue of non-European nationals, but rather as the concrete expression of a transnational political solidarity and as a step toward broader ideals of global liberation.[11]

Consequently, there is evidence that early IGA/ILGA practices and discourses participated into an early process of contentious politicization of LGBTI migration. In these initial moments, asylum was framed as a matter of solidarity and equality between LGBTI people, Europeans and non-Europeans alike. However, to a few exceptions, when asylum was mentioned in

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[11] This is interesting because the IGA/ILGA has a homophile genealogy. It is indeed tightly related to the Campaign for Homosexual Equality, the new name taken by the North-Western Homosexual Law Reform Committee, a branch of the homophile organization Homosexual Law Reform Committee (J. Jackson 2015). Homophile organizations, which were very strong in Europe in the 1950s, generally put the emphasis on love, friendship, and respectability. Gay liberation movements, when they emerged, positioned themselves in opposition to their predecessors and accused them of internalized homophobia. Finding traces of global gay liberation ideas in the IGA/ILGA thus show how impactful this movement was for LGBTI activism in Europe.

IGA/ILGA newsletters in the early 1990s, it was often—though not always—in a principled manner, without necessarily referring to specific cases, and above all without formally addressing European institutions. It is only in 2007 that ILGA-Europe explicitly mentioned the role the European institutions could play on an individual case, that of Pegah Emambaskhsh, detained by British authorities and set to be deported to Iran, where she was facing stoning to death (newsletter n°146). Against this background, one may wonder how the transformation of transnational principled statements into concrete European advocacy efforts took place, and what this changed in the way asylum and its articulation to LGBTI rights was constructed.

1.2. The personal gets political: binational couples and LGBTI foreigners' rights

What fieldwork showed is that it is unlikely that asylum would have gained true momentum in the European LGBTI movement without the role played by another type of actors: binational same-sex couples, who, by problematizing their personal struggles, durably printed migration into the agenda of ILGA-Europe. The difficulties of these couples were, like asylum, mentioned as early as in the 1979 annual conference of the IGA/ILGA (Paternotte, Cosials Apellaniz, and Tong 2017). Like asylum, mobilizations started at the national level. There are documented occurrences of early mobilization by binational same-sex couples throughout the 1990s, in particular in France and the United Kingdom[12] (Elman 2000). In these countries, the rights of entry and residence of foreign partners were problematic, because same-sex partnerships did not exist yet. This resulted in the creation of several durable organizations that still exist today, such as the ARDHIS (France), and the Stonewall Immigration Group (United Kingdom). In the Netherlands, the question was that of the recognition of existing partnerships abroad (Badgett 2015). While these mobilizations took place in the 1990s, caselaw from the European Commission of Human Rights (a Council of Europe human rights body until 1998) shows that this issue had already been on the agenda of LGBTI groups for two decades. However, cases had all been unsuccessful so far, as the Commission of Human Rights ruled that these couples were not covered by the right to family life and did not oppose the deportation of partners.[13]

All these early cases were submitted against the United Kingdom. This is not surprising, because in general, activists from common law countries are known for their use of litigation

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[12] A detailed history of these mobilizations in the United Kingdom can be found at: https://www.gryklaw.com/https-www-gryklaw-com-lgbt-history-month-coming-of-age-same-sex-relationship-immigration-rights/ (14/01/2022).
[13] X. *and Y. v. United Kingdom* (1983), *W.J. and D.P. v. United Kingdom* (1987), *C. and L.M. v. United Kingdom* (1989), and *B. v. United Kingdom* (1990).

as a tool for change, while those in civil law countries tend to rely more on lobbying (Israël 2001). Beyond that, Paternotte and Seckinelgin (2015) have shown that in the early years of the IGA/ILGA, activists engaged in European and international action with different goals depending on their origin. Organizations from Scandinavia, the Netherlands, and Italy joined the IGA/ILGA with the objective to contribute to gay liberation worldwide. This might explain why Scandinavians were predominant among those who framed asylum in terms of transnational solidarity in early newsletters. Anglo-Saxon activists, on the other hand, often joined the IGA/ILGA because they saw it as an opportunity to put pressure on their own government. In this context, a new way of framing migration emerged in IGA/ILGA newsletters starting from the mid-1990s, upheld mostly by British activists: that of European accountability.

Asylum often came attached to the demands of British binational couples, because it was—and often still is—perceived as an alternative path to the regularization of the foreign partner. In *B. v. United Kingdom* (1990), the claimant, a Cypriot national, claimed residency rights both as the partner of a British citizen and because he feared persecution. Beyond that, the role that binational couples played in making asylum relevant to ILGA-Europe's European-level advocacy was obvious during interviews. Interviewees often genuinely associated both issues. This is illustrated by Nigel Warner, historical member of the IGA/ILGA, as he explained:

> *"I will add a couple more things just to show you that asylum was never far from people's minds. At this stage [in the mid-1990s], someone called Mark Watson was on ILGA-Europe's board. (…) Mark was the person who set up the Stonewall Immigration Group, and in 1996, when I was trying to find a lesbian friend to marry my partner so we could stay together, he told me 'No, no, come and fight with us'. And he... he had been an immigration officer, and he was sentenced to six months in prison, because he had stamped his Brazilian partner's passport to allow him to remain in the UK. (…) I'm sure that his presence on the board would have pushed forward the asylum and migration issue, due to this horrible experience he had been through."*

> (Nigel Warner, personal communication, 06/10/2020)

In Warner's contribution, asylum and binational couples intermingle, as he referred to the struggles of binational couples to illustrate the importance of asylum. His contribution is further characterized by its significant emotional load. Watson's case is well documented, as he was condemned to a six-months sentence for having stamped the passport of his partner.[14] Compared to the principled statements of solidarity analyzed earlier, the change in tonality is manifest in this extract. For binational couples, their rights as citizens, rights to family life in

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[14] See for example: https://www.independent.co.uk/news/uk/gay-immigration-officer-forged-passport-marianne-macdonald-reports-on-a-case-that-highlights-home-office-bias-against-homosexual-couples-1372695.html (last consulted 14/01/2022).

particular, are conditioned to the rights of foreigners (Woesthoff 2013). This can push people to feel strongly about immigration rules, as illustrated in the following ILGA-Europe newsletter (1996, n°40), in which a press release of the British Stonewall group was reproduced. The British Under-Secretary of State at the Home Office had just stated that only marriage could prove the strength of a relationship for immigration purposes. Mark Watson, speaking for the Stonewall Immigration Group, replied:

> "The Minister states that you have to be married but won't let lesbians and gay marry. What does he expect us to do? We are not going away and we refuse to enter into bogus straight marriages. We are here to say and sooner or later the Minister will have to recognize that fact."
>
> (ILGA-Europe newsletter n°40, 1996)

In this press release, by contrast with the 1979 Lifeline guidelines, Watson expressly rejected marriages of convenience. His argument is that it is not binational couples who have to change, but the law. By firmly standing his ground ("we are not going away", "we are here to stay") and refusing second-zone solutions, he politicized his own private life and that of other binational same-sex couples for the purpose of collective action.

Mark Watson then became a member of ILGA-Europe and represented the organization at meetings related to immigration issues. Therefore, as a consequence of the activism of binational couples, the migration master-frame that was progressively privileged in the European LGBTI movement in the late 1990s progressively became that of family and equality between couples—be they same-sex or different-sex, binational or mono-national. This selection took place due to the lobbying of binational couples, but it was also favored by the intense questioning that was taking place at the European level about the recognition of unmarried partners for the purposes of free movement in the European Union. The Directive on Freedom of Movement of Persons and the Directive on European Union Citizen's Rights were, according to Mark Bell, then a PhD student who participated in the development of ILGA-Europe's anti-discrimination strategy, their two initial targets (Mark Bell, personal communication, 24/02/2020). For the first time, the European Union was explicitly constructed as an advocacy goal in relation to migration. The horizontal circulation of claims that had prevailed earlier, when activists asked for support from organizations in other countries, was progressively verticalized, as same-sex couples explicitly challenged European policymakers.

On the short run, thus, asylum was subsumed into the advocacy of binational couples, both quantitatively and qualitatively. The quantitative dominance of "binational couples" frames in ILGA-Europe's newsletters in the late 1990s is indeed very clear in the following graph, which

represents the proportion of IGA/ILGA/ILGA-Europe newsletters mentioning asylum and/or binational couples at least once, from 1992 (first newsletter) to 2005 (end of first negotiations of the Common European Asylum System). Newsletters were collected on ILGA-Europe's website and in online archives[15], before being coded through a manual keyword search for appropriate terms. The following graph shows the results obtained:
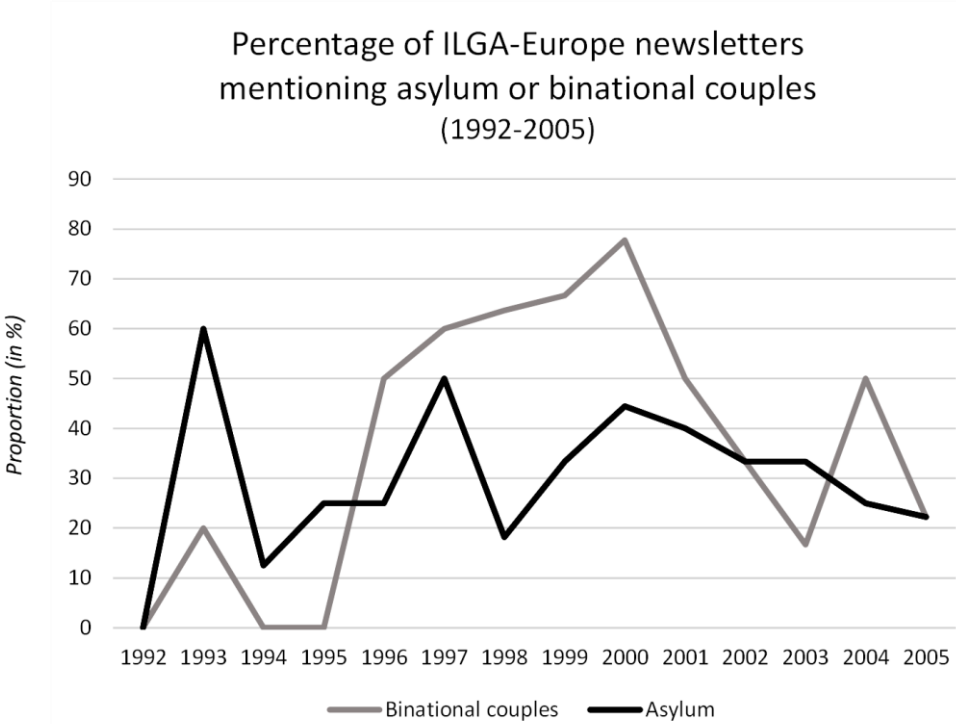
Figure 2. Proportion of newsletters mentioning asylum or binational couples, per year

This graph shows a peak of newsletters mentioning binational couples toward the end of the 1990s. While no newsletters mentioned their struggles in 1994 and 1995, in 1996, 50% of newsletters tackled them, reaching almost 80% in 2000. It is only in 2003 that this percentage fell down to 20%, before peaking again to 50% in 2004. Asylum, on the other hand, has been characterized by a peak of interest in 1993—when Scandinavian associations started writing about it—and then remained under the curve of binational couples from 1995 to 2004 (to the exception of 2003). Even during negotiations of the Common European Asylum System, it did not manage to outcompete binational couples. The predominance of binational couples in ILGA-Europe's immigration activism was also true on a qualitative level. What does not appear in this graph is that throughout this period, when asylum was mentioned, it often was in relation to binational couples—for example, to specify whether partnership rights applied to refugees

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[15] Newsletters were retrieved through the internet archive WayBackMachine.org and the Bishopsgate Institute.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

too (newsletters n°51 and 54, 1997). By contrast, newsletters mentioning binational couples were more detailed, specific, and mentioned this issue autonomously.

In the 1990s, asylum thus became approached in a primarily "correlated" way, in the sense that it was only one facet of a broader corpus of migration-related demands that had been articulated around the demands of binational couples. This raises questions as to the limits of such change in advocacy. The temptation of respectability and division between "deserving" and "undeserving" migrants was indeed perceivable in Mark Watson's interview for The Independent in 1992, in which he regretted that "respectable [gay] people in long-term relationship" could not benefit from visa for their partners, while "a married man with children could bring in a mistress with a terrible immigration history".[16] The risk here is that of the displacement of LGBTI activism from the domain of transnational political solidarity onto that of privacy and respectability (Duggan 2002; Chávez 2013; Ammaturo 2017). This approach to activism can also appear self-interested. While it is common for activists to start mobilizing on issues that are close to them, in this case, it is slightly different, because the main goal of these couples was to get the regularization of the foreign partner—and not necessarily to oppose migration legislation. Arendt (1970) is critical of such "private" logics of action, arguing that change best happens when it flows from concerted common action with a political purpose. The risk is that of a depoliticization of LGBTI asylum and its constriction to individual benefits.

However, while it is true that concerns for binational couples may have overrun asylum and changed its framing on the short term, the importance of binational couples for future asylum advocacy should not be dismissed too quickly. Their struggles indeed became the vehicle through which broader immigration rights were later claimed. This argument is well illustrated in the following extract from the interview of Patricia Prendiville, executive director of ILGA-Europe from 2004 to 2009. She explained:

> "All the documents we published in 2005 or 2006 were about family reunification, not asylum. But in the end, it was the same migratory issues we were trying to look at. It was just trying to make governments aware that they had responsibilities, and that rights were being denied. So, it's... What we were doing was trying to raise people's awareness that they had a legal entitlement to apply for family reunification or for asylum or to move, or to have the legal status recognized if they moved between one EU country and another."

(Patricia Prendiville, personal communication, 16/04/2020).

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[16] Source: https://www.independent.co.uk/news/uk/gay-immigration-officer-forged-passport-marianne-macdonald-reports-on-a-case-that-highlights-home-office-bias-against-homosexual-couples-1372695.html (last consulted 14/01/2022).

Similarly, Mark Bell, at the time a PhD student in law and a volunteer at ILGA-Europe in the late 1990s and early 2000s, argued that:

"I think the issue about binational same-sex couples was probably the first to emerge, because it came on the agenda in relation to this reform of the EU Directives on Freedom of Movement of Persons. (...) But then other issues started to open up too, such as asylum"

(Mark Bell, personal communication, 24/02/2020)

What is visible in these two extracts—when Prendiville freely associates family reunification, asylum, and free movement, and when Bell explains that asylum advocacy followed family-related claims—is that in the end, the activism of binational same-sex couples became a first step in the process of conceiving and constituting LGBTI migration as a matter relevant to European politics and policies. This opened the door to future long-term claims and strategies that outgrew the question of family reunification. The objective here is not to offer a naïve account of the action of binational couples, but to recognize that sometimes, self-interested demands can have a larger political reach and may become rights for all, depending on how they are articulated (Dechézelles and Olive 2019). In other contexts, the way foreign same-sex couples have been vectors of change in their migration destination, actively reshaping their legal and social environment has been documented (Suen 2021). Women and sexual minorities, moreover, often have no other choices than politicizing what appears at first sight as "private matters" in order to build collective action (Di Croce 2018). The very labelling of the activism of binational same-sex couples as "private" and "self-interested", in this context, should be questioned: it is labelled as such first and foremost because their struggles were long considered as illegitimate by institutions. By calling into question this illegitimacy, they opened the door to the broader questioning of immigration policies.

In this first section, I have shown that LGBTI asylum emerged onto the European agenda due to the mobilization of LGBTI activists. In a context where European institutions were still ambivalent about gay recognition, these activists had no other choice than to mediatize and politicize their claims to make LGBTI asylum politically relevant. This politicization was, right from the beginning, multifaceted. This is not extremely surprising if we consider problems as always "composite", especially at the beginnings of their formulation—when different actors, viewpoints, claims, and strategies coexist (Gilbert and Henry 2012). In early mobilizations, what was framed as an issue were homophobic persecutions and their impunity around the world. In the mid-1990s, it was the impossibility for some foreigners—especially "deserving" ones—to remain on the European soil that became perceived as problematic. In both cases, credit can be given to the European movement for opening a discussion on who can access

asylum and for showing that foreigners had their own individualities, their own specific needs, and were not a monolithic bloc. However, they mobilized *as* LGBTI activists, with goals and demands that were not (yet) articulated to the broader migrants' rights agenda. Questioning the general status of foreigners in European societies was not already part of their thinking patterns.

2.   Making LGBTI asylum relevant to public action

Migration thus entered the agenda of the IGA/ILGA on an *ad hoc* basis. The advocacy of the organization did not emerge out of a conscious decision to look into European migration policies: claims and strategies rather were constituted on the spot, as actors with different goals and personal histories came and went. These initial moments of emulation provided a context favorable to the coexistence of multiple frames and strategies. Some relied on narratives of anti-discrimination, others were rooted in narratives of solidarity. But in the 1990s, change was on its way. As a result of the HIV crisis, law started being granted a more central place in the activism of many gay associations, progressively overwriting revolutionary frames (Paternotte 2012; Bernstein 2015). In the European context, this shift occurred in parallel to the extension of the normative powers of the European Union, therefore making European institutions a more visible target of rights-based activism (Cichowski 2007).

Against this background, this second section examines ILGA-Europe's approach to the first negotiations of the Common European Asylum System. It first shows that the advocacy of the organization went through a gradual process of channeling and refinement, resulting in the selection of one single strategy: that of an institutionalized, professionalized, and juridified lobbying. It would be easy to portray this shift as a negative process from the viewpoint of grassroot activism. However, what this chapter shows is that this new form of lobbying was crucial to the legitimization of LGBTI asylum in the eyes of policymakers. Moreover, this evolution did not mean the end of politics. It rather entailed the development of new strategies, in which sub-politicization, purposefully deployed to enable the voicing of criticism, became one of the ways through which ILGA-Europe kept imagining better asylum policies.

2.1. Juridification and professionalization as a strategy for adaptation to Europe

The signature of the Amsterdam Treaty operated as a pivot point for ILGA-Europe's interest for asylum. Not only did it grant powers to European institutions in terms of migration policy,

but it also opened the possibility for the Commission to act on discrimination related to sexual orientation. Asylum, because it was located at the nexus of these two new competences and benefitted from a favorable calendar with negotiations set to take place right after the Treaty entered in vigor, was progressively granted more attention by the organization. Newsletters show that prior to that, asylum was rarely evoked on the initiative of ILGA-Europe's leadership. It is local associations that wrote most articles on this issue. This peripheral interest sharply contrasts with the 1999 intervention of the representative of ILGA-Europe at an inter-parliamentary conference on the development of a European Area of Freedom, Security, and Justice. Kurt Krickler, speaking in the name of the organization in front of European and national officials, started his discourse by denouncing the discrepant treatment of LGBTI asylum claims in Europe (newsletter n°69, 1999). One year later, the 2000–2001 annual report of ILGA-Europe further showed how the Amsterdam was considered as a window of opportunity by ILGA-Europe and pushed them to consider asylum more seriously. They wrote:

> "In the 1997 Treaty of Amsterdam the European Union embarked upon a plan to establish common rules covering asylum and immigration by 2004 (article 61-69 EC Treaty). (…)
>
> The Commission is in the process of issuing a series of draft Directives covering the whole range of asylum and immigration subject matters. We have been monitoring these developments closely. After publication of each draft Directive, we have commissioned an expert in this field, Mark Bell, lecturer at Leicester University, to draft a position paper analysing the proposal from the perspective of LGBT people and making recommendations for amendments as appropriate.
>
> Over the year, there were so many issues of concern that we finally also asked for a meeting with a representative of Commissioner Antonio Vitorino, who as a Commissioner for Justice and Home Affairs, is responsible for these areas".
>
> (Annual Report 2000–2001, p.6).

This extract is interesting because it shows a clear European framing of LGBTI asylum, which, as visible in section 1.1 and 1.2, did not exist before. ILGA-Europe monitored legislative developments, commissioned an expert—this expert is in fact Mark Bell, one of their activists, so it is interesting to see him being framed in such terms—and drafted amendments. This sharply contrasts with past LGBTI asylum activism of the organization. For example, just four years earlier, the 1996–1997 board report stated that the board was "considering an outline proposal for a project on immigration". The chances of success of this proposal were uncertain, and so were the means to achieve it, so it merely deserved a few lines. In 2001, what emerges from the board report quoted above is that not only was there a clear consciousness of the political structures of opportunity emerging at the European level, but ILGA-Europe also had a clear action plan and had identified the symbolic and material resources needed for its success. This shows a clear evolution in the articulation of LGBTI asylum and European activism.

This evolution is revealing of the process of professionalization the organization went through (Ruzza 2004). In the early 2000s, many European organizations started to recruit staff members based on expertise rather than on activism (Paternotte 2016; Lafon 2017; 2018). The 1999–2001 period was critical for ILGA-Europe. In 1996, the organization had spawned from the IGA/ILGA. This initial shift had already enabled them to focus on European politics and to become reactive to policy developments. Yet, their professionalization was taken to another level with the Amsterdam Treaty, which prompted European institutions to consider them as a potential partner in policymaking. They were granted core funding by the Commission in 2001, allowing them to hire permanent staff. And, as the organization was imbued with new competences and resources, it sought to carve out its own space *vis-à-vis* its own members, thus undergoing a process of differentiation and autonomization. Documents produced around that time illustrate this evolution: in newsletters from 1993–1994, editors reported that members had written to institutions in the name of the IGA/ILGA without informing others, resulting in confusion among their interlocutors (newsletter n°17 and 23). The annual conference report of 2002, by contrast, showed members soliciting ILGA-Europe to produce documentation, letters, and arguments that they could use to contact their own national authorities (Lisbon conference report, 2002, p. 120). In their eyes, in other words, ILGA-Europe had evolved from the role of a transnational platform they could sign letters in the name of, to that of a respected supra-national expert and advisor.

Around that time, ILGA-Europe's action progressively ceased to be articulated as a bottom-up translation of the concerns of their members (for example binational couple activists), to become increasingly articulated around European politics. The best illustration of this process is probably the way their calendar became gradually modelled upon that of the European Union, and not anymore upon that of their members. There was, of course, freedom to be gained here, because it allowed them to free themselves from national members, in terms of goals, strategies, and calendar. But at the same time, it is important to underline that, although ILGA-Europe activists entered this phase of transformation with enthusiasm, they also became increasingly submitted to the will of European institutions—and that corresponding to the expectations of these institutions became a matter of survival for them as an organization. Nowhere was this ambivalence clearer than in the following excerpts from the interview of Nigel Warner, historical activist at ILGA-Europe. Referring to the changes induced by the ratification of the Amsterdam Treaty, he explained:

"We had gone from a difficult period prior to the Amsterdam Treaty, when we were struggling to set the agenda, and now the EU was offering so many opportunities. Before, we were trying to create opportunities, and now they were just created for us!"
(Nigel Warner, personal communication, 06/10/2020)

Warner, in his contribution, was obviously enthusiastic about these opportunities. It should be reminded that, a decade earlier, the IGA/ILGA had been refused consultative status at the Council of Europe, and that they had struggled to put LGBTI rights on the agenda of the European Community. The Amsterdam Treaty thus represented an enormous change for them. However, what is also hinted at in this extract is that while before ILGA-Europe tried to "set the agenda", after Amsterdam, opportunities were largely pre-determined by the European Union, which "offered" or "created" them. Nongovernmental organizations had to adapt to these opportunities and to adopt ways of doing and of thinking and of doing that were acceptable to their institutional interlocutors. They thus became submitted to a form of coercive isomorphism, a concept developed to explain why, due to "formal and informal pressures exerted on organizations by other organizations upon which they are dependent and by cultural expectations in the society" (DiMaggio and Powell 1983, 150), actors operating in the same field tend to behave in the same way. This homogenization of behavior is accentuated when resources are centralized, such as it is the case at the European Union level (Saurugger 2006; Cekik 2017). In this context, the adoption of acceptable patterns of behavior was a condition for ILGA-Europe to access the European sphere.

Coercive isomorphism encouraged the juridification of ILGA-Europe's activism. Juridification, here, should not be mistaken for judicialization. ILGA-Europe never became a legal support service, and even today, their litigation programme is a small part of their work. What this concept rather designates is the process through which notions pertaining to the field of law—such as rights, non-discrimination, or justice—can become the underlying foundation of progressive activism. This is what happened to ILGA-Europe's asylum advocacy in the late 1990s, as they abandoned narratives of transnational solidarity and gay liberation to frame their demands in terms of human rights and non-discrimination (Paternotte 2012; 2014). In this context, the provision of highly accurate information surrounding European policymaking processes became ILGA-Europe's hallmark, both because it was expected from them by European institutions, and because it allowed them to justify the necessity of their action *vis-à-vis* their members—who needed them to understand European politics. In other words, juridification and professionalization were an integral part of their "becoming European".

It would be easy to argue that this transformation favored the depoliticization of LGBTI asylum and that their activism lost its contentious component. However, in this dissertation, politicization is not understood simply as the publicization and polarization of opinion on a given issue, but as the marking of a topic as political. An important facet of this process is when actors seek to make an issue worthy of public action. Public action is never just about finding solutions to preexisting problems. It is also about defining and legitimizing these very problems and their proposed solutions. The situation of LGBTI asylum seekers had not necessarily drastically changed between the beginning and the end of the 1990s, but their struggles progressively became intolerable to (some) policymakers. In other words, issues do not simply preexist out there: they must be constituted as such, and this often entails a part of political struggle, especially when they are considered illegitimate because they touch upon matters perceived as individual or because they affect marginalized communities.

Against this background, the production of (juridified) expertise by ILGA-Europe played a central role in the institutional legitimization of LGBTI asylum. As argued by Robert (2008, 314), "expertise procedures are also, and perhaps above all, what allows experts—actors that do not have their own legitimacy, their own political authority—to contribute to the exercise of power". Of course, ILGA-Europe was not an "expert" strictly speaking. But throughout the 2000s, they strove to position themselves as providers of informed expertise on the situation of LGBTI people in Europe. The following newsletter from 2010 illustrates well this positioning:

> "**ILGA-Europe needs to build on member's expertise**
>
> To strengthen our arguments and give flesh to our dialogue with the European Commission, ILGA-Europe needs to collect information on individual cases. We are looking for information on cases where a decision has already been taken by national asylum authorities, may it be a positive or a negative decision (...) ILGA-Europe would particularly appreciate information on cases of transgender asylum seekers, as the existing legislation is not explicit enough when it comes to persecution on the ground of gender identity"
>
> (Newsletter n°178, 2010)

This extract shows how ILGA-Europe's position at the interface of European institutions and local associations in Member States was a key resource for them. Because they positioned themselves as spokesperson of local associations, they were able to justify their action at the European level and to rely on the expertise of their members—in a context where knowledge and democratic legitimacy were particularly demanded by European institutions. What is further visible in this extract is that it is not mere expertise that was produced by ILGA-Europe, but rather "critical expertise", defined as "the use of data and of an expert discourse to critique existing laws and politics and to promote reforms" (Revillard 2009, 281). For Revillard, critical

expertise is the strength of weak actors, because it "constitutes on the short run, a key lever to promote reforms, and on the long run, a driver for the sensitization of public opinion" (Revillard 2009, 281). It also enables a form of "normative lobbying" (Cournil 2011) that allows actors without political power to push for the identification of problems, their characterization, and offer solutions of governance. This is precisely what ILGA-Europe was doing in the extract quoted above, as they sought data to strengthen their arguments, promote legislative change, and on the long run, familiarize policymakers with the struggles of LGBTI asylum seekers.

In other words, expertise was as much essential to the emergence of LGBTI asylum as a policy object as prior political mobilizations were. This finding is important because it shows the intertwinement of "public" and "discrete" arenas in policymaking and agenda-setting processes (Gilbert and Henry 2012). Even though the accent is often put on the way public mobilizations influence the official agenda, discrete or "confined" dynamics also play an essential role. These two logics are not always in rupture with each other. Their links are complex, and, as shown by Boussaguet (2009), "quiet" and "noisy" repertoires of action can intertwine. We might still wonder, however, what is the impact of this transformation upon the way ILGA-Europe activists framed their demands. This is the object of the next sub-section.

2.2. Sub-politicization as a lever of critique: ILGA-Europe and the Commission proposals for a Common European Asylum System

Like most other European organizations, the choice of a ILGA-Europe to privilege a professionalized advocacy rooted in juridified arguments resulted into the development of a form of "dossier activism" (Ollitrault 1996). The notion of "dossier activism" designates the work of organizations that consecrate a large amount of their time "collecting data, writing articles, dossiers or reports from which no bibliographical reference nor footnote is missing" (Jourdain 2014, 228). This term therefore refers to the adoption of modalities of activism that can be described as "respectable" and less disruptive. What it does not say, however, is whether dossier activism necessarily results in the muting of any oppositional voice. In her work on ALTER-EU, an alliance that campaigns in favor of the regulation of lobbying practices at the European level, Jourdain (2014) analyzed how belonging to the Brussels sphere led activists to soften the critique of Europe they had initially created their platform for. In particular, she underlined, ALTER-EU activists progressively got "acculturated" to European Union ways of thinking and developed a form of dossier activism. This resulted in the shift away from the

Euro-critical politicization "from the streets" that had marked the initial moments of ALTER-EU, progressively replaced by a politicization "of corridors". Despite attempts by ALTER-EU staff, this "corridor" politicization never became a "ballot" one, because no Euro-party made the reform of European policymaking a strong electoral issue.

ALTER-EU and ILGA-Europe are very different: ILGA-Europe is a by-design Europhile organization (Ayoub and Paternotte 2016), ALTER-EU is not. However, what is interesting in Jourdain's article is her observation that politicization can take different forms at the European level, whether it takes place in the streets, in corridors, and in ballots. She further shows that the adoption by ALTER-EU of a form of dossier activism did not necessarily make their activism less oppositional. Today, the alliance still is a strong voice of anti-corruption campaigning at the European level. Dossier activism can still be about politicization—even though this politicization is very different from the one induced by street-level mobilizations—and writing reports can also become a form of oppositional activity. Juridification and politicization are indeed not mutually exclusive—it depends on how they are articulated, when, where, and by whom (Croce 2021). Law can indeed result in depoliticization if it is used to circumvent political debates (Loick 2014), but it can as well participate into giving an existence to that which did not exist in the public debate before (Magnussen and Banasiak 2013; Hark 2021). However, it is also true that this type of dossier and juridified activism is more favorable to concessions, and that, to paraphrase Lorde, there is always an inherent tension in using the master's tools to dismantle the master's house (Lorde 1984).

This ambivalence is easily perceivable when looking at the briefing notes on the proposals for a Common European Asylum System written by ILGA-Europe between 2000 and 2002. This period covers the publication of the Commission's first proposals and of their revised version. In this context, ILGA-Europe commissioned Mark Bell to write several position papers, which were then circulated to policymakers. A contextual note: it is important to remember, when reading these briefing notes, that ILGA-Europe's success was still recent and fragile. Less than a decade ago, their parent organization, the IGA/ILGA, had suffered from a campaign of publicization and politicization led by conservative American organizations. These organizations had disclosed that some of the members of the IGA/ILGA promoted pedophilia, resulting in an immediate outcry from the part of the international community, and in the suspension of the organization's consultative status at the Economic and Social Council of the United Nations. Once bitten, twice shy: IGA/ILGA/ILGA-Europe activists had learnt that it is better to keep a low profile and to favor a consensual identity when dealing with international

organizations or supra-national institutions (Paternotte 2014). This prudence is visible in their briefing notes. Writing about the Dublin Regulation, the Qualification Directive and the Procedures Directive, the organization developed a wide range of demands and arguments, carefully intertwining praise, reject, and concessions.

Many of these position papers therefore started with the acknowledgement that the European Union could be a positive actor for LGBTI asylum seekers. Their papers on the Procedures and Qualification Directives both started with similar words, praising the proposals for their anti-discrimination policy. They wrote:

> "ILGA-Europe welcomes the presence of a horizontal anti-discrimination clause (…). We particularly support the prohibition of any discrimination on the ground of sexual orientation in the implementation of this Directive. We believe that such anti-discrimination clauses are a positive example of mainstreaming equality norms and we would encourage this practice to be followed throughout EU law and policy."

> (COM (2000) 578, IE position paper, Procedures, July 2001)

This extract shows very positive feedback on some of the Commission's initiatives and the belief that this could be a key improvement in European law more globally. Furthermore, in their paper on the Qualification Directive, ILGA-Europe did not hesitate to clearly state their will to be even more closely associated to European policy drafting, writing:

> "We believe the mainstreaming approach to equality norms cannot be confined to the insertion of a non-discrimination clause. (…) ILGA-Europe is willing to be an active participant in the shaping of EU immigration and asylum policies, however, this requires full information and consultation from the Commission in the future, particularly in advance of the publication of proposals."

> (COM (2001) 510, IE doc. #1/2002, February 2002)

These two extracts show ILGA-Europe seeking to coax the Commission to get their claims better heard. Even when critical of proposals, they often kept starting by stating their agreement with the Commission. On Family Reunification (position paper, May 2001), for example, they started by saying that they "welcome[d] any steps to extend the recognition of unmarried partners in European Union law in general, and immigration law in particular", even though they then wrote two pages explaining that the proposal was inadequate. This language illustrates what Lascoumes (2009) has defined as "sub-politicization"—the minimization of dissensus through reliance on narratives of technicity, shared goals, and common values. Contrarily to depoliticization, which often relies on a fiction of consensus, in sub-politicization dissensus does not entirely disappear, but it is temporarily bracketed. But what is even more interesting in ILGA-Europe's use of this framing strategy is that it is precisely their reliance on sub-politicization (the minimization of disagreement) that allowed them to voice their criticism of

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European migration policies. The following extract, taken from their position on the definition of family members in the Qualification Directive, is emblematic of this argument. They wrote:

> "ILGA-Europe firmly opposes this approach. The underlying objective of EU Justice and Home Affairs Policy is to realise an 'Area of Freedom, Security and Justice'. One of the cornerstones of this Area is 'freedom from discrimination'. Nonetheless, this proposal would enshrine in law discrimination against lesbian, gay, bisexual and transgender persons and their family members."
>
> (COM (2001) 510, IE doc. #1/2002, February 2002)

This extract starts by an affirmation: the opposition of ILGA-Europe to the proposed approach. Nevertheless, what is interesting is what follows, *id est,* a statement of European goals and values (the realization of an "Area of Freedom, Security and Justice", and the incompatibility of discrimination with that project). The polite tone used in this extract should not overshadow too quickly the fact that ILGA-Europe then simply accused European institutions of discrimination. In other words, by relying on a narrative of shared values and goals, they became able to reject the proposal *in the name* of European ideals. This example thus shows that adopting a strategy of dossier activism and developing sub-politicized arguments does not necessarily means losing one's capability to question the *status quo.* On the contrary, it can be a modality of activism and opposition (Lochard and Simonet 2009). It is worth underlining that this extract is not an isolated case; and that their polite tone and reliance on existing European anti-discrimination and human rights frameworks allowed them to oppose the notion of "safe country"[17] and the very rationale underpinning the Dublin Regulation.

In other words, in the early 2000s, ILGA-Europe, because they knew that their cause was a contested one, made the choice to operate "on the threshold of politics" (Marche 2019). In a context where LGBTI rights were still fragile, in the early 2000s, what they sought to do was to "walk the crest line" of politicization. What they sought to do, in the end, was to raise the salience of LGBTI asylum enough to make it politically relevant and gather support among decision-makers, but they did it by using arguments and strategies that would avoid them too much debate. Against this background, they used sub-politicization as a paradoxical lever of critique, and as a tool to get their voices heard without overstepping their position as gay activists with honorable and constructive demands. This strategy is probably not specific to

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[17] The notion of safe country ("safe country of origin" or "safe third country") is grounded on the assumption that some countries are unlikely to be persecutory environments. The use of this concept allows the fast-tracking of asylum claims, diminishing the procedural guarantees of asylum seekers. It is important to note that this concept is generally used in relation to countries that "produce" asylum seekers. For example, the United States or Japan are not on the list of "safe countries" of most Member States, but Senegal or Mali may be. The underlying goal is to disincentivize possible ungenuine claims and to accelerate the treatment of some nationalities.

ILGA-Europe. Ideals of "constructiveness" indeed bind most nongovernmental organizations acting at the European level, as these actors are expected to contribute to the quality of policymaking by voicing "realistic" critiques (Hendriks 2006; Jens Steffek and Ferretti 2009; Kohler-Koch 2010; Boiten 2015). In the case of ILGA-Europe, however, this form of contribution is best described as type of "respectable" political action that, although not unrelated to politics, sharply contrasts with the arguments and the activism they had developed in the 1980s and 1990s. Long gone were the days were the organization promoted marriages of convenience or marched upon the United Nations. But, in parallel, never had LGBTI asylum seekers been closer to seeing their rights recognized in a binding piece of legislation that could potentially apply to 15—soon 25—Member-States.

To conclude, this second section has shown that ILGA-Europe's asylum activism underwent drastic changes at the end of the 1990s. It is at that time that their activism on LGBTI asylum progressively solidified and took its final form, a form that persists until today. As the organization adapted to Europe, they increasingly privileged a form of "dossier activism" rooted in juridified arguments and expertise. This evolution was constitutive of their affirmation as a meaningful actor of European politics. By replacing this change in the longer genealogy of European-level activism on LGBTI asylum, what this section shows, ultimately, is the importance of both public and confined forms of mobilizations. Public mobilizations allowed the cognitive construction of LGBTI asylum as an advocacy object. Confined dynamics were crucial to its legitimization as a category of public action. Modes of politicization varied between these different forms of mobilization, but also within them. Binational couples politicized LGBTI asylum differently from activists of the gay liberation movement; and, when looking at ILGA-Europe's papers from the 2000s, sub-politicization cohabited with (and was even a condition of existence for) more oppositional stances. Public and confined forms of mobilization are therefore not necessarily in rupture with each other. However, as argued by Gilbert and Henry (2012), confined logics of action, if they allow the pursuit of the debate, entail that the actors that participate accept the premises preexisting in these discrete arenas. This can be a limit to activism, and this is what the next and final section examines.

3. Acting as Europeans: the roads not taken in ILGA-Europe's asylum advocacy

The logical question ensuing from the observation of this shift in ILGA-Europe's activism is, of course, that of the normative consequences of such change. In the first two parts of this chapter, I have shown that initial European mobilizations on LGBTI asylum emerged as a form of public, politicized advocacy. ILGA-Europe's advocacy was then channeled and refined into arguments audible to European institutions. Although this did not mean the end of politicization—and less so of politics—one might still wonder whether they had the same freedom of activism under this new paradigm, and what this entailed for asylum seekers.

This final section therefore looks at the consequences of this evolution in terms of the object of LGBTI asylum activism. This might seem counterintuitive at first sight: how could the object of LGBTI asylum activism not be LGBTI asylum seekers? Yet, it is not uncommon that very different viewpoints coexist in activism directed toward the same goal. To take back the example of binational couples and gay liberation activists, although they both worked for the protection of LGBTI asylum seekers, it was not for the same purposes, and they did not perceive asylum seekers in the exact same way. The first part of this section therefore traces these evolutions in the object of LGBTI asylum and question the possible limitations of a LGBTI activist approach to migration policies in the particular environment of European policymaking. The second part examines how these evolutions did not affect just the object of activism (asylum seekers) but also its locutors (LGBTI activists). It shows that these two categories, asylum seekers and activists, were progressively redefined in European/foreigner terms, and erected as distinct—a difference that was less perceivable in early activist moments.

3.1. LGBTI equality, or equality for migrants? The paradoxes of LGBTI activism on asylum

That the mobilizations of gay activists on asylum have varied through time should seem, after reading this chapter, self-evident. Yet, it is not just strategies that have evolved, but the very objects of these mobilizations. Up until the early 1990s, when LGBTI asylum was framed in terms of transnational solidarity and gay liberation, activists claimed that no LGBTI people—Europeans and non-Europeans—should be subjected to violence. In early newsletters, articles about legal backlashes or violent attacks in European countries cohabited with calls for solidarity with gay refugees and news about violence in other countries. What was claimed was therefore LGBTI equality, both in the sense of equality of LGBTI people with straight and cisgender people, and in the sense of equal protection for all LGBTI people independently of

their nationality. This was very different from the activism of binational couples. Their core argument was that Europeans with a foreign partner should not be treated differently if their partner was of the same sex. Their activism was thus more directed toward the achievement of equality between couples, and between homosexual and heterosexual Europeans with a foreign partner. Finally, in the dossier activism developed by ILGA-Europe in the 2000s, what was demanded was the non-discrimination of LGBTI claimants in comparison to their straight counterparts. This was a form of equality internal to the category of migrant. In all cases, though, the inequality of treatment between foreigners and Europeans went unquestioned.

This blind spot might not seem surprising at first sight, because after all, the IGA/ILGA and then ILGA-Europe lobbied European asylum policies first and foremost as LGBTI activists—and not as activists of the migrants' rights movement. Yet, this is probably one of the key early limitations of an asylum advocacy born exclusively out of LGBTI activism. In her book about queer migration in the United States, this is also what Chávez (2013) has analyzed: the predominance of forms of LGBTI activism that are not necessarily informed by the broader struggles of migrants, be they queer or not, and the way this prevents the building of coalitions. In reality, it would be unfair to argue that ILGA-Europe was indifferent to actors of migrants' rights, such as the European Council for Refugees and Exiles (ECRE). When ILGA-Europe stated their opposition to Dublin policies in 2002, they quoted ECRE's position paper. However, it is also true that even in that context, they still framed their arguments in terms of LGBTI-specific guarantees, and not in terms of migrants' mistreatment. They wrote:

> "ILGA-Europe still has fundamental concerns about the policy underlying both the Dublin Convention and the new proposal. In the absence of other family members, the asylum applicant has no choice over the state in which their application is considered. Yet, the varying recognition in the Union of persecution based on sexual orientation or gender identity as a basis for the award of refugee status means that LGBT asylum applicants still have legitimate reasons to wish to select the state in which to make their application. ECRE have described the current system as a 'protection lottery'. The Commission's proposal to establish minimum standards on the definition and content of refugee status may, in time, reduce these concerns, but this instrument remains far from adoption."

> (COM (2001) 447, IE doc #2/2002, Dublin, February 2002)

This extract illustrates well the partial overlooking of broader migration concerns in ILGA-Europe's advocacy. The organization started with its "fundamental concerns" about the "policy underlying" Dublin, underlining the lack of choice of asylum seekers. Yet, this bold statement was mitigated by the following sentence, in which they explained that the problem was first and foremost the differences of treatment of LGBTI asylum claims in Europe—and not, inherently, restrictions in the freedoms of asylum seekers. The European Council for

Refugees and Exiles is then quoted, but the paragraph nevertheless ended on the idea that, if other European directives were passed, Dublin could become acceptable for LGBTI claimants. In this extract, thus, the belief in the European project and the difficulty to conceive migrants' rights beyond their LGBTI-specific aspects prevented ILGA-Europe from formulating a more holistic critique of the premises of European migration policies.

This early limitation in ILGA-Europe's activism is important to understand why, until today, LGBTI asylum is framed in Europe as an essentially LGBTI issue—and not so much as something related to migrants' rights, even though these policies *are, objectively,* about the rights of migrants. But beyond this initial "activism blind spot", it is important to underline that the impossibility for ILGA-Europe to refuse the premises of the debate about migration in the European Union also had much to do with the way European legislation was being constructed at that time. In previous sections, I analyzed the obligation for ILGA-Europe, if the organization wished to survive, to adopt ways of thinking and doing proper to European policymaking. Yet, this necessity to adapt went beyond the form that their activism could take. It also influenced the arguments and demands that could be developed. It is not just that ILGA-Europe's activism juridified, but they also had to use specific sub-types of legal arguments when talking with the European Union. These arguments were that of anti-discrimination.

It is important to underline that they did not have much choice. In fact, historically, anti-discrimination had not been their preferred legal framing. As explained by Patricia Prendiville, executive director of ILGA-Europe from 2004 to 2009:

> *"At the Council of Europe there were opportunities for NGOs to speak because the Council had a human rights mandate. (...) It was easier for us to speak there and to be able to be heard, even though you had Russia and all the former Soviet countries who would be against anything we were saying. (...) It's not that everybody was agreeing with us, far from that. But because we were using international human rights instruments—that would have been a kind of a key strategy for ILGA Europe at that point—we were able to argue that sexual orientation and gender identity should be seen as protected grounds (...). So that made it easier there. When we came to the European Union institutions, they were always talking about national competence and European competence, and they were not so open obviously, they were saying human rights is not where we are coming from, we are coming from antidiscrimination and equality. And so then... Then it just... they were not as many opportunities, but ILGA-Europe used them all."*

(Patricia Prendiville, personal communication, 16/04/2020).

What is visible in this extract—and is supported in newsletters and in the interview of Nigel Warner—is that ILGA-Europe, on the impulse of lawyers such as Peter Ashman, had traditionally preferred human rights arguments. They had identified the Council of Europe to

be a structure of opportunity for LGBTI rights, and they lobbied it accordingly.[18] Yet, the argument of human rights did not work out as well for the European Union. As visible in the quote from Prendiville above, the European Union was in fact considered as a difficult target for them. Human rights, although their inclusion into early European treaties had been initially considered, were then historically pushed aside (de Búrca 2011). The question of protection reappeared on the agenda only via anti-discrimination clauses, which were originally aimed at ensuring principles of fair competition (Jacquot 2015). ILGA-Europe was conscious that anti-discrimination did not equate to positive rights, but they still considered it as a useful tool. When asked about how they justified their demands on LGBTI asylum in the early 2000s, Mark Bell, now Regius Professor of Law at Trinity College Dublin and then a PhD student who participated in ILGA-Europe's emerging advocacy, explained:

> *"I think [our demands] were based on, you know, what was fairly limited evidence that there were countries where claims were arising. Certainly in the United Kingdom, in Sweden, and probably in France as well. There was evidence that this is an issue that arises and is likely to arise more over time. And that practice was very divergent. I suppose there was also a degree of opportunistic strategy, because we saw it as an opportunity to insert LGBTI issues in European legislation. (…) And there was an appetite to see, look, there has been a certain amount of success on the antidiscrimination front, so whether other areas would be open for change. (…) The much bigger issue at the time would have been recognizing gender as a particular social group and I suppose we were, to some extent, trying to tackle that. What was useful there was that in European Union caselaw, in 1996, the Court of Justice had held that the sex equality directive covered discrimination related to gender reassignment. So sometimes, the argument was, 'well, in the antidiscrimination context gender include gender reassignment so that should also extend to other ways the European Union deals with gender'"*

(Mark Bell, personal communication, 24/02/2020)

This quote shows how anti-discrimination permeated the discourse of ILGA-Europe in the early 2000s. Evolutions in the anti-discrimination field motivated ILGA-Europe to look at asylum at least as much as occurrences of asylum claims in Member States. What is further visible here is the circulation of anti-discrimination arguments in-between different spheres of policymaking, and in particular, from the domain of employment into that of asylum. Because they had known some success on the Equal Treatment in Employment and Education Directive (this is the "success on the anti-discrimination front" Mark Bell is referring to), activists re-

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[18] The board report of 1998-1999 states: "At the end of our first full year of involvement with the Council of Europe, one conclusion stands out very clearly: in the long term the European Court of Human Rights is by far the most effective of the various institutions at the Council of Europe for promoting change. We will need to be creative in developing Europe-wide strategies to make individuals and organisations aware of the possibilities, and to encourage them to take cases" (p.11). Beyond the European Court of Human Rights, in 1999, a report on migration was prepared by a committee of the Parliamentary Assembly, and ILGA-Europe obtained a recognition of persecution on sexual orientation as "horrifying and harmful" in there (ILGA-Europe annual board reports 1998-1999, 1999-2000; Parliamentary Assembly doc. 8654, 2000).

mobilized that language to argue for LGBTI equality throughout European legislation, including in relation to migration. Even the judgement Mark Bell referred to in the quote above is related to employment.[19] These different elements therefore show how anti-discrimination arguments progressively solidified in ILGA-Europe's advocacy, and helped them to re-imagine their asylum activism, providing them with a stable corpus of references and arguments.

For asylum, this was both a strength and a weakness. It was a strength, because this transformation rendered LGBTI asylum advocacy less sensitive to the *va-et-vient* of activists, or at least less dependent upon personal good will. In the mid-1990s, the development of projects related to migration often depended upon key actors, for example Mark Watson, binational same-sex couple activist and board member of the nascent ILGA-Europe. His personal experience informed ILGA-Europe's action and way of framing migration. Today, asylum is a well-acknowledged facet of the organization's activism, independently of whether staff members are strongly interested in this issue. The arguments they developed have also remained stable through time. Finally, anti-discrimination also provided ILGA-Europe with a routine method to formulate their claims. Their briefing notes published in 2001–2002 illustrate: they systematically called for an extension of anti-discrimination clauses, before critically analyzing the proposals of the Commission from a LGBTI equality perspective, and ultimately suggesting amendments. It is important to underline that in the end, their demands were rarely successful at that time. However, many of these early arguments were then retaken by politicians and civil servants during the following reform of the Common European Asylum System (2008–2013), thus showing that ILGA-Europe's efforts were not fruitless.

At the same time, though, anti-discrimination frames also constituted an inherent limit to ILGA-Europe's asylum activism. While anti-discrimination was a promising tool for binational same-sex couples (who could use it to demand the same rights as heterosexual couples, the dominant model in European societies), LGBTI asylum seekers had little to gain from having the same rights as other asylum seekers if the situation of foreigners in Europe was not improved more globally. In other terms, the main pitfall of anti-discrimination arguments is that by positing one group as always in need of "catching up" with the majority, they do not allow the questioning of the naturalness of this minority/majority divide, and often fail to question the desirability of the situation of the majority itself (Jackson and Rahman 1997). This entailed a

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[19] In *P. v. S and Cornwall County Council,* the Court of Justice of the European Union recognized that a trans woman had been unfairly discriminated against by her ex-employer and that this was contrary to the 1976 Equal Treatment Directive that prohibited discrimination based on sex.

difficulty for ILGA-Europe to refuse the premises of the European debate on migration—namely, that borders indeed needed to be better controlled, and that a shared policy on migration was thus desirable at all costs. This is visible in the following extract from their position paper on the proposal for a Procedures Directive. Reflecting on the notion of safe country, they wrote:

> "ILGA-Europe recommends deletion of all provisions relating to removal to a safe third country, a safe country of origin or another European state pursuant to the Dublin Convention (…). In the event that the Council seeks to maintain these concepts, ILGA-Europe proposes the following amendments in order to strengthen the protection of lesbian, gay, bisexual and transgender applicants."

(COM (2002) 326, IE doc. #5/2002, Procedures, 2002)

This quote comprises two of the elements of the "routine advocacy" identified above—a critical stance on the Commission proposal, and a suggestion for alternative amendments. The call for extension of anti-discrimination clauses was also present later in the text. But it also clearly shows how ILGA-Europe became bounded to accept the premises of the Directive, even when disagreeing with some of its key concepts. Faced with the notion of "safe country", to which they were strongly opposed, they chose to develop a demand for "reasonable accommodations". Instead of plainly rejecting the text, they suggested "better" ways of framing it—ways that did not denature it entirely ("reasonable") but that still mitigated its application to some minorities ("accommodations"). They did so because they could reject the entire directive proposal: no one was going to support LGBTI rights for them if they exited negotiations, and, beyond that, the proposal also included a recognition of LGBTI identities, so the stakes were too high for them to reject it altogether. However, the risk of this strategy is to endorse policies that cannot be peripherally improved. ILGA-Europe, here, did not support the notion of safe country, but the message ended up being scrambled. To take a more recent example, in a 2021 panel on the impact of the Dublin system on LGBTI asylum seekers[20], Akram Kubanychbekov, Senior Advocacy Officer at ILGA-Europe, underlined the detrimental effects of this regulation on LGBTI claimants. However, when asked for recommendations, he argued in favor of a reform and a better application of exception clauses—and not for the deletion of the whole Dublin policy, which is the position of many member-associations of ILGA-Europe (chapter 5 of this dissertation). Consequently, it is possible to argue that the limits set to ILGA-Europe advocacy by the ideals of anti-discrimination and reasonable accommodations are still very much prevalent today.

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[20] The video can be found here: http://queereuropeanasylum.org/upcoming-events-2/queer-asylum-and-the-eu-return-system-challenges-and-risks/ (last consulted 31/01/2022)

In the end, what anti-discrimination and reasonable accommodations offer is the illusion that asylum policies could be applied differently to different groups of people. Yet, it is seldom the case. Even when such specific consideration does occur, one might wonder if it is a good thing when it comes at the cost of the conservation of the *status quo* on the treatment of the overall population. Reliance on these arguments thus set further boundaries around what ILGA-Europe could demand for LGBTI asylum seekers. Although this limitation can seem external to ILGA-Europe at first sight—after all, they *had* to adopt this language to be heard by European institutions—external and internal constraints are, in this context, inseparable. It is, indeed, because their object of activism was more LGBTI equality than equality for migrants that ILGA-Europe could easily adopt anti-discrimination arguments without fully realizing their inherent limits for asylum seekers, including for LGBTI ones.

3.2. Asylum as a policy negotiated in Europe, by Europeans, for non-Europeans

This acceptance of the premises of the European migration debate was even more problematic given that the situations of asylum seekers in Europe, prior to and after the development of the Common European Asylum System, was considered by researchers to be very poor (Schuster 2003; Lavenex 2001; Uçarer 2002; Guiraudon 2003; Costello 2005). As analyzed earlier on, ILGA-Europe did critique some tools developed in this context. However, as the organization grew at the end of the 1990s, ILGA-Europe became caught in a tension: as a European organization, it believed in the project of a social and integrated European Union, but as a LGBTI organization it was expected by its members to defend the rights of LGBTI applicants unconditionally. The possible contradictions flowing from this position were very much understood by ILGA-Europe staff members. In his interview, Joël Le Déroff[21], who joined the organization as a policy and programme officer in 2009, reflected on it, stating:

> *"You know, ILGA-Europe's staff and people in Brussels are massively pro-European, so [being favorable to harmonization] is a question that's not even being asked. (...) It does not mean that we cannot be critical, but when we are critical it is because we notice that some things are not working quite well. In that sense, we probably offer a distorted image of the associative world we want to represent. Because people who are not very pro-Europe, independently of how involved in human rights they are, they will not come to work in Brussels for a European NGO. Regarding the Dublin Convention... In fact, I don't think that in a team like ILGA-Europe, the idea that it is not good to have greater harmonization would come up."* (Joël Le Déroff, personal communication, 23/03/2020).

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[21] Please note that Joël Le Déroff is now policy officer at Horizon Europe Association, but that his contribution only reflects his past involvement at ILGA-Europe. His statements do not reflect the position of the Commission.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

Le Déroff, in his contribution, offers a reflexive standpoint on ILGA-Europe's action, underlining the contradictions they could face in their action. As he rightly underlined, ILGA-Europe's identity is not anymore solely about being LGBTI, it is also about being European. As early as in the 2000s, and because they had come to consider the European Union not just as a tool of influence but also as an end goal *per se,* ILGA-Europe could well be critical of the content of some policies, but questioning the merit of European integration became off-limit to them. In other words, ILGA-Europe's European identity won over the demands of its constituency, and especially over the demands of the associations that were not ready to support the Europeanization of asylum policies at all costs.

However, there is more to the "becoming European" of ILGA-Europe than the mere observation that they progressively became embedded into a pro-integration paradigm. ILGA-Europe's gradual inclusion into the sphere of European policymaking also resulted in a modification of the way they thought about and framed migration. Authors have underlined how European integration has resulted both in a displacement of European frontiers eastward, but also in the consolidation of these new boundaries (Ayoub and Paternotte 2015). To be more precise, as the European Union co-opted new Member States in Eastern Europe, LGBTI activists welcomed these newcomers, but in this process, they also internalized further the idea of a clear-cut difference between Europeans and non-Europeans. This greatly impacted ILGA-Europe's asylum advocacy. Under the paradigm developed by binational couples in the 1990s, the rights of asylum seekers were understood almost exclusively in their relational dimension (rights of entry, residence, reunification). This relational framing, of course, offered a partial standpoint over the struggles of LGBTI foreigners in Europe. Nonetheless, it also indirectly articulated the rights of these foreigners to the broader project of European LGBTI equality. On the contrary, the negotiations of European asylum policies disentangled asylum from this broader corpus, resulting in the autonomization of asylum in ILGA-Europe's advocacy. What the idea of "autonomization" entails is that asylum has become treated as an autonomous field of action with specific resources—hence the development of a professional and policy-responsive advocacy—but also that it has become a policy oriented primarily toward foreigners, well-separated from domains of ILGA-Europe action oriented toward European citizens.

Three elements illustrate this shift. Those are ILGA-Europe's reaction to the Aznar Protocol, their current framings of refugees, and the progressive disappearance of binational couples in the newsletters of the organization. The Aznar Protocol, or protocol n°24 on asylum for nationals of Member States of the European Union, is a protocol to the Amsterdam Treaty that

entered into force in 1999. It strongly limited the rights of European citizens to seek asylum in another European Member State, based on the presumption that the European Union is safe, and that in the unlikely event of persecution, citizens could escape thanks to their right to free movement (Durieux 2013). This protocol largely overlooks the fact that discrimination in relation to free movement still exist within the European Union (Zwaan 2019). Its spirit— though not its letter—has been extended to accession countries, which are often presumed to be safe since they are "almost" in the European Union. The result of this policy is that many European Roma and LGBTI people now seek asylum abroad, notably in Canada (Atak 2018).

The Aznar Protocol was only briefly evoked in an ILGA-Europe newsletter in 1997, when the organization reproduced a press release by Amnesty International (newsletter n°49). But it is not something that they seized afterwards. Asked about that, Mark Bell, now Regius Professor of Law at Trinity College Dublin and then a PhD student who participated in the development of ILGA-Europe's anti-discrimination strategy, explained:

> "For the organizations in Central and Eastern Europe, I kind of remember that (...) one of the concerns was that the EU excluded asylum applications from EU citizens. I remember that was an issue for groups in Lithuania for example (...) For them, in a way, asylum wasn't an issue of people coming from outside, but possibly more a question of people from their own community leaving. (...) I think in a way, that was a very early decision that asylum claims from EU citizens were excluded. It closed that debate. Anyway, once free movement became a possibility for all those citizens, this necessity disappeared. It was probably more of an issue when there were countries joining or in a transition, when the right to movement was limited."
>
> (Mark Bell, personal communication, 24/02/2020)

Mark Bell's contribution shows that this question was a matter of debate in the constituency of ILGA-Europe in the late 1990s, but that it disappeared when the Aznar protocol entered into force and citizens from new Member States benefitted from free movement too. But it also illustrates how ILGA-Europe—and indeed most other European actors of migrants' rights, from organizations to researchers—have internalized the European Union's semantic differentiation between *mobility,* understood as a prerogative of European citizens, and *asylum*, portrayed as reserved to third-country nationals (Balch 2018; Zwaan 2019).

The point here is not to say that ILGA-Europe supported the Aznar Protocol, because this is not what happened. But the organization accepted the presumption, set by European institutions, that asylum was not (anymore) something of direct concern to European citizens. This understanding is visible in the communication of ILGA-Europe. In newsletters from the 1990s, asylum seekers came both from within and outside Europe (understood as a broader geographic unit and not just as the European Union). Newsletter n°22 (1994) mentioned several

cases of Romanian asylum seekers, while newsletter n°33 (1995) reported about the cases of two claimants, one from Algeria and the other from Iran. A spatialization in the representations of LGBTI asylum seekers was already perceivable at that moment (some came from Eastern Europe, others from two "Muslim countries"), but asylum was not entirely foreign to European activists. In newsletters from the 2010s, representations durably shifted. Although violence in European countries is still mentioned, it is not articulated to asylum. Asylum is talked about almost exclusively in relation to extra-European, "distant" and horrific events—the 2015 refugee crisis, persecutions in Chechnya, and, recently, the Russian war on Ukraine. It is also important to underline that while in the 1990s newsletters s mentioned specific cases, now, claimants are often referred in a pluralized and generic way—as "refugees" and "asylum seekers". In other words, asylum has ceased to be a matter of political solidarity between peers to become one of humanitarian help and hospitality. The difference between these two concepts, though subtle, is significant, because while solidarity entails a sense of comradeship among equals, hospitality presupposes that one partner is at home, and helps the other (Balch 2018).

This shift is illustrated by the progressive disappearance of binational couples in the newsletters of the organization. As analyzed in the section 1.2 of this chapter, binational same-sex couples played an ambivalent role in the politicization of foreigners' rights, because while their activism is often rooted in individualist concerns, they also operated as a bridge between citizens and foreigners (Woesthoff 2013). The following graph takes further the analysis of migration frames presented earlier. It extends the temporal reach to 1992–2020 and considers three different ways of framing migration. These are, namely, freedom of movement (understood as the mobility of European citizens), asylum (the migration of third-country nationals), and binational couples (a mix between both). The results are as follows:

Percentage of ILGA-Europe newsletters mentioning asylum, binational couples, or free movement
(1992-2020)
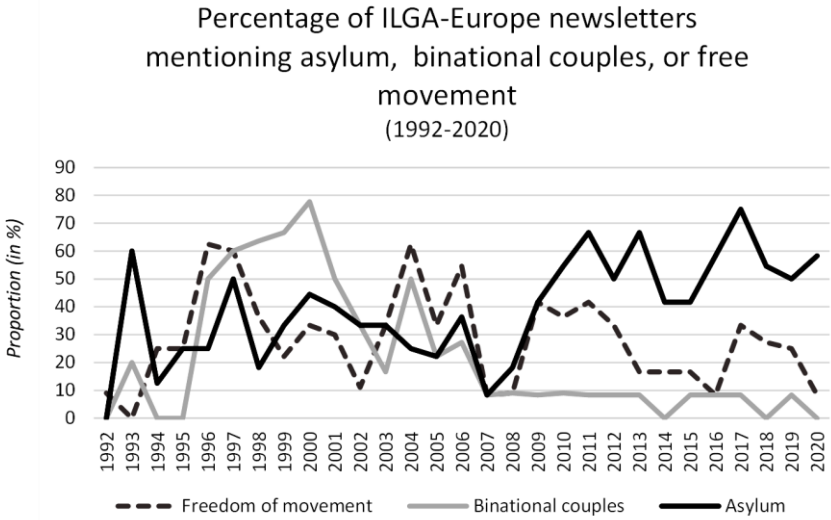
Figure 3. Proportion of newsletters mentioning freedom of movement, binational couples, or asylum (per year)

Three lessons can be drawn from this graph. First, one can see very clearly the moment of indeterminacy and uncertainty that marked the early years of ILGA-Europe. Until 2007, the three curves crisscrossed each other, despite a brief domination of binational couples in the late 1990s and early 2000s. However, what is also perceivable is that after a long moment of hesitation, starting from 2007—the year that marked the beginning of the first reform of the Common European Asylum System—asylum became the migration "master frame" of ILGA-Europe. References to asylum have followed a strong and consistent uptrend since then, and to a few exceptions, this issue is systematically evoked in more than half of newsletters. Binational couples, on their side, have simply disappeared from ILGA-Europe's communications. After being evoked in almost 80% of newsletters in 2000, they were kept under 10% since 2007, with some years (2014, 2018, 2020) where they were not mentioned at all. Free movement, on its side, has remained present in 10% to 40% of newsletters (20% to 40% to the exception of the 2013–2017 period). Therefore, the third and last lesson of this graph is that with the disappearance of binational couples, we can now see the emergence of two distinct and well-differentiated ways of framing migration: the migration of Europeans (free movement) and the migration of foreigners (asylum). This is probably less clear for the year 2020, where free movement has been little evoked, but overall, one can see that these are the two curves that prevail. Whether this is still the case in a few years remains to be seen.

Taken together, these three observations lead to a single more general conclusion: that, as ILGA-Europe's advocacy progressively refined and professionalized, asylum became a "foreigners' matter". The way ILGA-Europe activists thought about the objects (asylum seekers) and the actors (themselves) of LGBTI asylum policies drastically changed, and these two categories were progressively erected as distinct. In sum, asylum progressively became a policy negotiated in Europe, by Europeans, for non-Europeans. This strikingly contrasts with earlier frames, where feelings of personal injustice and ideals of peer solidarity prevailed.

Conclusion

This chapter has examined the process through which a new policy object, "LGBTI asylum", emerged in the European debate. Its objective was to analyze the role played by politicization in renegotiating the meaning of equality to include new groups in the European polity. The question was whether politicization could help extending the scope of equality or whether it would result in its contraction, for example due to backlashes or because activists would be forced to mitigate their demands to make them more acceptable in a context of increased

visibility. To answer this question, this chapter traced back the evolutions of the mobilizations, strategies, and frames developed by ILGA-Europe—the first, and, for a long time, sole actor—on LGBTI asylum from the late 1970s to the early 2000s.

It is common, today, to take for granted ILGA-Europe's current identity as a highly professionalized lobby. Based on this, it is also easy to imagine that their mobilization on asylum would be relatively recent and dependent on the attention granted to the issue by European institutions. This chapter proved this assumption to be false. ILGA-Europe's asylum advocacy, under its current form— professionalized, asylum-specific, and policy-reactive—is indeed quite recent, and probably dates back only to the first period of negotiations of the Common European Asylum System, in the early 2000s. However, focusing only on ILGA-Europe's post-2000 advocacy offers a truncated vision of the processes that led to the setting of LGBTI asylum on the European agenda. The risk here is to judge the past by today's standards. This is possibly inducive of false divisions between "pure" (or at least "purer") forms of political mobilization on asylum, taking place in a long-gone golden age or at the grassroot level, and "professionalized" (or "disconnected") claims that would characterize today's context. On the contrary, this chapter has shown that concern for asylum has always permeated ILGA-Europe's activism, both at the membership and the leadership levels. Politicization was thus at the heart of the action of early gay activists, who acted out of despair for their own subjective situation, or for ideals of global gay liberation. And it would be unfair to argue that all ILGA-Europe staff members tried to do in the early 2000s was to depoliticize this issue. In that regard, it is perhaps important to distinguish between the "what" and the "how" of politicization (Marche 2019). If we consider politicization in the broad sense of term—as making an issue relevant to politics—this is exactly what ILGA-Europe managed to do. However, it is also true that they simultaneously sought to keep control over the possible controversy it could create. They therefore formulated their demands in "respectable" terms, avoiding controversial statements and using the language of rights.

To come back to our original question, based on the short summary of the chapter exposed in the above paragraph, it can be argued that politicization was essential to the invention of new forms of protection. Today, politicization—understood as the presence of a political debate—is often considered negatively in European studies (Bauer and Ege 2012). For some researchers, it prevents the European Union from acting rationally, and infuses neutral policies with political considerations. Yet, it is crucial to underline here that the early inclusion of LGBTI rights in European asylum policies would probably have never happened if activists did not politicize

LGBTI rights to challenge the *status quo*. Their influence might appear not-so-direct at first sight: after all, the recommendations they formulated in their position papers were not retaken by policymakers. They had to wait a few more years for that. But, beyond position papers, what these activists did was nothing less than inventing a right not to be submitted to violence, to be protected, and to live as equals. It is the formulation of such ideals that then pushed European institutions to arrogate to themselves an unlikely right: the right for Europe to interpose itself between a state and its citizens even though LGBTI rights were not consensual in Europe and beyond. The idea that politicization necessarily perverts "neutral policies" should thus be questioned. Without politicization, the situation of LGBTI foreigners (and LGBTI people at large) could have never been diagnosed as problematic and as worth of public action. Politicization, in other terms, was essential to the invention of new, more inclusive policies.

This conclusion, however, could not be complete if it did not mention the early limits that were set around LGBTI asylum—as an object of policy and as an object of activism—in these first moments. These boundaries were important to the emergence of LGBTI asylum as a well-defined object and not as a loose set of demands. However, they also durably marked any European activism surrounding this issue. Beyond the fact that ILGA-Europe's action unfolded into a pro-European integration space and that this limited the claims they could formulate, it is perhaps even more important to underline that their asylum activism was focused above all on LGBTI rights. What was at stake in their demands was not so much the overall improvement of the condition of migrants—even less so their equal treatment in European societies—but the mainstreaming of LGBTI equality throughout the European legislative apparatus. As a consequence, they participated to the construction of LGBTI asylum as an essentially LGBTI matter. This is key to understand why, today, LGBTI asylum claims are often approached in isolation from broader migration policies, as if these asylum seekers were "individuals" that could be extracted from their "group" due to their personal characteristics.

Asylum policies were thus a key space of early implementation of LGBTI equality at the European level, sometimes to the detriment of a broader critique that would have been more favorable to (LGBTI) migrants' rights. The next chapter takes this discussion one step further, by showing that asylum was not a just space of "implementation" of such LGBTI equality, but also an *avant-garde* arena of its negotiation. In that context, beyond its impact on migrants' rights, the formulation of LGBTI equality in and through asylum policies is paradoxically not without consequences for LGBTI rights themselves.

<h1>CHAPTER 2</h1>

<h1>Highways and Byways of LGBTI Equality: Using Asylum to Negotiate Trans Recognition</h1>

<p style="text-align:center">*</p>

The first chapter of this dissertation closed on a relatively happy ending for what concerns anti-discrimination legislation. Of course, the use of anti-discrimination arguments in asylum negotiations did have limitations for the protection of LGBTI asylum seekers. However, from the viewpoint of LGBTI equality, the insertion in these directives of anti-discrimination clauses explicitly covering sexual orientation constituted an important step forward. It showed that the Amsterdam Treaty's promises were not an empty vessel for gay rights. Of course, this fear had in part been pushed aside by the passing of an anti-discrimination directive covering sexual orientation in employment in 2000 (2000/78/EC). However, what the Common European Asylum System demonstrated was that LGBTI protection could be extended to areas of European policymaking that were not primarily about anti-discrimination. LGBTI rights could, in other words, be "mainstreamed" throughout the European legislative apparatus. This appeared as a promising avenue for future advocacy and activism at the European level.

Simultaneously, early and mid-2000s were a moment of consolidation for ILGA-Europe. The organization became more firmly structured, and so was the field of nongovernmental organizations and lobbies acting at the European level. Consultations with "organized civil society" by European institutions—and in particular the Commission—increased, resulting in a period of enchantment for these actors (Smismans 2003; Kohler-Koch 2009; Grote 2019). At the same time, though, the Commission's promise for a new anti-discrimination directive that would enhance the protection of some groups was still lagging behind (Waddington and Bell 2001; Bell 2009). The fight against discrimination based on race had indeed known a huge

breakthrough in 2000, both in terms of scope and content (Directive 2000/43/CE). The extension of the scope of anti-discrimination based on race contrasted with the limited domains of application of this principle when it came to religion, disability, age, and sexual orientation. Moreover, the new tools and concepts developed in the directive on race made protection based on sex, one of the most symbolic elements of European equality policies, look pale.

It is within this context that ILGA-Europe operated when they sought to enhance the legal protection of LGBTI people in Europe. Their focus was especially on the protection of trans people, because contrarily to gays and lesbians, trans people were not explicitly covered by European anti-discrimination legislation yet. Trans issues had also gained importance in the mainstream LGBTI movement (Balzer and Hutta 2014). When the Commission, after much pressure from the part of nongovernmental organizations (Bell 2009), finally published its proposal for a new anti-discrimination directive in 2008, ILGA-Europe was faced with an ambivalent situation. On one hand, the directive explicitly included sexual orientation, and was therefore a promising text from the standpoint of the protection of lesbians, gays, and bisexual people (even though in reality the text was never passed, or at least has not been passed). On the other, to the anger of the feminist movement, the Commission had failed to mainstream gender into the new directive. The proposal therefore did not cover discrimination based on sex, to the risk of making equality between women and men the cadet of the new anti-discrimination regime (Lombardo and Verloo 2009).

This lack of consideration for sex-based discrimination mattered for ILGA-Europe, not just *per se* but because of the impact it could have on the recognition of trans rights. The landmark case for trans rights had been *P. v S. and Cornwall County Council* (European Court of Justice 1996), in which P., a trans woman undergoing a gender reassignment procedure, was dismissed by her employer due to her transition. As the case was brought by the United Kingdom to the Court of Justice of the European Union, the Court concluded that the Equal Treatment Directive (76/207/EEC), which prohibits discrimination between men and women at the workplace, also applied to people undergoing gender reassignment. Directives explicitly mentioning sex-based discrimination were thus understood by activists to implicitly cover trans people envisioning to transition.[22] Against this background, the lack of mention of sex in the Commission's anti-discrimination proposal represented both a failure to extend the prohibition to discriminate trans people to other domains of life, and a missed opportunity for ILGA-Europe to lobby European

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[22] What "gender reassignment" means is not defined by the Court of Justice of the European Union. Activists have therefore tended to interpret it in a broad way, and as not limited to surgery.

institutions to get a more explicit and broader recognition of trans people under legislation related to sex-based discrimination. Their objective was both to clarify that trans people were indeed covered by this legislation, and to adopt a broader approach to transness, one that was not limited to gender reassignment (see, for example, ILGA-Europe 2007). This new conception of transness was symbolized by the term "gender identity"[23], which they used to refer to trans people and sought to get recognized by policymakers too.

One might therefore wonder what this situation entailed for the activist strategies of ILGA-Europe, and whether this had an impact on their asylum advocacy. Indeed, the first reform of the Common European Asylum System was simultaneously being launched: it started in 2007 with a Commission consultation, and ended in 2013, thus overlapping with debates on discrimination. One could thus wonder whether this context pushed ILGA-Europe to prioritize their efforts on anti-discrimination to the detriment of their asylum advocacy, or whether on the contrary they managed to maintain both issues afloat. What further remains up to question is if their objectives on anti-discrimination led to a change in their broader advocacy methods. In the previous chapter, I argued that politicization had been central to the agenda-setting of LGBTI asylum at the European level, but also that this politicization became much more discrete when ILGA-Europe realized there was a window of opportunity for them to have a policy impact. Given the context of blockage of anti-discrimination legislation in the late 2000s, it seems legitimate to ask oneself whether this minimal politicization would still remain the best strategy for them. After all, when faced with immobility and the total absence of possible legal vehicles for trans recognition, would not noise be more efficient than silence?

The literature on this subject does not provide a straightforward answer. Many researchers have argued that European lobbies generally prefer soft-spoken, consensus-oriented lobbying strategies (Woll 2012). This is particularly true for actors of the private sector (Greenwood 1997; Bouwen 2007), but it is also a reality among nongovernmental organizations, who have become "artists of political persuasion" (Dialer and Richter 2019). However, the same scholars have underlined that very often, social and environmental actors are "Davids" against the "Goliaths" that business lobbyists represent. In this context of unequal power and resources, nongovernmental organizations may be more successful when they manage to take discussions out of the hushed atmosphere of meeting rooms and to make them a subject of public debate

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[23] "Gender identity" is a term that refers to an intimate, personal experience of the sexed self. It is different from both "gender reassignment" because it does not necessarily entail physical modifications, and from "gender expression" because the said identity is not necessarily readily visible. It is one among many other ways of conceptualizing transness, but it is not, as it is often presupposed today, the only one.

(Dionigi 2017; 2019). Beyond competition with business lobbyists, it is also true that politicized modes of action have been successful at forcing political actors, including European institutions, to look at certain issues and to take a stance on them (Green-Pedersen 2012; De Bruycker 2020). But big nongovernmental organizations are not as free as they would like to be, and here again, the literature is divided. Many have underlined that nongovernmental organizations, because they are often funded by governments, have difficulties adopting critical stances (Silliman 1999; Bloodgood and Tremblay-Boire 2017). Others, on the contrary, have argued that the more these structures are endowed with resources, the freer they are in choosing whether to "gain access" or to "go public" (Dür and Mateo 2013). In other words, there is a need to document the strategies developed by European anti-discrimination nongovernmental organizations when they faced this context of blockage at the turn of the 2010s.

Against this background, this chapter takes further the discussion on the role played by politicization in extending the scope of equality started in the first chapter. To do so, it examines the following question: to what extent does the articulation between the anti-discrimination and asylum agendas in the late 2000s and early 2010s bring us to question the divide between politicization and depoliticization in producing policy change on divisive issues such as trans rights? My initial hypothesis was that ILGA-Europe sought to depoliticize their demands on trans rights, due to a political environment that I suspected to be very polarized because of the combination of issues of gender, sexuality, and migration. Depoliticization seemed to me to be the most plausible scenario because ILGA-Europe still had more to lose, being on the verge of a better recognition of sexual orientation in anti-discrimination legislation, than for example the women's rights movement, which issues had been totally neglected. In sum, I thought that the divide between politicization and depoliticization in bringing positive change had to be nuanced, and that what mattered were the actors and the purposes of this (de)politicization— more than the mere phenomenon itself.

To assess the validity of this hypothesis, I analyzed interviews done with nineteen representatives and staff members of European organizations involved in European asylum reforms and in particular in the one that took place between 2008 and 2013.[24] These included organizations working on LGBTI rights, gender, migration, racism, and human rights. Several interviews were done with members of ILGA-Europe, of course, but I broadened the focus to other associative actors who had stakes in the proposal for an anti-discrimination directive and

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[24] For more information, see the list of interviewees and the interview schedule in the annex.

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the reform of European asylum policies. These organizations indeed need to work together if they want to be successful. Under these conditions, ILGA-Europe's ambitions for trans rights were a collective—and not an individual—issue, hence the necessity to replace these claims into the broader ecosystem of European lobbies. Alongside these interviews, I analyzed three Parliament debates that took place around that time and in which LGBTI rights were mentioned. The first was the debate on the new anti-discrimination proposal (2008/0140/APP). The second was related to the recast of the asylum Qualification Directive (2011/95/UE). The third was that of the directive on Victims of Crimes Rights (2012/29/EU).

Fieldwork led me to nuance my hypothesis, because contrarily to what I expected, debates in the migration and victims' rights contexts, in fact, were not polarized at all on trans rights. In other words, the increased politicization I had expected to emerge at the nexus of migration and trans issues did not happen. Policymakers were largely in favor of the recognition of gender identity in asylum law. What I therefore show in this chapter is that ILGA-Europe did not depoliticize trans rights, but rather that they sought to exploit differentials of politicization preexisting on this issue between different spheres of European actors—both among deputies and other associative actors. What they did seek to do, though, was to maintain this low level of polarization. They thus relied on narratives of shared values and goals to make their demands more acceptable. This sub-politicization was crucial to the initial recognition of trans lives as lives worth living, even though its viability as a long-term activist strategy may be questioned.

This chapter is organized as follows. The first section is dedicated to what I have called ILGA-Europe's "politics of interstices" on trans rights. It examines how asylum, paradoxically a peripheral arena for LGBTI rights, became central to the extension of LGBTI equality in the late 2000s. This entailed, and it is a key finding of this dissertation, that key European policies are sometimes negotiated outside their primary arena of elaboration, through byways rather than highways. The second section nuances this finding by underlining the political limitations of a form of equality established through the avoidance of debate. Finally, the third section concludes on the influence of these changes on subsequent policies for what concerns the inclusion of trans people in the European polity.

1. Using political interstices to extend the scope of equality: ILGA-Europe and the 2011 recast of the Qualification Directive

It is common, today, to consider gender and migration as extremely politicized issues in the European debate. It is true that the past few years have been marked with a certain number of polemics, ranging from the refusal of some Member States to host refugees to debates surrounding the censorship of LGBTI content in Hungarian schools and kids' TV. Narratives describing gender equality as an ideological "colonization" from Brussels have flourished eastward, and so have refusals to abide by European principles of solidarity and burden-sharing, depicted as imposed by a disconnected Brussels elite (Korolczuk and Graff 2018; Guiraudon 2020). In sum, both the anti-gender and the anti-migrant movements have strengthened.

Based on this context of increased politicization, it is easy to imagine that LGBTI asylum—located the nexus of migration and gender debates—would be a heated topic in the European debate. Yet, this first section shows that in the late 2000s, it was not so much the case, and that this entailed a totally different structure of opportunity for the European LGBTI movement. As studied earlier, ILGA-Europe's asylum advocacy had never been just about asylum: it had always been connected to broader ideals of LGBTI equality. But this dynamic was taken to a whole new level when activists realized it was perhaps possible to advance their agenda more efficiently by taking a step aside and using arenas apparently unrelated to LGBTI issues. This is at the core of this first section, which examines how ILGA-Europe built on the differential politicization of LGBTI rights in the domains of anti-discrimination and of asylum to develop what I call a "politics of interstices" to promote trans rights. The second sub-section then broadens this argument by showing how sub-politicization—and the voluntary renunciation of associative actors to debate—thus became a paradoxical motor of equality in Europe.

1.1.   *Politics of interstices: asylum, anti-discrimination, and trans recognition*

To fully understand the context ILGA-Europe navigated in the late 2000s, it is important to go back quickly in history, in the late 1990s. At that time, the inclusion of sexual orientation in the anti-discrimination clause of the Amsterdam Treaty came as a surprise to many observers—to the point that researchers have since then written entire articles dedicated to this puzzle (Mos 2014). Few Member States had protective legislation on sexual orientation. Moreover, the issue was far from being consensual, including at the rather progressive European Parliament, where conservative voices denounced the "moral decay" caused by gay rights (Case 2011). Almost

ten years later, when the Commission published its proposal a new anti-discrimination directive, the idea that anti-discrimination measures protecting gay people were part of European competences had been making headway among policymakers, but opposition was still present. In the debates of the European Parliament on the new proposal, the assembly was divided between those who praised the text—left-wing and liberal groups—and those who were opposed or uneasy about it. Sexual orientation was a key point of contention, especially for Christian deputies. For example, Konrad Szymański, intervening in the name of the radical right group "Union for Europe of the Nation", stated:

> "Mr. President, the European Commission maintains that this proposal is not aimed at amending matrimonial law and adoption law in the Member States. The Commission claims that it does not wish to change the legal status of the Church and of religious bodies involved in care and education. The Buitenweg report rides roughshod over these limits in every respect. It overturns guarantees for national family and adoption legislation (…). It is abundantly clear that the European Left wishes to reduce European integration to a single issue. In effect, it is obsessed with pushing through the latest homosexual demands by any possible means. This amounts to the most serious attack ever perpetrated against the credibility of this House."
>
> (Konrad Szymański, UEN group, European Parliament, 2009)

Opposition, though, did not come only from the radical right. The mainstream right was also ambivalent about the text, though they did not oppose it as a group. The mainstream right deputy Nicolae Vlad Popa, speaking in its own name, argued:

> "This proposal for a directive remains (…) a delicate and controversial subject. (…) Aspects of family law, including civil status, reproductive rights and adoption rights must not be included as part of the scope of application of the proposal for a directive, a fact which must doubtlessly be made clear from the legislative text. The use of the institution of marriage cannot be accepted in any way other than in the Christian sense. (…) The European People's Party has always supported the promotion of diversity as an important objective of the European Union and the fight against discrimination. Unfortunately, the text contains provisions which are unacceptable from the perspective of religious doctrine. Paradoxically, the Left intends to discriminate in this way. In fact, it is me being discriminated against simply because I sincerely believe in God."
>
> (Nicolae Vlad Popa, EPP group, European Parliament, 2009)

These two interventions show that the opposition to LGBTI protection was still very much alive among conservative policymakers, who considered any further prohibition to discriminate gays and lesbians as an infringement of their religious freedom. It is important to note that what the two deputies quoted above opposed was not the inclusion of new groups in anti-discrimination legislation (such as trans people), but the mere consolidation of a well-established domain of equality. In this context, negotiating the inclusion in this directive of trans people arguably appeared, to LGBTI activists, to be a bridge too far; and although the

documents they produced on anti-discrimination often mentioned trans people, they generally did not comprise amendments seeking to include gender identity to the text.

It is in this environment that ILGA-Europe started to get interested in the asylum reform that was taking place in parallel to the anti-discrimination debate. There was a precedent, in the organization, of using asylum as a way to test the limits of legal change. It had already been a strategy during the first negotiations of the Common European Asylum System. In a citation quoted earlier, Mark Bell, at the time a PhD student in law who participated in the activism of ILGA-Europe and now Regius Professor of Law at Trinity College Dublin, when asked what motivated the organization to look at asylum, first underlined that early cases were arising, before explaining:

> *"I suppose also there was a degree of opportunistic strategy. Seeing possibilities to kind of insert LGBT issues."*
>
> (Mark Bell, personal communication, 24/02/2020)

In a similar way, Patricia Prendiville, executive director from 2004 to 2009, had told me:

> *"I wouldn't say asylum was a huge issue in the early 2000s. But Christine Loudes, the lawyer I was talking about, she had done her PhD on transgender rights, and she had a very particular interest in understanding where were the different cases where EU competences could be brought up. That was really when we began to see that we might have something that we could use. What we were trying to do was, if you like, to mainstream LGBTI issues into the thinking of institutions."*
>
> (Patricia Prendiville, personal communication, 16/04/2020).

These two quotes show clearly how asylum law had been understood by ILGA-Europe activists as a possible space of formulation of their demands in their broader plan for equality. If European policymakers were to accept gay rights in one policy domain, they reasoned, then this achievement could be transposed elsewhere. And the more LGBTI issues could be mentioned, the better, for it would make European actors more familiar with the demands and vocabulary of LGBTI rights. Against this background, it should not come as a surprise that later ILGA-Europe members had the same reasoning. Joël Le Déroff[25], policy and programme officer at ILGA-Europe from 2009 to 2014, joined the organization to work on hate speech and, on a secondary level, on the asylum law reform—which had, according to him, only been granted peripheral attention so far. Reflecting about his action, he reported:

> *"In the first few weeks of my job, I reopened a few files, and by doing so, I realized that we were in the midst of an important moment in terms of legislative opportunities. First, the asylum law reform was interesting for asylum legislation per se, but beyond that, what we*

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[25] Please note that Joël Le Déroff is now policy officer at Horizon Europe Association, but that his contribution only reflects his past involvement at ILGA-Europe. His statements do not reflect the position of the Commission.

were really trying to achieve at that time was to get a recognition of gender identity in European law. Because there was no mention of gender identity at all, or it was incorrect (...). And therefore, the Qualification Directive appeared as an opportunity to move forward on asylum, but also to have a file that would be less blocked than anti-discrimination legislation. A file where we could have gender identity mentioned correctly. (...) The anti-discrimination directive is... it's like all directives on discrimination, the objective is to work specifically on discrimination. Asylum is very different; the main preoccupations of negotiators have nothing to do with LGBTQI rights. They are about receiving or not foreigners, opening or closing frontiers, costs of asylum procedures, etc (...) Conservative governments, anti-LGBTI movements (...), they are not active on asylum. Or at least they are not active on LGBTQI rights."

(Joël Le Déroff, personal communication, 23/03/2020).

Joël Le Déroff was not the only one to think in these terms. His contribution was largely corroborated by one of his colleagues, Silvan Agius[26], policy and programme officer and then policy director at ILGA-Europe on the period 2008–2013, who explained:

"I joined ILGA-Europe in 2007 and before that, I had worked on LGBTI issues but mainly in civil society (...). My volunteer work was not about asylum or other... how should I put that...? 'Secondary' issues, let's say. My volunteer work was about basic discrimination, basic acceptance... basic ability to be. So, when I joined ILGA Europe, asylum was not a topic I was leading on. I led on transgender related matters, intersex related matters, family rights and employment related rights. (...) But since the asylum package was being renegotiated while I was at ILGA-Europe, we got very involved in it. (...) We saw that through "other status or other gender-related status" we could score the opportunity to include gender identity in the first time in European Union law. Which we did. And that was a major win for us!"

(Silvan Agius, personal communication, 29/02/2020)

These two contributions illustrate the importance of the 2008–2013 asylum law reform for ILGA-Europe. Joël Le Déroff described it as an "important" moment, Silvan Agius as a "major win". But what is further interesting there is the way these quotes show very clearly that the asylum law reform was in great part important for reasons that were, paradoxically, unrelated to asylum. Silvan Agius differentiated, in his quote, between "basic" and "secondary" issues, with asylum pertaining to this second category. Avoiding this hierarchization, Joël Le Déroff considered the input of the reform for asylum and anti-discrimination on the same level, but he also underlined earlier on that the reform had not been a priority for ILGA-Europe until he joined and noticed the legislative opportunity it could represent.

This is not to say that ILGA-Europe did not care about the situation of asylum seekers, but rather that this matter was perhaps slightly lower in their hierarchy of priorities compared to that of getting a first mention of "gender identity" in European law. Getting such mention in

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[26] Please note that Silvan Agius is now a member of the cabinet of the Commissioner for Equality Helena Dalli, but that his contribution only reflects his past involvement at ILGA-Europe. His statements do not reflect the position of the European Commission.

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the Qualification Directive was, so to say, a sort of "double win" for them, because it both enhanced the protection of trans asylum seekers and the more global recognition of trans people, including European trans citizens. Because the chances of getting gender identity recognized via the front door of anti-discrimination legislation were small, asylum appeared as a useful side door for this protection. In other words, the objective of ILGA-Europe became to establish, through asylum, a European competence on trans protection without legislating on legal gender recognition, which is not part of European competences. Not only was asylum a policy arena less demanding on a procedural level[27], but the debate was also less cleaved on gender than in anti-discrimination, where, as shown earlier, opposition to very basic aspects of protection based on sexual orientation—not even trans rights—was still present. In this context, the lack of knowledge on gender of migration policymakers was not perceived as an obstacle, but on the contrary as an opportunity to "quietly" pass trans rights.

This strategy presents resemblances with ILGA-Europe's earlier use of asylum as a space to put the Commission's competence on sexual orientation in practice. However, it also presents major differences. In this case, ILGA-Europe did not simply use asylum as a mean to test the limits of already-acquired legal guarantees, but as a privileged space of their renegotiation. This was rendered possible by the ambivalent workings of the European community. The European Union had indeed strengthened as an actor, thus allowing circulations of policies between different domains of intervention because actors consider it as a polity as a whole, and not as a fragmented assemblage of tools (Petiteville 2002). However, at the same time, it has remained what Tarrow (2001), relying on Wayne te Brake (1998), has called a "composite polity". Te Brake is an historian of Europe, and, writing about the 1500–1700, he underlined how, "for a longer period than is often realized, political contention in Europe was fought not only between or within territories but also among a triad of players with unequal resources". Pursuing his analysis, he concluded: "it was often in the interstices and on the margins of these composite early modern state formations that ordinary people enjoyed their greatest political opportunities" (te Brake 1998, 15). For Tarrow, te Brake's description of Early Modern Europe echoes today's European policymaking, where actors, jurisdictions, and policy domains overlap. And for him it is, again, within these "interstices" that ordinary people have the largest margin of action.

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[27] Asylum falls under the ordinary legislative procedure, which means that the Council and the European Parliament have an equal weight and that at the Council only a qualified majority is needed. Anti-discrimination legislation requires the unanimity of Member States at the Council.

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Drawing upon Tarrow's and te Brake's analysis, ILGA-Europe's action on asylum during the 2008–2013 Common European Asylum System reform can be described as a form of "politics of interstices". The notion of politics of interstices is also inspired by the work of Farrell and Héritier on continuous constitution building, in which they underlined how European treaties are in perpetual renegotiation at their margins in everyday interactions (Farrell and Heritier 2002; Jupille 2007). Adopting a politics of interstices entails being where one is not expected to be, and where legal categories are still malleable so that change can be achieved more easily. In the case of LGBTI rights more specifically, it also meant exploiting the differential levels of politicization that may exist on the same topic between different arenas of the same polity. What the notion of "interstices" entails is that intersections cannot be analyzed as additions: both asylum *and* gender are politicized topics, but the overlapping of both debates—the question of gender *in* asylum—may not necessarily be so.

Contrarily to what has been shown in the first chapter of this dissertation, where I underlined the importance of politicization in agenda-setting processes, sub-politicization, in this context, became a key for broader legal change. Interestingly, a similar stratagem has been documented on trans rights at the French national level, where Jaunait (2020) showed how institutional actors sought to avoid large scale mobilizations and thus changed French legislation on gender identity in a reform that was not specifically dedicated to this issue. In this context, peripheral arenas can thus very well acquire a central status in an organization's advocacy precisely because their peripherality is perceived as a strategic opportunity. In the case of ILGA-Europe, asylum was crucial precisely because it was not about gender, thus allowing them to take the lead on this subject. But politics of interstices do not always work. In France, the opening of medically assisted procreation to lesbian couples and single women, despite being a marginal part of a broader reform of bioethics, did result in a politicized debate (though it did not lead to the same mass mobilizations as during same-sex marriage). In other words, the actors in presence, their coalitions, and the environment in which they evolve are also key elements in assessing the successes of interstices. This question is at the core of the following sub-section.

1.2. Creating alliances through sub-politicization: on the strategic use of intersectionality in coalition-building among European anti-discrimination organizations

ILGA-Europe's ambition to get gender identity mentioned in the Qualification Directive may appear relatively unproblematic to those who are not familiar with European policymaking. After all, if the opposition of conservative actors had been deflected, who could possibly have an interest in opposing the protection of trans people? Yet, the story is not as simple as it seems to be. Indeed, the easiest way for ILGA-Europe to get this mention of gender identity was to have it attached to the broader definition of gender. This was because trans rights, as explained in the introduction, had initially been introduced in the European legislative order as attached to women's rights (and not to sexual orientation). Thus, ILGA-Europe had to convince policymakers to specify that, under article 10 of the Commission proposal for a Qualification Directive, "gender related aspects" should include gender identity too. However, asking for this clause to be re-specified entailed encroaching on the terrain of the European feminist movement, and in particular onto that of the European Women's Lobby, one of the historical actors of the fight against gender-based violence in European legislation (Kantola 2010).

ILGA-Europe's goals are best described as an attempt to "stretch" the meaning of gender. Lombardo, Meier and Verloo (2009) theorized the notion of "stretching" in relation to European gender equality policies. For them, as gender equality policies travel, actors may try to "fix", "shrink", "stretch", or "bend" their meaning. Fixing entails the freezing of the meaning of gender equality. Shrinking entails its narrowing down—for example, reducing gender equality to the fight against discrimination. Stretching and bending are both about renegotiating the meaning and scope of gender equality, but while bending entails that the "concept of gender equality is adjusted to make it fit some other goal than the achievement of gender equality itself", stretching is about "the broadening of the concept of gender equality by developing a larger meaning that expands on its previous understanding in a given context" (Lombardo, Meier, and Verloo 2009, 5). This is exactly what ILGA-Europe was trying to do, though not so much to the meaning of "gender equality" but rather to that of "gender" *per se*: to stretch the protection entailed by "gender related aspects" to trans people by expanding on preexisting meanings of gender under European asylum policies.

This stretching of gender to gender identity, however, did raise some questions in relation to the European feminist movement, and not just because the relationship between women's rights and trans rights has always been a debated issue within feminism (Hines 2019). There has

always been, of course, some interrogations in the feminist movement about what might be lost if one redefines gender as an identity and not as a material aspect (Fraisse 2019).[28] This should not be neglected, because the European Women's Lobby is a plural movement, which counts organizations with conservative stances on trans rights among its members. In her interview, Catriona Graham, policy and programme officer at the European Women's Lobby, acknowledged that her organization did not have an official position on their recognition:

> *"Trans rights have become a much more visible part of public discourse and policy making discussion, it has taken a much more significant presence in that space, and I suppose, first, it is important to recognize that, within the Women's Lobby, we don't have a specific position or agreed policy statement, in terms of the rights or experiences of trans women and girls, or trans men and boys. (...) [However] we also recognize that the work that we do in terms of sexuality will obviously benefit many members of the LGBT community. And for more than 10 years at least, we have specifically (...) recognized the specific experiences of trans women and girls within the system of prostitution, and other cases like that."*

(Catriona Graham, personal communication, 11/05/2020)

In this extract, Graham hinted at the disagreements that exist within the European Women's Lobby, while immediately minimizing them. Based on our discussion, it is important to state that Graham herself is probably favorable to trans protection. Still, her discomfort was clear when answering, and this shows that the influence of people and organizations opposed to trans recognition in the European Women's Lobby cannot be dismissed too easily.

However, beyond these ideological points of tension, the Lobby was also going through challenging times, both because of the absence of mention of sex in the Commission's proposal for an anti-discrimination directive, and because they were increasingly worried about the way policies were "gender-neutralized" by the Commission—for example by referring to "vulnerability" or "victims" rather than to "women" in domestic violence (Stratigaki 2005). They also feared that the renewed emphasis placed on "diversity" could dilute the notion of gender equality and result in their loss of influence (Bygnes 2013). In this context, stretching women's rights to trans rights was not entirely unproblematic. This is visible in the contribution of Patricia Prendiville, executive director of ILGA-Europe from 2004 to 2009. When asked about the relationship between the LGBTI and the women's movements, she explained:

> *"For us it was a little challenging from time to time to bring, especially transgender rights forward women's rights. There was... It wasn't always easy between us at ILGA Europe and the European Women's Lobby, in terms of understanding and analysis. (...) It was a*

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[28] It is worth noting, though, that this debate is much more complex than it appears at first sight, and that there is an increasing number of scholars who work on trans materialisms and seek to resolve the tension between the increased importance of new ways of self-identifying oneself and the broader conceptualization of gender as a social system of categorization (see especially Clochec and Grunenwald 2021; Beaubatie 2020; 2021)

bit of a challenge because some people thought we were diverging women's rights. Their vision of women's rights. I think that changed over the years, and it became easier"

(Patricia Prendiville, personal communication, 16/04/2020).

This extract underlines the existence of a dynamic of competition between the feminist and the LGBTI movement upon definition of gender—with the worry, on the feminist side, that if gender was to be detached from sex, it would fragilize their demands and "diverge women's rights". But Prendiville also underlined the will of the two organizations not to renounce the discussion, ultimately resulting in a "change" that rendered things "easier". This evolution was certainly needed: researchers have documented how influence over European policymaking often is coalition-dependent (Warleigh 2004; Ruzza 2004). The fact that ILGA-Europe was demanding the stretching of gender *in asylum law* further appeared to have played an appreciable role in enabling the organizations to cooperate. In the words of Mark Bell, who was charge of ILGA-Europe's asylum and anti-discrimination strategies in the early 2000s:

> *"In the field of anti-discrimination law, sometimes, this relationship [between LGBTI and gender issues] could be difficult, because gender equality was already a very well-established area of law and policy, which had its own sort of infrastructure. And there were, at the time, I think, some tensions with gender advocacy groups who were concerned that the expansion of anti-discrimination law might kind of weaken the focus on gender equality (...). However, in the context of asylum, there wasn't much conflict. (...) Because this was a new area of work, in the sense that there was neither an established body of rights on gender equality, nor on, say, LGBT people."*

(Mark Bell, personal communication, 24/02/2020)

What clearly appears in this extract is the idea of asylum as the *terra nullius* of gender. Not only were policymakers less polarized on this issue, as examined earlier, but the relationships of competition between civil society organizations were also perceived as less significant there. An argument that came back in several interviews was that compared to the field of anti-discrimination—where the preexisting definitions of gender had already fossilized—in asylum, the meaning of gender in asylum was still malleable. ILGA-Europe could thus advance their own new definitions of gender-related persecution—explicitly inclusive of gender identity—without contradicting preexisting dominant definitions of sex and gender. This was visible, for example, in their co-publication, together with the European Women's Lobby and Amnesty International End FGM Campaign, of a position paper on the nascent European Asylum Support Office, where women's rights, gender equality, and LGBTI recognition coexisted.[29]

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[29] The position paper can be consulted at the following link (last consulted 05/05/2022): https://www.ilga-europe.org/sites/default/files/Attachments/digest_recommendations_to_easo_may2011_final.pdf

Yet, the cooperation of ILGA-Europe and the European Women's Lobby cannot be reduced to the presence of an environment favorable to this collaboration. Such an interpretation would dismiss all to quickly the active work it took the two organizations—along with other nongovernmental organizations working on equality—to build a meaningful coalition in the asylum context. Coalitions, indeed, are often hard to construct and unstable on the long run, because agreements to cooperate often depend on the specific issue at stake (Warleigh 2004). The Social Platform—the network of organizations working on issues of social justice at the European level—could have provided such forum for cooperation, especially because it published in 2013 a common position paper on migration signed by all members. However, despite the active involvement of ILGA-Europe in the drafting of this common position (Cullen 2015), gender identity was not mentioned in there. Information lacks to say why, but what it entailed for sure was that ILGA-Europe and the European Women's Lobby had to find another way to build their agreement. Central to this work of coalition-building was the concept of "intersectionality", which progressively became the "symbolic glue" (Kováts and Põim 2015) that allowed progressive organizations to minimize their disagreements and to offer the public façade of consensualness when asking for the broadening of "gender-related persecution".

The notion of "symbolic glue" emphasizes the role that specific narratives or concepts may play in the active construction of a shared social identity (Ernst and Jensen Schleiter 2021). Although it is more common in this context to use the term "empty signifier" (Lombardo and Meier 2006; Kuhar and Zobec 2017), "symbolic glue" is preferred here to emphasize that progressive organizations did have a relatively sound-working definition of intersectionality and were able to refer to the classical work of Crenshaw (1989). However, they used it, in their discourses, not so much for its theoretical input —it was often conflated with other notions, such as multiple discrimination—but rather as a symbolic tool facilitating coalition-building. The two following quote shed light on this dynamic. When asked about ILGA-Europe's relationship to gender equality, Patricia Prendiville, ex-director of ILGA-Europe, answered:

> *"We wouldn't have anything to do about women's rights for women's rights, but we would have been talking about women who were lesbian or bisexual or transgender. (...) We were trying to say, you can't exclude these groups of women who have another layer of issues. And that layer of issues is around sexual orientation and gender identity. (...) In my last couple of years at ILGA-Europe, from late 2006 onward, one of the things that we were trying to get people to start working with was intersectional analysis and multiple discrimination."*
> (Patricia Prendiville, personal communication, 16/04/2020).

Her argument presents important similarities with that of Catriona Graham, policy and campaign officer at the European Women's Lobby, who explained:

> *"As much as we can, and it's something we are trying to build more and more in our work, we try to recognize the specific... the differences, that specific groups of women will face. Because women can face different multiple sources of discrimination. (...)*
>
> [Later in the interview]: *In this particular area [the Common European Asylum System], we recognize that we have to have a very strong collective voice. And if we don't show common messages between civil society organizations, it's going to be so much harder for us to be able advocate for change. (...) If we're not going to be able to make all the changes that we would like to see, we need to agree about what are our red lines issues and what do we need to put at the center so that it will benefit all the groups we are representing."*

<div align="right">(Catriona Graham, personal communication, 11/05/2020)</div>

In both extracts, intersectionality—the intertwinement of different issues in one's personal experience of life—is used by organizations to put the accent on what they have in common, whether it is in terms of shared audience (in this case, women in all their diversity), or in terms of strategic interests (red line issues and core goals). It is largely merged with the notion of "multiple discrimination"[30], both in Prendiville's and in Graham's contributions. Intersectionality thus becomes an instrument that helps overcoming blockages, both at the inter-organizational level and in terms of difficulties created by the general political context. By mobilizing this understanding of intersectionality, interviewees thus largely performed a displacement outside of the domain of competition and into that of coalition. This dynamic was also illustrated in the contribution of Joël Le Déroff, policy and programme officer at ILGA-Europe from 2009 to 2014:

> *"I didn't feel like we were in competition with other organizations. Asylum is not a central issue, and our amendments didn't bother anyone. And beyond that, I would say that what we did was quite complementary. (...) What we were saying was not necessarily contradictory with what the European Women's Lobby was saying, on the contrary, it was mutually reinforcing."*

<div align="right">(Joël Le Déroff, personal communication, 23/03/2020)</div>

The two main dynamics documented in this section, the portrayal of asylum as the *terra nullius* of gender ("asylum is not a central issue") and the use of intersectionality or complementarity to deflect competition ("what we did was quite complementary (…) it was mutually reinforcing") both appeared clearly in this quote. Both processes are forms of sub-

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[30] Multiple discrimination and intersectionality are considered to be two very different concepts in feminist theory. Multiple discrimination, roughly speaking, emphasizes how several types of discrimination may add up or coexist. Intersectionality on the other hand, considers that it is impossible to de-intertwine and isolate discrimination. For example, multiple discrimination will consider that someone is discriminated as Black and as a woman, while intersectionality will frame it as a Black woman. The difference between the two terms and the prevalence of multiple discrimination in European frameworks will be further analyzed later on (Kantola and Nousiainen 2009).

politicization: they work exactly as Lascoumes (2009) had defined in his study of the French Parliament, as the temporary bracketing of dissensus through arguments that help reducing the ideological load of the issue at stake—here, by depicting asylum as *not really about gender*—and based on narratives of shared values and goals. Paradoxically, thus, this circumvention of debate became the condition for the creation of alliances that enabled political change.

This renunciation to disagreement, of course, is not without ambiguities. First and foremost, it is not eternal: Warleigh has shown how coalition-building enhances the actors' "ability to formulate successful mobilization strategies, but is unlikely to translate into a new or broad-based set of shared norms and values between the coalition partners" (Warleigh 2004, 25). Similarly, Stubbergaard (2015) has shown that coalition between European organizations working on gender equality could take two forms: that of the shifting of organization's preferences to as to create stable alliances, or that of temporary agreements that do not necessitate organizations to abandon their respective positions. In the case of the 2008–2013 asylum law reform, it seems that it was the second option that prevailed. When used as a symbolic glue, intersectionality allowed organization to create strong coalitions out of weak ties: the more a situation was considered as "specific" (for example, the situation of a black, lesbian, migrant woman), the more organizations did it interest. But this did not mean that organizations entirely reframed their activism. For example, in its position papers of that period, while the European Women's Lobby mentioned black women when working with anti-racist actors and lesbian women when working with LGBTI ones, their black women seemed presumed to be heterosexual, and lesbians not to be black. Intersectionality, in this context, is understood vis-à-vis a "core cause" which centrality remained unchallenged, although its margins may be accommodated on a context-specific basis based on the coalition developed.

Still, if there are limitations to coalitions based on the avoidance of public dissensus, their main strength on a political level precisely resides in their *non-dits*. Writing about policymaking in general, Henry and Gilbert (2012, 49) observed how "the search for compromises between *a priori* incommensurable values conduces to the production of compromises that are necessarily fragile, but which are at the same time even more solid because they remain at the level of tacit agreement, without resulting in public explanations". In the case of the 2008–2013 reform of the Common European Asylum System, sub-politicization was essential to create political change. It was both nourished by a preexisting context (the lack of interest for gender and sexuality among migration policymakers) and created purposefully by associative actors who sought to seize the opportunities offered by this environment to advance their agendas and had

therefore no incentives to create competition where it did not exist (yet). This lack of debate was essential to the insertion of trans rights onto the European agenda.

2. The limitations of a quiet advocacy

Avoiding controversies on the relation between women's rights and trans rights was thus the strategic choice made by ILGA-Europe and the European Women's Lobby in the 2008–2013 asylum law reform. The absence of violent debates depicting trans people as Trojan horses of the patriarchy cannot be regretted. Of course, some researchers have tried to "de-center" this debate, analyzing how the controversy over trans rights is only one episode in the longer history of power struggles in the feminist movement (Beaubatie 2021b). However, recent news have been marked by articles underlining the porous frontiers between anti-trans feminists and the radical right.[31] Against this background, if ILGA-Europe's demands on trans protection had been vocally opposed by the feminist movement, the least that can be said is that it would not have been good news for the state of human rights in the European Union in general.

Nonetheless, the modalities of this agreement do raise several questions. The first is, of course, whether the fact that this agreement was found in asylum (and not in anti-discrimination) will be without consequences on the content of trans rights, or whether this specific space of formulation will leave its imprint upon future European policies. This is the subject of section 3. But, before focusing on this question, it also seems necessary to wonder what limits could a strategy based on sub-politicization have for LGBTI activism. The previous section closed on Henry and Gilbert's (2012) argument that compromises are even stronger when they are based on *non-dits*. But the authors later underlined that the absence of publicization may also result in limitations in the policies achieved, because "[these compromises] result in modes of relation where what matters above all is the continuation of relations and equilibriums between actors, eclipsing the political orientation of resulting policies (…)" (Gilbert and Henry 2012, 49). Put differently, the risk is that coalitions and demands rooted in sub-politicization come at the cost of a lack of reflection upon the meaning of collective action. Taking this critique seriously, this second section examines the structural limits of a politics of interstices as a long-term activist strategy for LGBTI emancipation; and then analyzes how these *non-dits* affect the principle of intersectionality itself.

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[31] For example: https://irr.org.uk/article/feminism-biological-fundamentalism-attack-on-trans-rights/ (last consulted 05/05/2022).

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2.1. "One of our main difficulties was to get people who could be favorable to this topic to understand what it was about": issues in using sub-politicization as a long-term strategy

In a seminal article on public policy published in 2007, Lascoumes and Le Galès pleaded for an analysis of policy instruments that would look beyond the purposes for which these instruments were created (Lascoumes and Le Galès 2007). For the authors, instruments matter to policymaking analysis because they produce autonomous and sometimes unexpected effects. Lascoumes and Le Galès identified three main types of these side-effects. The first is inertia: once an instrument is adopted, it becomes part of the jargon and habits of policymakers, therefore self-perpetuating itself. The second is the production of specific representations around the issue at stake—depending on the vocabulary used or of the tools perceived as efficient, for example. Finally, the third is the emergence of a particular problematization of the issue tackled, which offers causal explanations and solutions.

The framework developed in Lascoumes and Le Galès' article proved fertile to researchers working on European gender equality policies. For example, Jacquot (2010) has shown that gender mainstreaming, as a policy instrument, has re-oriented European gender equality policies by making them less legal, more flexible, and more diluted in terms of scope and content. In a similar way, although Lascoumes and Le Galès' article originally focused on public action, their theorization of the autonomous effects of instruments offers interesting insights for the analysis of ILGA-Europe's choices of activism on trans rights during the 2008–2013 asylum law reform. Both the underlying objective with which ILGA-Europe approached the reform and the sub-politicized strategy they chose generated specific representations of transness and of LGBTI emancipation that had a long-term impact on European policies.

As analyzed in the first part of this chapter, ILGA-Europe's objective at the end of the 2010s was to get a recognition of trans rights in European legislation. In this context, the organization progressively came to consider that it would be more efficient to avoid grand debates over the meaning of gender, and to privilege a subterranean strategy of influence. Yet, the choice for them to adopt what I have called a "politics of interstices" did not come without a cost. The most important constraint set by this strategy, perhaps, is that since it relies on the sub-politicization of a given issue, it can easily fail if favorable policymakers do not understand the interest of the demand, or collapse if unfavorable policymakers start mobilizing. The logical consequence is that this strategy has clear limitations when it comes to the level of policy specificity achievable. This is in part because many potential allies are not necessarily knowledgeable enough about the issue at stake and need to be taught about the "basics" of the

said issue, and in part because being too specific about trans rights means taking the risk that opposition arises. These difficulties appeared clearly when interviewing Joël Le Déroff, policy and programme officer at ILGA-Europe from 2009 to 2014. He explained:

> *"One of our main difficulties was to get people who could be favorable to [the recognition of gender identity in asylum law] to actually understand what it was about. Today, in 2020, many people still don't understand what we are talking about when we talk about gender identity; but ten years ago... It wasn't part of our everyday vocabulary at all. So, one of our challenges was that we needed people who would logically support trans rights to understand what it was about, that it was different from sexual orientation (...) At some point, when we got some news from the Council, someone said to the rapporteur of the Parliament that the Netherlands were part of the countries that were not convinced by our demands on gender identity. The Netherlands is not the country you would expect to block this. And what happened was that the people dealing with the Qualification file in Brussels, they didn't know what gender identity was. (...) We had some informal dialogues and I had one of them asking me something like, 'but is it just the language for...?', I don't remember exactly what their question was, but it wasn't a lack of willingness, they just hadn't understood it."*

(Joël Le Deroff, personal communication, 23/03/2020)

Le Déroff was not the only one to report that what he felt had been challenging was not just the reaction of opponents, but the lack of knowledge of allies. Mark Bell also reported that in the early 2000s, people often simply did not understand what sexual orientation meant:

> *"I remember that the United Nations High Commissioner for Refugees had already adopted a note on [sexual orientation-related] claims, but there was a lot of... and there is still this debate, about how do you include sexual orientation but exclude unlawful sexual activities. Back at the time, sexual orientation was still a new characteristic for some Member States, as an anti-discrimination characteristic. And in a different context, I delivered some trainings on anti-discrimination law for officials in Member-States when the directive on anti-discrimination was implemented, and in some states, this was an issue... it hadn't existed in national law. They hadn't encountered the concept. So... It was something that, I suppose, today, it's a very taken for granted what that means. But at the time it was still quite blurred in some ways. (...) Whereas I think that probably ten years later, the issue would have been much more understood."*

(Mark Bell, personal communication, 24/02/2020)

In both interviews, Joël Le Déroff and Mark Bell reported feelings of having to "educate" policy actors, including progressive ones, to what being "gay" or "trans" meant—and to the difference between these labels and earlier conceptions of transness and homosexuality as pedophilia and travesty. This is especially visible when Bell refers to the difference between sexual orientation and unlawful sexual activities. The belief that this lack of education was a question of timing appeared clearly in these extracts, as they both referred to how "ten years later" or "ten years earlier" the situation could have been different. But, beyond the question of timing, these two extracts further illustrate very clearly the structural limits of strategies of sub-politicization. In both cases, Bell and Le Déroff evolved in a sub-politicized context—Bell

because he was working on implementation, Le Déroff because ILGA-Europe had no interest in making migration actors too interested in the gender debate. In 2008–2013, the lack of interest of migration actors for the gender debate was, somehow, both a blessing and a curse; a blessing because it enabled ILGA-Europe to quietly negotiate trans recognition into the European legal order, and a curse because they were faced with misunderstandings and inertia from the part of their very "natural allies"—for example, the Netherlands—thus limiting the level of policy specificity that could be achieved.

Their strategy thus limited the extent of the changes they could demand. Moreover, relying on sub-politicization also meant adopting an expert-like posture, since policymakers needed to be briefed about the matter at stake. This posture of expertise has already been analyzed in the previous chapter, but it is worth re-evoking it in relation to the need for ILGA-Europe to "teach" the basics of LGBTI activism. This indeed operated as an important constraint in preventing them from getting involved into more conflictual activism. For Joël Le Déroff, past ILGA-Europe staff member:

> *"At the European level, especially when you're from a NGO that never went to the European Union, there is a form of… how could I say that without making it sound too angelic? There is a form of courtesy, a bit like you're part of the same world. (…) Communication is not on the mode of political cleavage, politicians do not seem to fear being 'caught' being unknowledgeable about something. Our relationship with them is more structured around their search for expertise and the acceptation of NGOs as experts. (…). I'm not saying that this is always a good thing that it is so depoliticized (…).*
>
> *Would you say that the role of NGOs is more that of "experts" rather than a role of contestation?*
>
> *In this context, yes, a lot. I mean, sometimes you can be more vindicative and you can also complain if your demands are not listened to, for example we did do that on anti-discrimination, but… It's true that overall, the tonality of the interaction is really that of NGOs being heard as experts, with a sort of… I don't know how we could call that, a fiction of depoliticization perhaps. But what's for sure is that the tonality of exchanges does not match the level of reactivity and of passion that you can have at the national level (…). It's the fiction that everyone shares the same generous goal and that we are simply discussing about what is the best way to achieve it."*

<div align="right">(Joël Le Déroff, personal communication, 23/03/2020)</div>

In this quote, Joël Le Déroff elaborated on what he called the "fiction of depoliticization" of European politics—the bracketing of ideological disagreement and the prevalence of courteous, non-conflictual, expertise-oriented interactions. Of course, he also underlined that ILGA-Europe could sometimes disrupt this fiction, for example when they mobilized on anti-

discrimination.[32] However, on asylum, they often privileged narratives of consensualness and expertise. These narratives rely on negative emotions—especially feelings of anger and conflict—being put aside, as these emotions are often framed among European actors used as pathological factors of disunion that do not help advancing the cause (Robert 2021b). Yet, negative emotions are often crucial to collective action (Hercus 1999; Whittier 2021). The use of sub-politicization thus obliged ILGA-Europe to conform to the dominant emotion culture present at the European level: that of the avoidance of conflict. By doing so, it deprived the organization from one of its main powers as an associative actor, that of the ability to disrupt the *status quo* and to produce loyal and proactive activists (Guenther 2009).

Overall, thus, the adoption of an interstitial strategy entailed a difficulty for ILGA-Europe to argue for policies that would be too disruptive of the European ways of doing. More specifically, on asylum, it meant keeping demands simple; and privileging non-conflictual and expertise-oriented modes of action that minimized the militant aspects of LGBTI activism. To take back Lascoumes and Le Galès' framework (2007), these strategic choices had an impact on the way ILGA-Europe framed LGBTI emancipation. Especially, the choice that they made to focus their demands on the recognition of "gender identity" had implications in terms of representations and problematization of transness. As explained in the introduction, gender identity was the generic term that was preferred by ILGA-Europe when they sought to move away from the definition of transness as gender reassignment that already existed in European jurisprudence. At a time where anti-gender movements were less strong than today, not only did this notion have the advantage of sounding like a universal, non-trans-specific, human experience, but, contrarily to labels such as "gay" or "trans" that are often perceived as militant, gender identity was perceived as a relatively neutral concept (Waites 2009). It was also the term favored in human rights discourses (O'Flaherty and Fisher 2008).

Yet, it is important to point that gender identity represents only one possible way—marked by a long medical genealogy[33]—of looking at experiences of gender that subvert or bypass traditional social sex categories (Waites 2009; Clochec and Grunenwald 2021). It is therefore not without consequences if it was this notion of inherent individual identity that was privileged

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[32] The Commission published its proposal for a new anti-discrimination directive after several years of collective mobilization on this topic by associative actors.

[33] The notions of sexual orientation and gender identity both emerged out of medical institutions, as doctors sought to characterize the syndrome their patients were suffering from (J. N. Katz 1990; Théry 2010; Jaunait 2020). The LGBTI movement later reappropriated these terms and reframed them from pathologies to innate identities (Dudink 2013).

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in the 2008–2013 asylum law reform, thus becoming the initial frame through which transness was recognized in European legislation. While this vision is broad enough to encompass various experiences of gender, the fact that it is the exclusive conception of transness that exists in asylum[34] can still be questioned for the representations it entails. Today, the emphasis in asylum procedures often is on the claimant's deeply felt identity, to the detriment of asylum seekers who are persecuted for what they *do,* such as cross-dressing, but who are not able to build a coherent narrative about how they have always felt different (Shuman and Bohmer 2014; Nasser-Eddin, Abu-Assab, and Greatrick 2018). Therefore, ILGA-Europe's focus on gender identity participated in (though it did not create) this over-emphasis on identity. The interpretation of transness in terms of recognition of one's individual identity—rather than, for example, by questioning why circulations between gender categories are so severely punished—is something that marks LGBTI rights in Europe today, beyond asylum legislation. The point is not to say that the recognition of one's identity should not exist, but rather to note that this specific way of conceptualizing gender subversions has been promoted in European legislation to the detriment of alternatives. In the case of asylum seekers, it has resulted in a specific problematization of their situation that does not always reflect their needs, as trans people, but also as *foreigners,* and therefore as facing issues that are not always covered by the generic acknowledgement of gender identity as a possible ground for persecution.[35]

The choice to maintain sub-politicization, in other words, imprinted durable limits on ILGA-Europe's advocacy, both at the asylum and at the trans rights level. It limited the content of their demands in relation to the specific needs of trans asylum seekers, while at the same time preventing them from developing a more conflictual or challenging activism on LGBTI equality in general. In sum, while it provided the organization with some key initial successes on the—important and essential—recognition of trans existences as worth being protected, it also appeared to hold limited promises as a long-term strategy for activism.

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[34] This may be about to change. In the new recast (still in discussion) of the Common European Asylum System, "gender expression" has been added to "gender identity". However, whether this changes will actually succeed remains up to question. See sub-section 3.1 for more on "gender expression".

[35] The notion of gender as an inherent identity is a very occidental one and it does not always correspond to the experiences of asylum seekers. Beyond this, trans asylum seekers often face issues that are specific to their social position as foreigners and that cannot be solved by the simple acknowledgement of gender identity as a ground for persecution. This can be true in terms of accommodation, access to medicine, legal gender recognition for non-nationals, etc. For example, in a study published by the European Commission, it appeared that the authorities of some Member States sometimes refused to change the gender markers of trans foreigners on their identity documents, even though they do it for their own nationals (European Commission 2020). They asked non-nationals to go back to their country of origin to provide original document, something that is forbidden to asylum seekers.

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2.2. Intersectionality or complementarity? The gender polyphony of European asylum policies

Part of these challenges on a long-term perspective further derived from the broader use, among European equality organizations, of intersectionality as a tool to circumvent political disagreement. On a political theory level, there is much to say about the implications of using intersectionality as a tool for inter-organizational cooperation and not as a critical principle or as political horizon. One of these limits is that such use of intersectionality tends to rely more on ideals of *complementarity* than of, actually, *intersectionality* itself. In the previous section, I quoted an extract from ILGA-Europe's ex-staff member Joël Le Déroff, who depicted their relation to the European Women's Lobby in asylum as being grounded upon complementarity. This idea also came back in the interview of Mark Bell, as he explained:

> *"I suppose that in a sense we would have been newcomers, because there would have been policy networks and that, looking at asylum issues, already for some time. So, you know, what we were doing was bringing the perspective of an organization that was not focused on asylum as such but still wanted to raise this issue. And in terms of the relationship with gender, I think it also was a new area. And, certainly, there was complementary agendas with the European Women's Lobby."*

(Mark Bell, personal communication, 24/02/2020)

The narrative of complementarity is easily perceivable in the extract above, but it is also interesting to note that it takes two slightly different meanings. Complementarity is first and foremost understood as a complementarity of demands between the agendas of the European Women's Lobby and ILGA-Europe. But it also took the meaning of "complementing" and "complexifying" the perspective of already-established actors of migration policymaking. In this context, the renewed emphasis of European nongovernmental organizations on intersectionality did push some migration-related organizations to broaden their advocacy. This is well exemplified by the following quote from Michele LeVoy, Director of the Platform for International Cooperation on Undocumented Migrants (PICUM). She explained:

> *"At the beginning we were talking mainly about undocumented women, but in recent years we have been talking about gender more broadly. So, we are trying to have an intersectional approach (...) and as an organization are also looking into sexual orientation and identity, so this is also coming into focus now.*
>
> **Along racism and xenophobia, I suppose?**
>
> *Yes, of course. So, this is... this is what we had as a plan for our general assembly this year [in 2020], when we developed the work programme, we were thinking that we would be having a face-to-face event and we wanted to have a full day looking at intersectional approaches, with workshops from other organizations. But we had to change that due to the Covid-19, though hopefully we might be able to organize it this fall. (...) I also see an increasing interest in other European networks to have an intersectional approach in their work in general."* (Michele LeVoy, personal communication, 28/05/2020)

The political meaningfulness of intersectionality as a cooperation principle that pushes actors to look at what others are doing and to rethink their advocacy is very clear in this extract. It is because PICUM was looking for a more intersectional approach that they organized a workshop with other organizations, seeking to take advantage of their standpoints and competences to complement their own knowledge. Intersectionality, in its "complementarity" meaning, was thus essential, in some cases, to the building better and broader coalitions.

However, at the same time, this emphasis on intersectionality-as-complementarity also entailed for organizations the necessity to avoid stepping on each other's toes. In the case of the 2008–2013 asylum reform, the alliances that were built in this context were thus as much about developing a common voice as they were about avoiding competing with each other. This dynamic already appeared earlier in this chapter, for example when Patricia Prendiville, executive director of ILGA-Europe from 2004 to 2009, insisted that of course, "*ILGA-Europe wouldn't have anything to do with women's rights for women's rights*", thus delimiting the domain of ILGA-Europe from that of the European Women's Lobby (Patricia Prendiville, personal communication, 16/04/2020). In this context, organizations relied on a practice-oriented understanding of intersectionality, understood not so much as a political aspiration (building demands that overpass one's particular field of action) but as a tool of management of inter-organizational relationships (defusing competition and ensuring that everyone gets to be listened to). Some actors were very much aware of this limitation. For example, Leah, antiracist activist, argued for a global rethinking of migration policies. She then explained:

> *"That's the difference between having a superficial versus having an intersectional approach. And I think many organizations sort of just... are somewhere on the road of the revelation that you are having. At ILGA-Europe for example they do really good work, highlighting to some degree the position of queer asylum seekers. That's important to do. But it is also important to look at the broader process, it's not enough to say, 'oh yeah and queer asylum seekers do through shitty stuff'. (…) Highlighting vulnerability does do something, it raises awareness, but it does not, in itself, challenge the structure that creates the vulnerability (…). Ideally, we would have ILGA-Europe also challenging the criminalization of migrants. But because of how the NGO world is structured, particularly around issues of equality, it's like silos: LGBT issues here, women issues here, race issues here, separate, therefore not together, not united and not able to form a structural critique. And that, I think, is for a reason. All of these organizations are funded separately for a reason. It makes their cause weaker. Being different and not taking an intersectional approach. And therefore, they less easily challenge the oppression that actually they... that it all resides in."*
>
> (Leah, personal communication, 15/05/2020)

In this extract, Leah argued that despite the growing prevalence of narratives of intersectionality, nongovernmental organizations operating at the European level were still divided into silos and relied on a "superficial" understanding of intersectionality. The ideals of

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complementarity that underpin their use of intersectionality might help them to connect silos at their margins, but it does not allow to merge them together and to build a more structural critique. This is exemplified for her by the absence of statement of ILGA-Europe on the criminalization of migrants, even though the organization would have an interest in taking such position based on the situation of LGBTI asylum seekers. In other words, organizations, through their reliance on intersectionality-as-complementarity as a way to circumvent disagreement, managed to generate strong and natural-looking coalitions, but to the unexpected cost of their further division in well-defined "core causes". This association of intersectionality to complementarity did not go without contradictions, as the division of systemic hierarchies into siloed categories is the exact opposite of Crenshaw's theory (Chauvin and Jaunait 2015).

In relation specifically to the 2008–2013 asylum law reform, the strong reliance of organizations on ideals of complementarity resulted in a difficulty for them to enter into a debate on the articulation of their causes beyond addition. The documents produced around that time are, indeed, marked by the juxtaposition of demands. For example, the European Women's Lobby press release on the common position of ILGA-Europe, the Lobby, and Amnesty International on the "engendering" of the European Asylum Support Office started as follows:

> "A judge in the United Kingdom presiding over an asylum case told a woman asylum seeker, "If you'd experienced that rape the way you describe [it] I don't think you'd be looking as well as you are now." (Stonewall)
>
> In the Czech Republic, men who sought asylum because they were persecuted for their homosexuality were reportedly subjected to humiliating 'phallometric' tests to 'demonstrate' their sexual orientation."
>
> <div align="right">(Press release, European Women's Lobby, 2011)</div>

The text then went on, mentioning one after the other different instances of gender-related issues in asylum—female genital mutilation, women asylum seekers, the protection of "men and women of all sexual orientations and gender identities". It then ultimately called for a better recognition of violence based on sex, sexual orientation, and gender identity. That organizations managed to articulate a common position is, of course, a good thing. However, at the same time, it is important to note that this agreement "not to compete", often relying on the juxtaposition of demands, entailed dead angles to their activism. The lack of conceptual articulation of gender to gender identity, for example, was useful to circumvent potential disagreements, but at the same time it curtailed any well-thought, in-depth critique of the effects of the patriarchy on trans people. The question of whether an alliance founded in the avoidance of debate will hold on the long-term in adverse settings, especially as anti-trans stances are now getting stronger in some corners of the feminist movement, thus deserves to be asked. This was a risk that was

very well identified by some interviewees, in particular by Juliette Sanchez-Lambert, who occupied several positions at ILGA-Europe from 2015 to 2017. She argued:

> *"When the new anti-discrimination project started, nine years ago, I know that several NGOs working on human rights—the European Women's Lobby, the European Disability Forum, the European Network Against Racism—worked together for years, and I think that at some point there was a sort of fatigue, because it really did not work out. At least that's my interpretation (…) So we had to relaunch this, to re-create this solidarity, and it's really a pleasure for me to see that re-emerging. Even though, we should not fool ourselves, there are still tensions, and tensions that are extremely relevant to LGBTI actors, especially for what concerns trans rights. And the conflict that there increasingly is between organizations working on women's rights and organizations working on LGBTI rights. So… There is more solidarity, but we should not underestimate the impact of this disagreement between organizations. And this disagreement is growing, it is not becoming smaller at all."*

<div align="right">(Juliette Sanchez-Lambert, personal communication, 08/05/2020)</div>

Alliances found in *non-dits* are thus solid until the *non-dits* are publicized in another environment. In this context, the absence of prior resolution of potential disagreements may play against pre-established alliances, potentially leading to their fragilization.

Beyond this, the strategy of European nongovernmental organizations not to compete and to all be able to push for each of their specific demands "clicked" very well with preexisting European ways of tackling discrimination. Researchers have shown how European institutions, when they try to be inclusive, often tend to whether rely on vague concepts, or to develop non-exhaustive lists of protected characteristics (Verloo 2006; Lombardo and Rolandsen Agustín 2016). This is exactly what happened during the European asylum law reform. The Commission offered a first approach to gender-based violence by relying on an all-encompassing concept, that of "vulnerability", which it defined under the form of non-exhaustive list, stating:

> "When implementing this Chapter, Member States shall take into account the specific situation of vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence."

<div align="right">(Directive 2011/95/UE, article 20 – Content of International Protection: General Rules).</div>

They then, in parallel, came back to gender-related violence in the definition of "particular social group", explaining:

> "For the purposes of defining a particular social group, issues arising from an applicant's gender, including gender identity and sexual orientation, which may be related to certain legal traditions and customs, resulting in for example genital mutilation, forced sterilisation or forced abortion, should be given due consideration in so far as they are related to the applicant's well-founded fear of persecution."

<div align="right">(Directive 2011/95/UE, recital 30).</div>

What jumps out from these two extracts is the absence of clear or encompassing definition of gender and gender-related violence, which are used both as a fragmented assemblage of gender-specific considerations ("pregnant women, single parents with minor children, victims of human trafficking (…) etc") in the first extract, and as a self-explanatory category ("an applicants' gender") in the second one. What is interesting in these two extracts is that they also reflect the different demands of nongovernmental organizations during the 2008–2013 asylum law reform. ILGA-Europe's demands on sexual orientation and gender identity are present; and so is the emphasis of the European Women's Lobby on sexual violence, cultural traditions, and the vulnerability of women. At the same time, the directive also mentions children and their families, which is the vulnerability master-frame of religious organizations (see Caritas Europa et al. 2010). Finally, the broader reference to "vulnerable groups", defined in a non-exhaustive manner, is more representative of the European Council for Refugees and Exiles (2010).

It would of course, be unfair to make nongovernmental organizations bear the responsibility of this composite approach to gender and sexuality under the Common European Asylum System. The constitution of detailed lists is inherent both to lawmaking—as law tries to objectify what is, in reality, fluid—and to European policymaking, as this latter tends to work in a compartmentalized way (Vantaggiato, Kassim, and Connolly 2020). Yet, the way their agreement not-to-compete through the juxtaposition of claims was consistent with the European passion for lists cannot be entirely obscured. The lists developed in the Qualification Directive conveniently allowed organizations to escape from uncomfortable debates: what is the articulation of trans rights to women's rights? Is the materialist approach of the European Women's Lobby consistent with religious organizations' representations of gender as inherent vulnerability?

Their preference for debate circumvention thus led these actors to participate into the "gender polyphony" of the Qualification Directive. Today, no global definition of gender and gender-related violence predominates, making it a policy category characterized by its multifaceted appearance rather than by its conceptual coherence. The paradoxical consequence of this far-reaching listing of categories is that the Qualification Directive shows a low level of intersectionality. Similarly to what researchers have observed in the field of equality policies, it focuses more on individual characteristics than on social structures, and it approaches these grounds as operating separately, passing under silence the broader structural context of their production (Kantola and Nousiainen 2009; Argenta 2020). Although these lists do ensure some safety to different categories of the population, the fact that they do not pay attention to

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structures of oppression nor look at the co-constitution of inequalities may compromise the quality of the directive, by diluting its content (Lombardo and Rolandsen Agustín 2011; 2016).

In sum, this chapter's second section has shown that if sub-politicization was crucial to ILGA-Europe's achievement to get a first recognition of trans people under European legislation, this did not come without limitations. They were constrained in the formulation of their advocacy targeted at policymakers, and the alliances they formed with other nongovernmental organizations, although they allowed them to mainstream LGBTI rights into the thinking of migration actors, were often more based on superficial than on deep solidarities. It is important to underline that these two limitations, though different, both derive from the avoidance of public debate. This is therefore the most important constraint entailed on the long run by interstitial, sub-politicized activist strategies. Nevertheless, this does not mean that these strategies are entirely without interest or that they cannot create a "return of the political".

3. **Negotiating trans rights after the Qualification Directive**

The first two sections of this chapter focused on the achievements and the challenges—both at the empirical and theoretical level—entailed by the adoption of sub-politicization as a strategy for LGBTI activism at the European Union level. After having shown the achievements enabled by this strategy and examined the inherent limitations that it still entailed, one question however still remains: can a strategy relying on interstices and sub-politicization produce meaningful changes in the future of European LGBTI policies? Or, in other words, could trans protection become trans recognition—or even better, trans emancipation—and could this evolution take place in European policies and discourses?

Answering this question necessarily entails to differentiate two levels of potential influence of the inclusion of gender identity in European asylum law. The first is, of course, that of legal protection and recognition. ILGA-Europe's aim was not just to protect trans asylum seekers, but to initiate the first steps of the broader recognition of trans people under the European polity. Whether they were successful still needs to be examined. The second potential level of influence is that of soft law and norm socialization. This rather implies an analysis of the presence of references to trans people, gender identity, and transphobia in European discourses. This softer form of influence should not be neglected, for authors have shown that it can result into broader change sometimes more effectively than binding measures (Kollman 2009). This

third and last section thus looks at these two levels of influence. It first examines the power of analogy in achieving broader legal change on trans rights after the Qualification Directive. It then evaluates the emergence of a new norm on trans protection in the speeches of European deputies after the 2008–2013 reform of the Common European Asylum System.

3.1. *The strength of analogy: asylum seekers, victims of crimes, and the emergence of a humanitarian portrayal of trans lives*

One of the main goals of ILGA-Europe when lobbying the 2008–2013 asylum law reform was to constitute trans people as a particular social group deserving of protection—in asylum and beyond. The notion of *analogy* is central to fully comprehend the strategy they developed. Progressive movements possess a long tradition of using analogical reasoning to formulate new demands for rights. In the United States, for example, anti-discrimination legislation protecting women emerged in reference to—and based on the model offered by—preexisting clauses on racial discrimination (Mercat-Bruns 2012). Similarly, working on the conceptualization of age-based discrimination in France, Rennes (2020) underlined the "heuristic effects" produced by conceptual borrowings and the cross-referencing of different categories of anti-discrimination in producing new forms of protection. For her, "the analogy encompasses all resemblance established through abstract reasoning between two or several objects of thought that are perceived as essentially different" (Rennes 2020, 53). In this context, analogies may allow to establish politically meaningful parallelisms between different objects or types of domination.

If the use of analogy in connecting different types of domination is well-established in studies on discrimination, less has been said about its possible power in establishing connections between domains of policymaking that are not necessarily related to discrimination. Yet, this is exactly what took place on trans rights. Indeed, the generic nature of the notion of "gender identity" made it potentially easily transposable to domains of policymaking outside asylum. This was exactly what was ILGA-Europe was looking for. As explained by Silvan Agius, policy and programme officer and then policy director at ILGA-Europe (2008–2013):

> *"I thought then, that through the field of asylum, we could have gender identity included in gender equality legislation. Of course, they are two different legal frameworks, but I thought it was a sort of entry point."*
>
> (Silvan Agius, personal communication, 29/02/2020)

What appears in Agius' contribution is the way he conceived of European legislation as a relatively coherent whole, where achieving trans recognition in one "policy corner" could entail broader change for the field of equality in itself. The objective was, trough the marking of trans asylum seekers as in need of protection, to facilitate the protection of trans people under European equality legislation more broadly. This strategy was, of course, favored by the parallel development of asylum and anti-discrimination legislation. Yet, and beyond the calendar concordance between these debates, the Qualification Directive also appeared as a privilege field for trans rights, because defining social groups in need of protection is the core premise of international asylum law. This meant that recognizing gender identity in asylum had the potential both to legitimize trans people as a specific social group, and to mark anti-trans violence as morally unacceptable, whether it took place abroad or in Europe. As the moral rejection of violence is often portrayed as a first step toward a politics of protection (Hark 2021), the underlying rationale was that this possible analogy between the plight of trans foreigners and that of trans Europeans could put the European Union on the track of trans recognition. Gender identity, due to its genericness, was the logical link that allowed to build the analogy between these two situations.

In reality, when looking at the impact of the Qualification Directive a few years later, the influence of the recognition of gender identity under asylum legislation on other domains of European policymaking seems to be rather limited. It remains, however, hard to assess, because the anti-discrimination legislation has not been reformed since then, and we could perhaps imagine that ILGA-Europe will invest the new negotiations over the proposal with the achievement of gender identity recognition in mind. Nonetheless, the fact that only sexual orientation is covered by European treaties still plays an important role. For example, while restrictions on trans rights in Hungary caused an outrage in 2020, they had no official repercussions. By comparison, when the Hungarian government sought to censor books and films about homosexuality in 2021, the Commission announced they would launch an infringement procedure.[36] Based on this difference, one could say that gender identity has not really become the equal of sexual orientation in European policymaking and jurisprudence.

There is, however, a major exception to this picture: the Directive establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime (the Victims' Rights Directive). This text unifies the treatment of victims of crimes throughout the European Union.

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[36] Read, for example: https://www.euronews.com/my-europe/2021/07/15/eu-begins-legal-action-against-hungary-over-anti-lgbt-law

The Victims' Rights Directive was passed slightly after the Qualification Directive: its proposal was published by the Commission in May 2011 and its final text was voted in 2012. In comparison, the Qualification Directive's proposal was published in 2009 and its text was voted in 2011. Most importantly, the amendments from the Parliament's rapporteur on the Qualification Directive that suggested the inclusion of gender identity were published in September 2010, a few months before the Commission published its proposal for the Victims' Rights Directive. Gender identity was not mentioned in this proposal at first, but in 2012, the Parliament rapporteurs for the directive suggested to amend it so as to include trans people. Up to this day, the Qualification and the Victims' Rights Directives are the two only directives where gender identity is expressly mentioned in European law (van den Brink and Dunne 2018). These directives present important differences, but they also have many elements in common. While the Victims' Rights Directive appears as further step toward trans recognition, it also illustrates how strategies for equality developed in the interstices of other arenas may still be marked by their initial space of formulation.

To start with differences, contrarily to the first version of the Qualification Directive, which did not define "gender-related aspects" (leaving this issue to policymakers of the 2008–2013 reform), the Victims' Rights Directive explicitly defined "gender-based violence" right from the start, stating that:

> "Violence that is directed against a person because of his or her gender, gender identity or gender expression or affects persons of a particular gender disproportionately is understood as gender-based violence. (...) Gender-based violence is understood as a form of discrimination and a violation of the fundamental freedoms of the victim and includes, but is not limited to violence in close relationships, sexual violence (including rape, sexual assault and harassment), trafficking in human beings and slavery and different forms of harmful practices, such as forced marriages, female genital mutilation and crimes committed in the name of so-called 'honour'"

> (Report on the proposal for a directive establishing minimum standards on the rights, support and protection of victims of crime, European Commission, 2011)

This definition of "gender-based violence" is interesting because it goes beyond the one offered by the Qualification Directive. It must be first underlined that despite promising appearances, the question of the definition of gender is not entirely resolved here, since several interpretations of its meaning coexist (gender as sex category, gender as identity, gender as an expression or appearance). Nonetheless, where the Qualification Directive referred to gender identity in a clause of specification ("gender related aspects, including gender identity"), the Victims' Rights directive considers it as an intrinsic part of the definition of gender ("violence that is directed against a person because of his or her (…) gender identity (…) is understood as

gender-based violence"). Moreover, by referring to "gender expression", the directive made a move out of the exclusive understanding of transness as identity. This opened the door to a more fluid and broad-reaching definition of transness, allowing to look at how people are perceived instead of seeking to objectify their inner identity, which is often difficult to prove without relying on normative expectations (Neilson 2004; Mulé 2020).

The Victims' Rights Directive was thus an important step forward for trans rights, as it remedied part of the critiques that could be formulated against the Qualification Directive, namely, the timid articulation of gender identity to the broader category of gender and the reliance on an essentialized understanding of transness. However, at the same time, it is important not to lose sight of the continuities that exist between both directives. As the Qualification Directive opened the path for the inclusion of trans rights in the Victims' Rights Directive, the asylum debate has also shaped the premises upon which trans rights were discussed in this arena. This influence is ambivalent because even though it eased the transposition of gender identity from asylum legislation to victims' rights protection, it also operated as a constraint upon the definition of the forms of anti-trans violence at stake.

Indeed, the Qualification and the Victims' Rights directives both rely on a similar understanding of violence, covered by the notions of "crime" and "persecution". The meaning of these notions has varied over time and space, and sometimes remains quite vague (Bhabha 1996; Thomas et al. 1998; Cautela 2006). Still, it could broadly be said that crime presupposes a high degree of gravity of the act committed, while persecution is considered as encompassing situations where freedom, dignity, bodily integrity, and life are threatened (Maiani 2010). The Qualification and the Victims' Rights directives do give some concrete examples of crimes and persecutions, and some of them—for example female genital mutilation—appear in both texts. The notion of persecution, however, implies that victims cannot obtain justice or protection (Etienne-Greenwood 2017). The main difference between crime and persecution, thus, is not always a difference in the nature of the act committed, but rather a difference the right to reparation—and sometimes though not always a difference of intentionality. In both cases, violence is understood as morally unacceptable, dignity-threatening, and its victims are framed as innocents to be protected.

This understanding of violence as an extreme experience is visible in the following extracts from European Parliament debates. The first intervention comes from the debates on the Qualification Directive, and the speaker is a radical left deputy (GUE/NGL). The second comes from the Victims' Rights debates, and the speaker is the Commissioner in charge of the file:

Extract 1 (Qualification Directive – asylum):

"Mr. President, on behalf of my group, I would like to warmly congratulate Ms. Jean Lambert on the results she has achieved. (...) She has succeeded in including gender identity as specific grounds for persecution. That is extremely important for all transgender people, who are, unfortunately, often persecuted around the world simply because of what they are."

(Cornelis de Jong, Qualification Directive debates, GUE)

Extract 2 (Victims' Rights Directive – crimes):

"Particular attention will be paid to some categories of victims, victims of terrorism, organized crime, human trafficking, gender-based violence, sexual violence, exploitation, hate crime, victims of [sic] disabilities. They are all human beings and our responsibility here is to care for them."

(Viviane Reding, Victim's Rights Directive debates)

Similar notions of victimhood are underlying in both extracts. The speakers put the emphasis more or less explicitly on the innocence of victims ("transgender people who are persecuted simply because of what they are"), and on their quality as fellow human beings ("they are all human beings and our responsibility is to care for them"). These narratives of innocence and raw humanness are useful to allow the temporary suspension of debates on trans recognition: what is at stake here is protection from death, not a positive recognition of the right to have rights (Arendt 1951). Because narratives of humanitarian assistance constitute a "discourse without opponents" (Juhem 2001), victimhood, in this context, operates as "a prime way of suspending or attempting to suspend the political through an appeal to something non-agentive and 'beyond' or 'before' politics" (Jeffery and Candea 2006, 289). The victim, or indeed the refugee, are those who are stripped away from their own personality and peculiarities, and who are left only with their unprotected humanness (Arendt 1951; Marzano 2006). It is this unprotectedness humanness which is at the core of humanitarian discourses, as it calls for the empathetic response of all human beings to the unjust pain faced by others (Lochak 2003).

Yet, while this humanitarian discourse allowed the suspension of debates on trans recognition in order to establish a first form trans protection, it also constrained the debate on the violence faced by trans people. It did so first by outshining "softer" forms of violence against trans people—those that do not belong to the realm of crime or persecution—and secondly by marking violence as foreign to the European Union. "Foreign", in this context, means both that is understood to be taking place elsewhere (for refugees) or that it should not be happening in Europe (for crime victims). In both cases, violence is understood as an extreme and unfair phenomenon. It is extreme because the forms of violence that are at stake in these two directives—terrorism, torture, murder, rape, sexual exploitation—are thought belong more to

the domain of wartime than to that of peacetime. It is unfair, on the other hand, because it relies on the idea that it should not have happened to such innocent victims. This understanding of violence is visible in the intervention of José Manuel Fernandez, mainstream right deputy (EPP), during the debates on Victims' Rights:

> "I welcome the presentation of this proposal, which clarifies the rights of citizens as victims of crimes including gender violence, trafficking, rape and terrorism in any EU Member State. I would congratulate the rapporteurs on the excellent work that they have carried out on behalf of the European public, in particular those who, for whatever reason – and it could happen to any one of us – may be victims"

> (José Manuel Fernandez, EPP group, European Parliament, 2012)

Fernandez's intervention is particularly interesting for its insistence on the idea that anyone may be a victim of crime. The problem with this portrayal of violence as a phenomenon that could affect anyone indiscriminately is that it is not representative of most experiences of trans people, as the violence they meet in their everyday lives often takes place on the long run and takes very specific forms. It is precisely not a violence "that could happen to any one of us". The risk of this representation of violence as an indiscriminate phenomenon is to develop a policy aimed principally at protecting those attacked in their core quality as human beings, and not for their specific characteristics. It also entails a representation of violence as necessarily illegitimate, thus preventing policymakers to envision that it may simultaneously be part of the European legal order. In that regard, the following extract from the debates on the Qualification Directive is particularly interesting. The speaker, a liberal deputy, argued:

> "The directive that we have just adopted (...) should offer more certainty to beneficiaries of international protection and make matters clearer for Member States. (...) Progress has also been made with regard to issues arising from an applicant's gender, including gender identity and sexual orientation, which may be related to certain legal traditions and customs, resulting in, for example, genital mutilation, forced sterilization or forced abortion. (...)"

> (Louis Michel, ALDE group, European Parliament, 2011)

This intervention clearly shows, through the use of "certain legal traditions and customs"[37], a conception of gender-related persecution as a phenomenon foreign to European societies. However, forced sterilization, which he evoked as part of these backward "legal traditions and customs", is an integral part of gender reassignment procedures for trans people in some Member States (Castagnoli 2010). What would be considered as persecution if it happened elsewhere may thus go unquestioned if it takes place in Europe in legal procedures. This is probably one of the most important issues arising from the framing of violence as extreme and

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[37] The deputy is partly paraphrasing the wording of the text of the directive, slightly rephrasing it.

unfair: it does not allow us to perceive the presence of this violence when it is considered as legitimate—and committed as such—in or by European states. Under the framework of deviant violence, being trans is an aggravating factor when one is a victim of crime; but, paradoxically, only universal experiences of violence may qualify as an illegitimate form of transphobic violence, and not experiences that are more specific to trans lives or that are enforced by European state authorities, such as forced sterilization.

This mismatch between on the one hand the representation of deviant violence as illegitimate and indiscriminate, and, on the other, the everyday experiences of violence trans people face precisely because they are trans, is therefore one of the most important blind spots of humanitarian representations of trans protection. Although the inscription of trans lives into this humanitarian and wartime-like register did disable political opposition to their protection, it certainly did not result in their construction as peacetime rights holders. Humanitarian framings may thus very well constitute trans people as victims, but they will not necessarily posit them as subjects. This explains why ILGA-Europe's achievements on the recognition of gender identity in asylum law could easily be transposed into the Victims' Rights Directive, because both directives rely on similar understandings of violence and victimhood. However, it also underlines the limits of a politics of trans rights born under the auspices of asylum, since one could wonder how the transformation of trans people as victims to trans people as right holders will take place.

3.2. Toward the recognition of gender identity in European discourses

This being acknowledged, the very idea that some types of violence committed against trans people would be morally unacceptable in European societies can hardly be depicted as negative. One should remember that barely two decades ago, in the late 1990s, gender-based violence was not even considered to be a form of persecution. Female genital mutilation or women's forced subjugation to Islamic law were often portrayed as matters of cultural difference, and some advocated for their tolerance in the name of respect for non-Western traditions (Helton and Nicoll 1996; Ibhawoh 2003; Hua 2010). Forced abortion and sterilization—which are now granted a central place under the Qualification Directive—were long considered to be means of state demographic control (Bhabha 1996). In a similar way, in many European countries, people persecuted for their sexual practices or for cross-dressing were considered to be ineligible for the refugee status in other countries (Millbank 2005).

Several philosophers and political theorists have tried to describe and conceptualize the situation of those whose life or death does not matter anymore. This is what is underlying in the notions of "human waste" (Bauman 2003) or "homo sacer" (Agamben 1998) for example. Butler rather describes these lives as "ungrievable", in the sense that they are "[lives] that cannot be mourned because [they have] never lived, that is, [they have] never counted as a life at all" (Butler 2009, 38). Ungrievability does not equate to death, but to indifference to that death. The process of mourning and the public expression of such mourning therefore have an important political significance for Butler. As a consequence, while humanitarian discourses only look at extreme violence, at the same time, they still contribute to the reintegration of those lives into the European political landscape (Brauman 2000; Lochak 2003). The depoliticization of anti-trans violence operated by the Qualification and the Victims' Rights Directives—which both conceptualize transphobia only as criminal violence and not as a socially accepted form of violence or state-enforced practice—therefore still has an important political dimension. More specifically, it reinscribed trans lives as "worthy" to the European political community.

Whether this grievability of trans lives will translate in enhanced legal protection or in better social inclusion is an open question. The most plausible scenario is, perhaps, that the recognition of trans lives as worth living under European legislation will result in a mixed, fragmented, and context-dependent recognition of their broader rights. What can be said for sure, though, is that the debates over the Qualification and the Victims' Rights directives have had a durable impact on European politics—but not on the level of binding measures. The pedagogical role undertaken by ILGA-Europe and explored in section 2.1 of this chapter had for consequence the progressive socialization of European actors to the notions of gender identity and to transness. This was perceived by ILGA-Europe staff members themselves. To take back the earlier quote from Silvan Agius, policy and programme officer and then policy director at ILGA-Europe (2008–2013):

> *"I thought then, that through the field of asylum, we could have gender identity included in gender equality legislation. (...) To be honest, I don't think so anymore. I don't think that one could argue that since it's in asylum legislation, let's include it in employment legislation or accessible services; I really don't think so. But it was still very important for us at that time. (...). It also gave visibility to that term in various circles. So... it was very useful that way."*
>
> (Silvan Agius, personal communication, 29/02/2020)

For Agius, asylum debates helped socializing European policymakers to trans issues and gave visibility to the notion of gender identity in several spheres of policymaking. His feeling was largely corroborated by fieldwork. In debates over the Qualification and the Victims'

Rights directives, deputies from all political groups—to the notable exception of the radical right[38]—mentioned the term "gender identity". This term has been appropriated by policymakers, who do not hesitate to refer to it in non-binding statements. This was the case, for example, of the European Parliament when it declared the European Union to be "zone of LGBTQI freedom". Similarly, in September 2012—around the time of Qualification and Victims' Rights debates—the European Commission Directorate-General for Justice published a report entitled "Discrimination on the grounds of sex, gender identity and gender expression". This title is interesting because it shows "gender identity" and "gender expression" being juxtaposed to the category of "sex", even though only sex has a legal recognition under the Amsterdam Treaty.

This growing familiarity of European actors with the notion of gender identity is not limited to politicians. It was also found among all nongovernmental organizations during fieldwork, none of which seemed surprised by this terminology. Organizations with a more "mainstream" scope—such as those focusing on migrants—referred to it, as shown by the two following extracts. The first comes from Dorothy, the representative of another association working on migrants' rights in Europe:

> *"At our organization, we definitely try our very best to include gender or gender identity lens in our advocacy and also in our research, so that would include exclusions and rights of women and girls, LGBTI people, and also sexual and gender-based violence (...). So, in practice we always try to include points specific to these issues, when we bring for example draft research reports or also evidence submission to human rights mechanisms as well as EU institutions and stakeholders. And we always try to include data and recommendation also referring specifically to displaced women and girls and again, LGBTI individuals, and sexual and gender-based violence, in all of this"*

(Dorothy, personal communication, 05/06/2020)

Similarly, when asked whether in her work she took into account LGBTI issues, Jean, who worked at some point for PICUM, explained:

> *"Yes, yes, it's something we really try to look at too. Also, when we talk about gender identity, sexual orientation, I think we're trying to... we'd like to focus more on these aspects. It's an area we were planning to focus more on in the past months."*

(Jean, personal communication, 24/06/2020)

These two quotes are characterized by their seemingly natural use of gender identity. This term is part of the vocabulary of these two actors of migrants' rights, who, as visible above, considered it as largely unproblematic, and used it next to "gender", "sex", and "women". The

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[38] There is one exception to that: a French radical right deputy, during debates on the Qualification Directive, took "gender identity" as a synonym of "women" and worried about an invasion of African and Arabic women.

idea that these notions could clash simply did not come to their mind. The term "gender identity" therefore seems to have followed a somewhat typical trajectory of elite internalization that, it should be said, is not specific to trans issues. As evoked earlier on, in the 1990s ILGA-Europe faced very similar issues when advocating for "sexual orientation". Since then, this term has acquired a rather stable and unquestioned meaning for European policymakers, and so will probably gender identity. This would not be surprising given that research has shown that very often in European politics, changes are more likely to occur through soft norm diffusion and elite socialization, than through hard law (Kollman 2009; Ayoub 2013; 2015b).

This achievement demonstrates that policymaking—and its most visible part, parliamentary debates—has a political function that goes largely beyond the making of law. Policymaking can be a potential space of performance of political identities, as processes of sub- and sur-politicization allow for partisan differentiation, or, on the contrary, for the *mise en scène* of a shared identity (Lascoumes 2009; Ilie 2010). This entails that sometimes, positions on a topic are not absolute "givens" that preexist to debates, but rather are partially co-constituted in action, as "actors evoke their preferences in function of the dynamic of the compromise and of the organizational constraints that the institutional context imposes" (Ferrié and Dupret 2004, 266). Of course, this does not mean that preferences are inherently malleable: on the contrary, debates may very well polarize oppositions. If the debates on trans protection had taken place in another context, politicians may have responded to them differently. But in this specific configuration, where transphobia was framed as extreme violence and trans people as powerless victims, no one found fault to it. This does not mean that trans rights became uncontroversial, but rather that gender identity became an accepted part of the vocabulary of European debates, and that policymakers do understand what is covered by this term. This is the explanation to what is a strange observation at first sight: European deputies from all political tendencies congratulating themselves on the inclusion of gender identity in European legislation ten years ago, at a time where the notion was only starting to make its entrance in most national debates.

The debates on the Qualification and the Victims' Rights directives thus operated as spaces of socialization where actors learnt ideas, internalized constraints and acquired shared beliefs specific to the European arena, perceived as the cradle of human rights (Costa 2009; Smismans 2010). The "soft spillover" of the notion of gender identity into European political discourse resulted in the emergence of a European-level-specific consensus on trans protection that does not reflect the position of many Member States. Interestingly, this European consensus could

even be discursively used against these Member States, potentially opening the door to the recognition of violence happening in Europe too.

Conclusion

By focusing on the recognition of trans rights under European asylum policies, this chapter examined to which extent must the divide between politicization and depoliticization in producing progressive policy change be questioned. The purpose of this discussion was to nuance and deepen the findings of the previous chapter, in which I showed how politicization had been crucial to the extension of the European understanding of equality. This chapter thus sought to analyze how sub-politicization—and not depoliticization, as initially envisioned—could be a vector of change too. Sub-politicization and depoliticization are indeed distinct phenomena, as sub-politicization does not seek to curtail the debate forever but rather aims at its partial and momentary bracketing. My underlying hypothesis was that the clear-cut division between politicization and sub-politicization had to be questioned, as progressive change also depends on who the actors of this (sub)politicization are and what their intentions were.

The argument developed in this chapter largely confirms that such division between politicization and sub-politicization needs to be analytically nuanced. What I have shown, indeed, is that far from considering asylum law as a peripheral arena to their work, the European LGBTI movement tried to strategically use the 2008–2013 reform as a backdoor to obtain official recognition of gender identity under European law, thus stretching the meaning of gender so as to include transness as well. This stretching, which was ultimately successful, would have been impossible without the acquiescence of other associative actors and the indifference of most migration policymakers operating at that time. Strangely enough when one considers how polarizing are gender issues in the European debate nowadays, the process of inclusion of gender identity in asylum law went relatively smoothly. This was because ILGA-Europe did not compete overtly with other organizations, and because European deputies, when confronted with this humanitarian portrayal of threatened foreign trans lives, considered ILGA-Europe's demands as coherent with their imagined ideal of the European Union.

It would be simplistic, however, to stop with this dispassionate account of the negotiations of the 2008–2013 asylum law reform without examining the conditions that made the consensus on gender identity possible. Dispassion was indeed willingly created by organizations working

on gender and sexuality issues, as they sought to exploit the indeterminacy of the meaning of gender under asylum law to make it inclusive of their demands. The fact that policymakers working on asylum were little interested in the debate over gender pushed these actors to strategically emphasize coalition—speaking with one voice to convince policymakers that their demands were consensual—rather than competition. By doing so, ILGA-Europe developed a politics of interstices: being where one is not expected to be, and targeting spaces where law, and its categories, are still malleable. The objective for ILGA-Europe was, ultimately, to create a snowball effect that would open the door, directly (legal precedent) or indirectly (socialization of policymakers) to the development of a European strategy on trans rights.

The insertion of trans rights into the European agenda thus happened, largely, thanks to the circumvention of the political debate. This raises some questions. On the one hand, while references to "intersectionality" allowed organizations to push aside rivalries, they used this concept as a management tool for inter-organizational relationships rather than as a political horizon. In the end, intersectionality resulted in lists of special characteristics and not in the questioning of the different systems that come together to produce the said "vulnerabilities". It also meant, for civil society organizations working specifically on gender, avoiding debates on the practical and theoretical implications of adopting one vision of gender or another. The curtailment of these debates was the condition to which a common action could be undertaken. On the other hand, at the level of European institutions, the humanitarian representation of trans people as victims marked by extreme levels of violence was the prerequisite for policymakers of all parties to subscribe to the protection of trans asylum seekers. This conception of violence as necessarily illegitimate was, however, at the antipodes of the everyday and sometimes legally entrenched violence that trans people face throughout the European Union. Consequently, although this humanitarian and sub-politicized account of trans lives appealed to a majority of deputies, thus providing for the protection of these asylum seekers, it was also difficult to translate into a positive policy of trans rights—one that grants *a-priori* equality and protection instead of repairing *a-posteriori* prejudices. It also testifies of a mobilization on asylum that is in the end more about the deepening of LGBTI equality than about the inclusion of foreigners.

Nonetheless, this double-circumvention paradoxically created a return of the political, as it reinscribed trans lives as worthy within the European community. This dynamic is not uncommon at the European level, as many major changes are the result of what were first hesitant and limited clauses: for example, the principle of equal pay introduced in the Treaty of Rome led to the development of a vast corpus of gender equality policies that now largely

surpass issues of salary gap. In this context, the portrayal of trans people as in need of humanitarian rescue has enabled ILGA-Europe both to create a precedent on anti-trans violence, and to socialize actors and policymakers to these notions. The readiness with which many European politicians use terms such as "gender identity", "transgender" and "transphobia" is indeed remarkable compared to national debates. In this regard, interestingly enough, although the political recognition of trans people is far from being achieved, nowadays on a terminological level even opponents to trans rights refer to gender identity in their discourses—such as when the Hungarian government proposed a constitutional amendment "protecting children's right to the gender identity they were born with".[39]

In sum, conscious sub-politicization and the avoidance of public debate were key to the first steps toward the recognition of trans lives as grievable in the European community. But this strategy had the weaknesses of its strengths, and is therefore questionable on the long run, as it did not necessarily offer a clear emancipatory horizon, neither for trans asylum seekers, nor for trans Europeans. This potentially raised important empirical and theoretical questions for the future of LGBTI activism on asylum legislation. Would the maintenance of this sub-politicization be the best strategy for future activism on trans rights? Yet, what the next chapter of this dissertation will show is that this possible challenge was rapidly curtailed by a new development in the European migratory context that took place just three years after the voting of the Qualification Directive: the conjunction of increasing discourses of "crisis" around 2015, and the increase in the strength of radical right deputies at the European Parliament. In this context, LGBTI asylum was abruptly re-politicized, but the LGBTI movement had little control over this process. This raising a certain number of questions on the impact of this "radical" (or at least "radical-led") re-politicization of LGBTI protection in Europe.

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[39] https://www.reuters.com/article/us-hungary-lgbt-constitution-idUSKBN27Q34Z (last consulted 06/06/2021)

CHAPTER 3

Disrupting the Illusion of Consensus: LGBTI Asylum, the Radical Right, and the European Parliament after 2015

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The first two chapters of this dissertation have shown that LGBTI asylum, throughout the 2000s, remained a relatively niche issue on the European agenda. When ILGA-Europe sought to make the struggles of LGBTI asylum seekers more visible in the late 1990s, they managed to do so, but they did not make it more than a peripheral aspect of the broader fight for LGBTI rights. In the late 2000s, they took advantage of this political peripherality, and, building on the sub-politicization of this issue, they promoted LGBTI equality *via* asylum. Both the resonances (in terms of portrayal of violence) and the differences (in terms of debate polarization) that existed between debates on asylum and on anti-discrimination rendered that process easier. In this specific context, they developed activist strategies that were well-adapted to the aversion for political conflict of the European Union. Their strategy proved successful, though it entailed limitations in terms of representation of LGBTI equality and protection of asylum seekers.

Yet, while this was the story of LGBTI asylum until the last reform of 2011–2013, anyone who has been attentive to recent developments in the European political debate would legitimately wonder whether this account still held true a few years later. Indeed, the years 2014 and 2015 were a turning point for European migration policies. The European Union witnessed the initial moments of the so-called "migration crisis". In parallel, radical right parties[40]

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[40] These parties can be defined by two main characteristics: their right-wing political orientation, and their ethno-nationalism (Caiani 2019; Wodak 2019). Although there is an ongoing semantic debate about the best way to designate them, the term "radical right" will be preferred here, in order to underline the continuities that exist over the political spectrum (these parties being a more radical form of existing ideologies) and to avoid looking at them only through the lenses of extremism. Avoiding to reify their difference with mainstream right parties seems even more necessary at the European level, because deputies described as pertaining to the radical right at the national level have sometimes been among the ranks of the European mainstream right. Similarly, I have decided to

strengthened throughout Europe. These parties were particularly successful in the 2014 and 2019 European Parliament elections. Out of 751 European deputies pre-Brexit, they increased from 48 members during the first negotiations of the Common European Asylum System in the early 2000s, to 88 during its first reform in the 2010s. Their real breakthrough took place in 2014, when they reached 155 members. This proportion remained stable in the 2019 elections, with 135 affiliated deputies—a slightly lower number explained by the choice of some deputies to join the ranks of non-attached members. This strengthening is of relevance for the debate on LGBTI asylum. Indeed, these parties vocally oppose both immigration and LGBTI rights, which they sometimes frame in terms of cultural survival—Christian Europe *versus* its foreign invaders or gender colonizers (Yılmaz 2012; Hafez 2014; Korolczuk and Graff 2018). Considering these evolutions, we could wonder whether the rise of the radical right will symbolize the end of an era for the discreet, interstitial negotiation of LGBTI protection at the European level.

There is no better place to examine this question than at the European Parliament. The European Parliament is the institution of the European Union where debates are most publicly visible. Moreover, it is also among the institutions that were most directly impacted by the rise of the radical right. Indeed, although radical right governments do influence Council negotiations, they are still a minority in Europe. On its side, the Commission has been difficult to permeate for radical right activists, especially at the civil servants level—though this does not mean that Commissioners are not influenced at all (Santaniello 2021). At the European Parliament, by contrast, radical right candidates have benefited from the proportional representation system and from the disinterest of many European citizens for these elections, allowing them to score excellent results. Although deputies from other groups often refuse to collaborate with them, no one know how long this "*cordon sanitaire*" will last (Ripoll Servent 2019). Against this background, the question of whether the European Parliament will be able to keep working as usual becomes an extremely relevant one.

Historically, the European Parliament has often been framed by scholars as an institution oriented toward "deliberation", understood in Habermas' (1981) sense of the search for mutual understanding through language. This vision is particularly prevalent among scholars working on Parliament committees. Many of these researchers have underlined how these may work as fora that allow deputies to express their opinions in full and therefore to collectively push aside

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consider the European Conservative and Reformists as belonging to the category of the radical right, even though they are not populist in style. Still, they express a nationalist-conservative identity.

arguments that are not justified enough (Joerges and Neyer 1997; Roger and Schaal 2013; Roger 2016; Lord 2018). Deliberation relies on the notion of arguing, which entails that negotiators seek to persuade others, but also that they are ready and able to shift their preferences in order to achieve the common good (Risse and Kleine 2010). Arguing contrasts with bargaining, which supposes that actors possess fixed preferences and collaborate not for the common good but to coordinate choices, or to impose their opinion if the balance of power is in their favor (Dür and Mateo 2010; Settembri and Neuhold 2009). These two literatures rely on very distinct theoretical premises. Arguing is attached to the theory communicative action, bargaining emerged in reference to game theory (Hopmann 1995). However, they both rely on a similar assumption: that a compromise or, even better, a consensus, can and should be found.

Yet, both the notions of bargaining and of arguing have been empirically and theoretically challenged in the past few years. The main empirical challenge is the one identified above, namely, that of the change in the composition of the European Parliament. Deliberation indeed seems to be compromised when roughly one fifth of deputies is sidelined by other parties. This challenge to deliberation is particularly relevant because researchers have shown that the isolation of radical right deputies affects the democratic debate even within non-radical-right groups (Ripoll Servent 2019; Kantola and Miller 2021a). Moreover, one may also legitimately wonder whether an institution that has based its functioning on the limited presence of public debate in order to negotiate compromises will still manage to do so in the presence of deputies who are willingly provocative (Rozenberg 2009; Brack 2018). On the other hand, on a more theoretical note, scholars have been increasingly underlining the way consensus often is an illusion. For an increasing number of scholars, debate should not be avoided, because it is, in fact, a condition for democracy (Mouffe 2010; Schmidt 2019). This does not mean, though, that conflict is always inherently good. Mouffe (2010), most notably, has underlined the fundamental difference between enemies and adversaries. Enemies oppose democracy, while adversaries are opponents whose ideas may be combatted but whose existence is still legitimate (Mouffe 2010). That the European Parliament is entering an era of renewed debate in a context where the boundaries separating enemies from adversaries are blurring due to the diversification of the radical right is, thus, far from being inconsequential.

Based on these empirical and theoretical challenges, this chapter analyzes the debate over LGBTI asylum at the European Parliament post-2015. It is guided by the following question: to what extent has the rise of the radical right influenced existing debate dynamics surrounding LGBTI asylum at the European Parliament? My hypothesis prior to fieldwork was that the

association often made between LGBTI rights and European integration would have resulted in the reject of LGBTI asylum by radical right parties, thus making LGBTI protection a new critical challenge in the ongoing reform of European asylum policies—sharply contrasting with its sub-politicized status in prior reforms. This hypothesis had two corollaries: the first was that I expected to observe a polarization of debates, with left-wing parties increasingly supporting LGBTI asylum out of anxiety for current political dynamics, and mainstream right deputies being influenced by the arguments of the radical right out of fear of being outcompeted on values and migration. The second corollary was that, contrarily to what had been documented at the national level, I expected homonationalist arguments to be relatively absent from the European debate. My assumption was that the Euroscepticism of radical right parties and the association often made between LGBTI rights and European integration would lead them to privilege more classic anti-LGBTI stances, depicting LGBTI asylum as "gender ideology" or as a proof of the European incapacity to diagnostic "true issues".

To test this hypothesis, I analyzed files from the ongoing reform of the Common European Asylum System. The files comprised the 2016 Commission proposals for a new asylum package[41], European Parliament amendments, and position papers from all political groups. The absence of minutes for most of the texts from the ongoing reform (the package never reached plenary debates) was compensated by the analysis of a 2016 debate on a resolution on the Situation of Women Refugees and Asylum Seekers in Europe. This debate was an interesting source of information, because it took place amid the 2015 crisis. Moreover, as a non-binding resolution, it pushed deputies to express themselves more clearly on principles and less on technical details. This data was then triangulated with 17 interviews (12 deputies, three assistants, two staff members of the Intergroup on LGBTI Rights of the European Parliament). Five interviewees were from the radical left (European United Left/Nordic Green Left, GUE/NGL), two were ecologists (the Greens EFA), two belonged to the mainstream left (Socialist and Democrats, S&D), two to the liberals (Renew Europe), three were part of the mainstream right (European People's Party, EPP), and finally one came from the radical right (Identity and Democracy, ID). The only group missing is the European Conservatives and Reformists Party (ECR, nationalist-conservative right), because they did not respond to interview requests. Their position, however, was retrieved through position papers and plenary

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[41] The New Pact will be evoked only peripherally because it was published after the end of field research.

debates. The deputies interviewed came from Baltic and Nordic countries, Western and Southern Europe, but none came from Eastern Europe.[42]

Fieldwork findings largely confirmed my hypothesis. The strengthening of radical right parties did play a crucial role in the renewed politicization of LGBTI asylum in European debates. This issue has ceased to be one that can be discreetly negotiated, and, as such, it has gained a new status as a legitimate political issue on the European agenda. LGBTI protection or its refusal has come to symbolize competing visions of what would be a desirable future for Europe, therefore resulting in the emergence of sur-politicized negotiation dynamics, where what is at stake is not just the issue being discussed but opposed visions of the future (Lascoumes 2009). This sur-politicization has resulted in a change in the affective atmosphere surrounding this debate. Affective atmosphere refers here to the "intersubjective, collective dynamics at the inter and intragroup level, in particular the atmospheres that envelope participants' debates in political group meetings and the kinds of collectives and practices that are allowed to cohere and be mobilized in these atmospheres" (Kantola and Miller 2021a, 787). As the increased politicization of LGBTI asylum has given more visibility to homophobic, xenophobic, and racist arguments, a negatively loaded atmosphere has emerged among left-wing actors. While these exclusionary arguments have in fact resulted in the reinforcement of the support for LGBTI asylum at the European Parliament it has also put left-wing actors in a position where even minimal guarantees of protection for some claimants must be accepted, thus limiting their ability to question the system under which these guarantees are granted.

This chapter is organized as follows. The first section shows how mainstream left parties have constructed LGBTI asylum as a metaphor for (brighter) European futures, establishing a positive association between European integration, asylum, and LGBTI protection. While on the surface this association seems to be widely accepted by other parties, it is at the cost of its dilution through the use of a catch-all concept ("vulnerability") that allows to hide deeper ideological disagreements. The second section of this chapter examines the influence of the rise of radical right parties on this apparent consensus. It shows that their presence resulted not so much in the decrease of the support for LGBTI asylum, but rather in the sur-politicization, polarization, and simplification of debates. Radical parties—be they left or right—played a crucial role in this increased politicization. However, as shown by the third section, even though

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[42] Their countries of origin are the following (number of interviews bracketed): Denmark (1), Estonia (1), Finland (1), France (4), Germany (2), Netherlands (2), Portugal (1), United Kingdom (1), Spain (1), and Sweden (1). Interviewees, though, were not selected for their nationality but for their involvement in migration debates (rapporteurs and shadow rapporteurs).

the radical right did play a role of catalyzer in the reconfiguration of European debates on LGBTI asylum, its influence should not be overemphasized. The mainstream right has, in fact, played an even stronger role in promoting a securitization of European asylum policies that is largely unfavorable to asylum seekers, LGBTI or not.

1. LGBTI asylum as "European values": a fiction of consensus

Looking at European politics after having worked on French national debates did not go without any surprise. Among them was the apparent consensus that seemed to exist on LGBTI asylum at the European Parliament. Indeed, during fieldwork, apart from radical right deputies, no deputy explicitly opposed the protection of LGBTI claimants. Of course, there were divergences between the way they envisioned this protection. But still: it seemed that at the European level, granting asylum to those persecuted for gender- or sexuality-related reasons was commonsensical. This positive portrayal sharply contrasted with the national debates I had analyzed a few years earlier, where deputies from the mainstream right were opposed to such protection or feared that it would be used by "bogus migrants" to claim asylum. Interestingly, no such logic of suspicion seemed to exist at the European level.

Yet, it is not because actors show a façade of consensus that they do agree. This is particularly true at the European Union level. Although European action is often described as being built upon consensus or at least compromises, researchers have also underlined how these agreements are sustained by a certain number of policy silences (Nissen and Rolandsen Agustín 2018). In light of this, this first section examines to what extent is LGBTI asylum indeed consensual at the European Parliament, and if so, upon which foundations has this consensus been built. It first analyzes the way a fiction of consensus on LGBTI asylum has been built by left-wing groups. In particular, it looks at how left-wing deputies have mobilized specific representations of Europe to define the protection of LGBTI foreigners as a European ethical duty. The second sub-section then focuses on the reception of this emerging norm by other political groups. It shows that below the consensual surface, deep political cleavages are still lying, and that they were only partially resolved by the use of a catch-all and diluting concept, that of "vulnerability". This drive to hide disagreements behind a fiction of consensus, however, still testifies to the success of progressive actors—especially actors from the moderate left—in marking anti-LGBTI asylum positions as un-European.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

1.1. Left-wing deputies and LGBTI asylum as a symbol for the European Union

Since its beginnings, the European project—and its corollaries, the legitimacy of European action and the development of a shared identity—has been imbued by political elites with very different meanings (Wodak 2004; Cerutti and Lucarelli 2008; Giovannini, Polverari, and Seddone 2016). As Stråth (2000, 14) framed it, "if Europe has a meaning, it is as a political programme (…) [but not as] *the* political programme. It is, rather, something under continuous negotiation and renegotiation. Both as politics and ideology, Europe must be seen in the plural, always contested and contradictory". In that context, European political parties have developed diverging visions of what a legitimate European order should be, leading to the simultaneous coexistence of varied visions of Europe: Europe as a tool for intergovernmental cooperation, Europe as a federal project, Europe as an economic community, and Europe as a post-national community (Jachtenfuchs, Diez, and Jung 1998). While radical parties have tended to emphasize intergovernmental cooperation, Social-Democrats and Christian Democrats favored ideals of federalism or of economic cooperation, and the Greens have oscillated between the ideal of Europe as a federal state and that of Europe as a post-national community.

It is against this background that the explicit recognition of the right to asylum for LGBTI people came to symbolize the European Union itself for progressive parties, and especially for the Greens and Social-Democrats (the relationship of the radical left to this European ideal having been, as we shall see later, more complex). The Greens and the Social-Democrats were of course not the only one responsible for the relaying of the demands of LGBTI organizations inside the European Parliament. Historically, the LGBTI Intergroup of the European Parliament—the trans-partisan platform connecting all deputies favorable to LGBTI rights—has played a key role in pushing for LGBTI equality, including LGBTI asylum. For example, when the 2016 new proposals of the Commission for an asylum law reform were published, the rapporteurs for the Reception Conditions Directive, Qualification Regulation, and Resettlement Directives were all part of the bureau of the LGBTI Intergroup.

Yet, while the role of the Intergroup ought to be acknowledged, the broader historical importance of left-wing moderated groups also needs to be underlined. Indeed, some of the deputies of the Greens and the Social-Democrats were, as rapporteurs, at the forefront of many recent key files of LGBTI asylum. In two of these files—the 2011 Qualification Directive and the 2016 report on the Situation of Women Refugees and Asylum Seekers in Europe (the Honeyball report)—rapporteurs from these parties went beyond what was provided on LGBTI

rights in European treaties. They refused to limit themselves to sexual orientation, and, in the case of the Honeyball report, they went beyond the traditional anti-discrimination approach of the European Union and referred explicitly to the need for group-specific guarantees and protection. Their action is revealing of the broader perception of LGBTI asylum as an important issue for Europe in these two parties. Indeed, while LGBTI asylum came to symbolize the Green's post-national political utopia, on the Social-Democrat side, it participated in the ideal of an interdependent and cohesive Europe.

From a historical perspective, the Greens' relationship to Europe has been marked since the 1960s by their reject of nationalism and market liberalism, and by their promotion of an alternative Europe, depicted as a decentralized and multicultural entity rooted in ideals of humanism, diversity, and inclusion (Bomberg 1998). This alternative European project appeared clearly in the contribution of Gwendoline Delbos-Corfield, Green deputy and member of the European Parliament's Committee on Women's Rights and Gender Equality. When asked about her relationship to the European Union, she answered:

> "I wouldn't say that in my studies I was very interested in European public policies, but I always felt European. My father is French, and my mother is British, so I don't feel like I belong to a specific place, also because I grew up in social housing in the French banlieues but not in the 93, in the 94, where you didn't have this notion of collective belonging. (...) And for me, the ideal of a European citizenship, it's... It's an ideal of course, and ideally, I would love us to have a global citizenship, because I feel as concerned by my own personal situation as I am about that of people living in Afghanistan, China, or Latin America. But at least the European Union is a project that does exist, and in that project, I feel that it is as important to defend French citizens, as it is to defend Polish citizens, and Polish women or Polish transgender people for example. We must make sure that Europe is as protective as it can be for these people, through the development of shared rules, fundamental rights, and rule of law. And so, for all these reasons, despite my criticism on some aspects of the European Union—I feel that it is really not federal enough for example—it still is a space and a level of action that makes a lot of sense to me."

(Gwendoline Delbos-Corfield, personal communication, 06/04/2020)

In this extract, Delbos-Corfield developed an enthusiastic though critical vision of Europe, which she portrayed as a concrete first step toward global solidarity and as a space that "makes a lot of sense" to her. She also built upon an ideal of post-national identity, underlining her absence of chauvinism and her identification with the plight of all human beings worldwide. Under this paradigm, LGBTI asylum came to symbolize the Greens' alternative project, as visible later in the interview. When asked whether it was a good thing to make LGBTI protection explicit in European asylum legislation, she answered:

> "We've always been wary of asylum laws that exist only for ideal people, families with one or two kids, well-behaved and well-educated, etc. It's always easier to welcome those

people rather than others. So, we are very worried about possible discriminations against gay or trans people in reception centers or in asylum procedures. And, of course, there is a right to asylum for people who are persecuted in their country because of that. Was it a good idea to make it explicit in European asylum law? I think that for the moment, yes, it's a good thing. Because every time you pass something under silence, you create space for the ideas of opponents."

(Gwendoline Delbos-Corfield, personal communication, 06/04/2020)

LGBTI asylum, in this context, therefore, came to symbolize the Greens' vision for an inclusive European future, a vision that must be defended at all costs against competing conservative visions of Europe—hence the necessity to make it explicit, and to avoid letting space to possible opponents. When connecting these two extracts, it appears clearly that what is aimed at is no less than the redefinition of the European project. However, it is important to underline that for her, this drastic change should not come at the cost of the disruption of existing European structures. What is aimed at is the progressive though radical transformation of what already exists, not its destruction. Most importantly, her vision of Europe relied on hope for the future, and on the conviction that it is necessary to act here and now while staying committed to long-term objectives. This is illustrated when she argued that it is a good thing that LGBTI asylum is made explicit "for the moment".

While LGBTI asylum came to symbolize the post-national European utopia of the Greens, Social-Democrats were more prudent in their stances. In interviews, they tended to portray the European Union not as a project aiming at the disappearance of states, but rather as a tool to unite them and overcome conflict. This was illustrated in the contribution of Lisa[43], a Social-Democrat assistant, who worked on asylum files. When asked about the most relevant scale of action for migration, she answered:

"I would say that the European level is the most relevant level of action for migration policymaking. Because that is where it is the simplest to coordinate efforts and to make sure that we all work altogether, because if we all do our own little thing on our side, change will not happen (…). Of course, I'm not saying that… I don't think that the EU really excelled in terms of responsibility-sharing and solidarity lately, but I have not given up hope."

(Lisa, personal communication, 20/03/2020)

Although this extract illustrates, again, the presence of an alternative and solidarity-based project for Europe ("I have not given up hope"), it sharply contrasts with the contribution of the Green deputy quoted earlier. Solidarity, here, is to be built across states, and not beyond them. In a similar way, interviews with Social-Democrats showed a lesser emotional relationship to the issue of LGBTI asylum. In interviews, they framed the granting of the refugee status to

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[43] At her request, Lisa has been anonymized.

persecuted LGBTI people as a question of justice—and not necessarily as a symbol of alternative European futures.

The discourses on asylum of Greens and Social-Democrat parties are thus different, but this difference should not be reified too quickly. These representations indeed largely circulated in the European hemicycle, as Greens and Social-Democrats, but also liberals and the radical left, all supported the work of 2011–2013 and 2016 rapporteurs in the name of their groups, applauding the strengthening of LGBTI protection. Beyond that, it is also essential to underline that these discourses did share some core components. Indeed, in their framing of LGBTI asylum, both Greens and Social-Democrats played on the representation of the European Parliament as a constructive institution rooted in ideals of democracy, compromise, and goodwill (De Angelis 2011; Gfeller 2014; Wassenberg and Schirmann 2018). In the words of Lisa, the Social-Democrat assistant quoted earlier on:

> *"With M. and B. [names of deputies], it will really be difficult to find compromises, because there are many things we will not agree on. Even just getting them to accept a compromise will be difficult, even though compromises are the very foundations of European negotiations. The principle of the European Union is not to force your way through, it is about negotiations, compromises; this can be called into question, and you may not always agree, but this is how it works."*

(Lisa, personal communication, 20/03/2020)

This quote exemplifies the way goodwill and constructive debate is understood as inherent to the European Parliament for many European deputies. It also shows how this ideal of democracy and constructiveness works to distinguish between adversaries, in Mouffe's sense (2010), and enemies; this latter category being constituted, for European deputies, by those who refuse to play by European rules of debate. This distinction is not specific to the left. For D., a deputy from the mainstream right who participated into asylum debates:

> *"In the European Parliament, we may have different views on politics and topics, especially on asylum and migration. The Social-Democrats have a particular view, the Greens have another, but we need to work closely on it. And that's a major distinction with the two other groups on the right side. They have ideas which are... What should I say. It's not that... They're not very constructive. One thing is to have this very emotional debate about political issues, but at least most of the groups of the European Parliament try to find solutions, try to find compromises on topics; and then especially one group does not even come to the working sessions."*

(D., personal communication, 30/03/2020)

These two quotes are clear illustrations of the importance of discourses of compromise and constructiveness in the self-representation of the European Parliament by its deputies. These ideals of constructiveness were directly utilized in relation to LGBTI asylum by Sophie in't

Veld, liberal deputy (ALDE) and rapporteur for a file of the 2016 reform of the Common European Asylum System. In a public meeting on the reform organized jointly by the LGBTI Intergroup, the Anti-Racism and Diversity Intergroup, and ILGA-Europe, she argued:

> "We'll have internal battles in the European Parliament, but we will agree on a package in the end. We will. I am confident because we always do, and I see people involved in the reports are all very dedicated and committed. But you know, we are going to run into a war with national governments (…). The real problem here is that 28 national governments find it easier to agree with Erdogan or the Libyan government, whatever that might be, than to agree among themselves. And we know that some of these governments are as bad on LGBTI rights than Erdogan or any other government. That's the battle we have to fight."

(Sophie in't Veld, 12/04/2016, online)

In this extract, in't Veld framed the European Parliament as a defender of LGBTI rights, contrasting with national governments. She, again, relied on ideals of compromise and goodwill to emphasize the role of the European Parliament in producing humane, LGBTI-friendly texts. In a similar way, references to the ethical duty of the European Union to protect the most vulnerable were common in the 2016 debates analyzed. This duty was often framed as a question of European dignity, and of respect for the very moral foundations upon which the European project was built. Combined to the political fiction of human rights as intrinsic to the European project and to discourses on the protection of "minorities" as part of European principles since the 1990s, these narratives of constructiveness and goodwill worked as powerful tools to justify the protection of sexual and gender minorities (de Burca 1996; Smismans 2010; Butterfield 2013; Eigenmann 2021).

By referring to these shared beliefs of human rights and compromise in relationship to LGBTI asylum, thus, left-wing groups and LGBTI activists managed to make this protection a discourse that could not be opposed by any deputy who desired to be perceived as a political adversary *within* the European Parliament and not as an enemy *of* Europe. The discourses of human rights, democracy, and compromise developed by progressive actors, precisely because they were mobilized well-accepted foundational myths of European identity, were difficult to oppose for other parties. Tellingly so, in interviews, even deputies who were ambivalent about the making of lists of protected characteristics in asylum legislation were careful to assert that, of course, it was not because they were opposed to the protection of LGBTI asylum seekers, but because they were uncomfortable with lists. Thus, similarly to what has happened in many Western European countries, the moral foil embodied by homosexuality not so long ago has been replaced, at the European Parliament, by the unacceptability of homophobia (Fassin 2003; 2006). The protection of LGBTI people has been integrated into discourses about "European

values" far beyond the initial alternative futures of the Greens and Social-Democrats. This explains the apparent absence of disagreement on LGBTI asylum that can be observed when first approaching the European debate.

1.2. Norm diffusion, norm contestation(s): vulnerability as a catch-all concept

Two analytical pitfalls must nonetheless be avoided when analyzing the inclusion of LGBTI asylum into discourses on European values. The first is that of an enthusiastic account that takes for granted such public discourses and considers LGBTI asylum as indeed consensual. Conversely, the second is that of the interpretation of debates as opposing, in a binary way, gay-friendly deputies in favor of LGBTI asylum, to homophobic actors opposed to such protection. Seeking to recontextualize and examine both mechanisms of support and of opposition, this section shows that most deputies have indeed accepted as a discursive premise the positive association established by left-wing parties between the European Union human rights legacy and LGBTI asylum. However, below the discursive level, political cleavages remain. The presence of these cleavages entails that the protection of LGBTI asylum seekers, despite being seemingly unopposed by deputies, has in fact been achieved *via* concepts that dilute it.

To some extent, LGBTI asylum, because of the way it has been framed by progressive actors, could very well be portrayed as an emerging European "norm" at the European Parliament. Finnemore and Sikkink (1998) define norms as a prescriptive behavior based on ideals of good. For a norm to emerge, norm entrepreneurs are central, but their action cannot account entirely for norm legitimization. Still according to Finnemore and Sikkink, the life cycle of norms can be divided into three main moments. The first is its emergence, then its cascading, which is usually preceded by a "tipping point" that represents the moment where a critical mass of actors decide to abide by the said norm. The last stage is that of norm diffusion. The emergence and initial stages of cascading of this new norm on LGBTI protection has been documented in the previous chapters of this dissertation; but it should be underlined here that cascading is not an ineluctable phenomenon. It is, on the contrary, an unstable period, because it can result in norm contestation. The notion of norm contestation designates the formulation of alternative demands by some actors (Zimmermann, Deitelhoff, and Lesch 2017). These actors may resist the proposed change ("validity contestation"), in which case they might be designated as norm antipreneurs. More often though, they develop a critique of the form taken by the norm ("applicatory contestation") or argue for a slightly different norm, thus adopting roles of creative resisters, or competitor entrepreneurs (Bloomfield 2016; Saltnes and Thiel 2021b).

For norm entrepreneurs, antipreneurs, creative resisters, and competitor entrepreneurs to emerge, though, broader underlying cleavages must underpin the debate, which otherwise will be no more than an *ad hoc* contextual conflict (Zürn and de Wilde 2016). In the case of the Common European Asylum System, three major political cleavages lie under the apparent consensus documented above. These are, namely, the opposition between security-oriented and protection-oriented framings of asylum, the cleavage between pro- and anti-European integration, and, in the specific case of LGBTI asylum, the division of deputies over universalist and group-specific approaches to protection. Although the opposition between security-oriented and protection-oriented framings has an enormous impact on LGBTI claimants (Witschel 2016; Atak 2018), interestingly, this cleavage was little mobilized in relation to LGBTI asylum at the European Parliament. The first cleavage that predominated in European Parliament debates rather was the pro/anti-integration cleavage, distinguishing moderate from radical parties. The second cleavage was that between universalist and group-specific protection, which roughly followed a left/right divide, though it also made some intra-group fractures appear within the radical left and the mainstream right.

The following table summarizes the position of deputies interviewed during fieldwork. Although the number of interviews is relatively small, hence a low degree of generalizability, individual discourses were consistent on an intra-party level, thus providing a good basis for future research. Interviews were privileged over Parliamentary debates, during which deputies often follow the party line, therefore artificially homogenizing their positions.

Party	Should asylum be granted on grounds of gender and sexuality?	Should this protection be explicit?	Example of arguments
GUE/NGL *(radical left)* **[5 interviews]**	Yes	Ambiguous	**For:** "[Explicit protection] is very much needed—and it is actually at the core of what 'protection' means. We want a Common European Asylum System that further develops the Geneva Convention to make of Europe a welcoming land for those fleeing for political, ideological, religious and sexual reasons, with particular attention to child asylum-seekers." (Sira Rego, 23/06/2020) **Pro-European integration, group-specific protection**
			Against: "Our goal is not defending minorities in relation to a majority, but rather to defend all living beings. We don't want lists, we don't want hierarchies, we are hierarchized enough that way!" (Anne-Sophie Pelletier, 05/05/2020). **Ambivalent on European integration, preferred universalist protection**
S&D *(socialists)* **[2 interviews]**	Yes	Yes	"Migration is negatively perceived in the Council, and LGBTI protection standards are downgraded in Member States, so it really is important to make this protection explicit in migration policies. It's also important for asylum

			seekers themselves, to have their persecution acknowledged. It doesn't mean that men do not suffer too, of course they do, but the Parliament takes the specific challenges of women and LGBTI people seriously" (Claude Moraes, 07/05/2020) **Pro-European integration, group-specific protection**
Greens *(ecologists)* **[2 interviews]**	Yes	Yes	"We've always been wary of asylum laws that exist only for ideal people (…). Was it a good idea to make LGBTI asylum explicit in European asylum law? I think that for the moment, yes, it's a good thing. Because every time you pass something under silence, you're creating space for the ideas of opponents." (Delbos-Corfield, 06/04/2020) **Pro-European integration, group-specific protection**
Renew *(liberals)* **[2 interviews]**	Yes	Yes	"At the Parliament, there was a clear majority for [the explicit mention of LGBTI asylum seekers]. Of course, we always have a few people who disagree on it, but I would say that in general, the majority of groups, most groups, are in favor of having these elements." (Leonhard den Hertog, 13/03/2020) **Pro-European integration, group-specific protection**
EPP *(right)* **[3 interviews]**	Yes	Ambiguous	**For**: "I think that when people, because of the fact that they are part of these groups, are in need of specific procedures and guarantees, or specific procedures, then I think it is very good to make that assessment as well. And to make that explicit." (Jeroen Lenaers, 23/03/2020) **Pro-European integration, group-specific protection**
			Against: "It's a thin line between taking into account people with special needs or vulnerabilities, and adding too much on a process in terms of administrative burden and consequences. (…) I'm more in favor of having the basic rule that applies for everyone who applies to asylum, who then includes everyone who is in special needs of." (D., 30/03/2020) **Pro-European integration, universalist protection**
ID *(radical right)* **[1 interview]**	No	No	"For me, specifying that some groups—women or children or homosexuals— are more deserving of the refugee status, it is problematic. Where are the refugee rights for the men who are refugees? I think it's part of the ideology of the EU; that we are taking care for some parts of the people, but at the same time, if you have special requirements for those groups, what about the others? (…) There are more attacks on Christians in Syria. But the priorities are on the homosexual side, or women, or children." (Jaak Madison, 19/03/2020) **Anti-European integration, universalist (if any) protection**

Figure 4. Position of interviewed deputies on LGBTI asylum, per political group

This table shows the normative success of moderate left-wing parties when it came to making LGBTI protection a European norm. Among interviewed deputies, the idea that these claimants should be protected was vastly unopposed, and "hard" forms of norm contestation (validity contestation) were restricted to radical right parties. The picture, however, became more complex when looking at the position of deputies on the explicit recognition of LGBTI asylum in European legislation. Here, creative resisters did emerge, both in the radical left and in the mainstream right. Radical left parties questioned both the idea that LGBTI asylum would be the expression of a form of naturalized European human rights legacy, and the list format currently taken by such protection. What came back in interviews with these deputies was the necessity to radically change (if not to disrupt) existing structures of European asylum law. This

disruption is needed in order to create more solidarity and respect for fundamental rights within the European Union. This was clear in the contribution of Malin Björk, radical left deputy (GUE/NGL) and rapporteur for the 2016 proposal for a Resettlement Directive:

> *"I think it is also important to remember that even before 2015, there had always been a willingness, from some forces, to close European borders, to build Fortress Europe. The issue of Fortress Europe is a long issue, even though it's not always been there. But I think it is crucial to see that at one point, in 2015, that if you wanted to break with Fortress Europe, you had to break with EU law, to break with the Dublin regulation. It was very interesting. And then it all changed and went in a different direction, above all with the agreement made with Turkey. I remember one day some people saying "let's never go back to 2015", and I was like, "well, yes, let's do that!"; because for a while Europe showed its capacity to achieve solidarity, and we had to break with EU frameworks in order to do that, some countries actually showed the right way to go forward, during a crisis like that."*

(Malin Björk, personal communication, 23/04/2020)

In this extract, Björk did not argue for a marginal change in European asylum policies, but rather for their critical disruption and subsequent reconstruction. For her, the positive association often made between European integration and human rights must be called into question and replaced by a more critical analysis of the role of Europe on fundamental rights ("if you wanted to break with Fortress Europe, you had to break with EU law"). In interviews, other radical left deputies questioned the ability of existing European structures to accommodate modern mobility, and some even called to rethink the 1951 Geneva Convention itself. However, it is crucial to underline that these deputies did not question the validity of LGBTI protection itself, even though they were not always favorable to the making of lists of vulnerable groups who could benefit from a treatment of favor. This reflects both their broader critique of the Common European Asylum System—many feared that this would result in a selective inclusion that disadvantages other asylum seekers—and the discomfort of some historical components of the radical left with the idea of non-universalist policies. Their criticism of lists was shared, for entirely different reasons, by some deputies from the mainstream right. These deputies often favored a universalist approach to protection. However, where radical left deputies built upon a critique of existing policies, deputies from the mainstream right rather argued that these policies would result in a disproportionate administrative burden for national authorities.

Hence, although, to the exception of the radical right, no political group opposed LGBTI asylum *per se,* this apparent consensus did hide deep disagreements. In this context, some specific "policy silences" helped deputies to avoid cracking the surface of consensus (Bacchi 2012; Nissen and Rolandsen Agustín 2018). The predominant form taken by these policy

silences was that of the notion of "vulnerable groups", and its close companion, "applicants with specific needs" (Jakuleviciene 2016). These two notions are extremely widespread in European asylum legislation. Most of the time, they take the form of non-exhaustive lists of potential characteristics and are therefore rather malleable. It is worth noting that officially, LGBTI people are not explicitly part of the European definition of "vulnerability" provided by the Reception Conditions and Qualification directives (2013/33/UE and 2011/95/UE). However, they are evoked in relation to their need for special guarantees in the Procedures Directive (2013/32/UE) and in interviews they were often considered by policymakers to be implicitly covered by the notion of vulnerability. The Fundamental Rights Agency also affirmed that LGBTI asylum seekers should be considered as part of "vulnerable groups".[44]

Because vulnerability and the need for special guarantees are characterized by their elusiveness, they allowed several understandings of the groups to be protected (and of the reasons why they need protection) to coexist. This was illustrated in the three following extracts from the debates on the 2016 Honeyball report. The first two extracts come from Social-Democrat deputies, while the third one comes from the speech of a mainstream right deputy:

Extract 1 (mainstream left):

"Hundreds of thousands of people cross the Mediterranean Sea and arrive in Europe, fleeing from wars and from fear. In this context, we should be aware that there is a part of this group that is particularly vulnerable: women refugees. Women and girls. (…) Women who have lost everything, who have lost their dignity, who have had to sell their body to pay the travel to their European dream, women who were raped, who are victims trafficked by the mafias"

(Iratxe García Pérez, in the name of the Social-Democrats, 08/03/2016)

Extract 2 (mainstream left):

"The European Union must grant special attention to LGBTI women refugees and asylum seekers, who may face increased persecution because of their sexual orientation. When confronted to the intolerable violence faced by these women and young girls, a specific approach is necessary to ensure their reception and their integration in Europe in dignified and human conditions. I regret that right-wing parties opposed this text, which is so crucial to shed light on a reality often silenced"

(Christine Revault D'Allonnes Bonnefoy, 08/03/2016)

Extract 3 (mainstream right):

"Madam President, the European Parliament has wished to dedicate this International Day of Women to the question of women refugees and asylum seekers, and to the numerous children that accompany them. Of course, in this hemicycle, no political group, no deputy – in fact, no human being – can remain insensitive to the distress (…) of women refugees and asylum seekers. Nonetheless, at the EPP group, we could not identify with every aspect

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[44] Link to the report: https://fra.europa.eu/en/publication/2017/current-migration-situation-eu-lesbian-gay-bisexual-transgender-and-intersex (last consulted 03/07/2022).

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of the Honeyball report, and we have thus drafted a proposal for a replacement resolution (…) We want to make concrete proposals that are truly centered on the needs of women, especially pregnant women, for example (…). We also want to state that our absolute priority is the fight against trafficking and sexual exploitation"

(Constance Le Grip, in the name of the EPP, 08/03/2016)

In these three quotes, vulnerability meant very different things. While the first deputy emphasized women's vulnerability to sexual violence and to sexist oppression, the second speaker referred explicitly to sexual orientation as a factor of vulnerability, while the last one framed vulnerability as an inherent female characteristic. This is consistent with the argument that "vulnerability" is a term that requires (or rather, enables) readers and locutors to "fill in the blanks" (Katz et al. 2020). In that context, it should perhaps not come as a surprise that mentions of vulnerability and special needs are omnipresent in the current asylum debate—in speeches, proposals, existing directives, etc. These notions, by avoiding strict definitions and sending back to the time of implementation the debate of who it covers and what type of protection should be provided, should probably be best understood as tools to hide—and not to solve— the ideological cleavages identified above.

This may explain why vulnerability was one of the master-frames for LGBTI asylum that interviewees from all political groups used when speaking with me during fieldwork research, despite the very fact that sexual orientation and gender identity are not part of the European definition of vulnerable groups. As a concept, it indeed allowed deputies to state their agreement on the protection of the most vulnerable without clearly stating who these vulnerable people were, therefore circumventing potential uncomfortable debates at the inter-group and intra-group level. Moreover, not only did it offer an approach to protection *à la carte,* where LGBTI claimants maybe considered as vulnerable in some Member States and not in others, but it also had the advantage of being compatible with both universal and group-specific approaches to protection, by promising "targeted protection" *within* universal policies (Thompson and Hoggett 1996; Brodiez-Dolino 2016). In sum, for all these reasons, vulnerability became a key tool in the inclusion of LGBTI asylum into representations of European values. This, however, came at the cost of the dilution of this protection, which depends on Member States' goodwill.

To summarize this first section, the demands of LGBTI organizations on asylum have found an important institutional relay at the European Parliament. Left-wing groups, and in particular the Greens and the Social Democrats, were key actors of the legitimization of this issue, both because of the role played by their rapporteurs in key files and because of their discursive and ideational influence in constructing LGBTI asylum as part of the European human rights legacy.

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It is thanks to these parties that, contrarily to what is happening at the national level in many Member States, LGBTI asylum appears as a relatively consensual issue at the European Parliament. This consensus, however, is in part an illusion. Deep-lying cleavages still inform the position of other parties, especially that of right-wing but also radical left groups. While moderate left-wing parties favor the explicit protection of LGBTI asylum seekers in legislation and consider it as a step toward alternative European futures, the mainstream right prefers above all increased intergovernmental cooperation and is ambivalent toward group-specific protection. Radical left groups, finally, question the premises upon which European asylum policies were founded. These three very distinct positions show that agonism—pluralistic debate based on positions that offer clear political alternatives—does exist at the European Parliament. However, it is largely circumvented through policy silences, allowing deputies to avoid staging their disagreement too openly. The following section shows that this muted agonism was drastically challenged by the emergence of unchanneled antagonistic positions at the European Parliament in the mid-2010s.

2. The radical right momentum and the sur-politicization of LGBTI issues in migration

Due to the presence of the radical right, researchers have increasingly questioned the idea that the European Union will keep being able to pass legislation as quietly as it has been done before. Schmidt (2019) herself, who once described Europe as "policy without politics", has recently argued that European policymaking is now politicizing. Yet, if some have worried about the impact that this politicization may have on the efficacy of European institutions (Niemann and Zaun 2018), this is not the case for Schmidt, who rather considers it as a proof that Europe, as a polity, has matured enough to abandon the comfort of depoliticization. Consequently, this section examines the effects that the rise of the radical right may have had on debates over LGBTI asylum. Has it changed the terms of debate? And if so, for what consequences?

To answer these questions, the first part of this section analyzes the position of radical right parties on LGBTI asylum, showing that the homonationalist stances that have been documented at the national level are distinctively less common in the European debate. Indeed, what predominates at the European level is the positioning of radical right parties as defenders of "true Europe"—one that is being threatened by both migrants and sexual minorities. By doing so, radical right deputies have contributed to the sur-politicization of LGBTI asylum, sur-politicization being understood here in the sense of Lascoumes's sense (2009, 460) of the

"amplification of partisan opposition on major symbolic stages that overpass the subject at stake". While this counter-narrative about Europe has been largely unsuccessful in convincing other parties, the second sub-section shows that it has contributed to a renewed support for LGBTI asylum at the European Parliament. This support, however, has occurred at the cost of antagonistic politics, therefore raising a certain number of questions with regards to democratic pluralism in Europe.

2.1. Radical right parties: between principled opposition and the hijacking of "European values"

European radical right parties are generally considered at best as unwilling to play by traditional political rules, at worse as a core threat to democracy (Wodak 2019). This suspicion is not unrelated to recent European history, and to what is still perceived by many as a slippery slope between radical right ideology, Nazism, or fascism (Prowe 1997). At the European Parliament, this general distrust is reinforced by the Euroscepticism of these parties, which makes them troublesome actors during negotiations (Brack 2012; Massetti 2021). More recently, though, authors have argued that some radical right parties have reframed their identities into progressive terms, using the language of civic rights and instrumentalizing equality to oppose migration (Halikiopoulou, Mock, and Vasilopoulou 2013; Dudink 2017).

This dynamic, often described as "homonationalism" (Puar 2007), has been documented in relationship to LGBTI asylum in national debates (Giametta 2017; Raboin 2017). For researchers working with this theoretical framework, both radical and moderate parties have been instrumentalizing gender equality and sexual rights in order to define an "us", enlightened Europeans, in opposition to a "them", Muslim, migrant, and fundamentally backward. As explained in the literature review of this dissertation, this has been the predominant framework in LGBTI asylum studies in the past decade. Yet, fieldwork research has shown that this instrumentalization seems to be much less present at the European level. This observation is consistent with Tekin (2019), who, in the only study focused on homonationalism in the European Parliament so far, has shown that radical right parties, during debates on terrorism, framed *both* sexual minorities and migrants as dangerous to European civilization. Tekin's analysis, however, stopped at the observation of parallel discourses against migrants and sexual minorities. The ambition of this chapter, by contrast, is to analyze how these parties have articulated homosexuality and migration in their discourses, thus constructing LGBTI asylum

as a threat to European peoples organized by European Union "despotic" élites. This is crucial to fully comprehend why the opposition of the radical right to LGBTI asylum operated as a form of sur-politicization of the debate; because what was at stake was not the mere refusal of some policies, but the symbolic staging of radically opposed visions of Europe.

It is important, when looking at the discourses of radical right parties, to operate a clear distinction between "Europe" and "the European Union". During debates on the 2016 Honeyball report but also in interviews, radical right deputies did not seek to untie the nexus between the European Union and LGBTI asylum that had been constructed by left-wing progressive actors. They rather remobilized this association to articulate their opposition to the European Union under its current form. Simultaneously, they called for the restoration of past European civilizational grandeur. Consequently, when radical right deputies explicitly mentioned LGBTI asylum during the 2016 Honeyball report debates, they portrayed it as a proof of the noxious and despotic influence of the European Union. This dynamic is visible in the following extract from the speech of Mireille d'Ornano, representing the radical right group Europe of Nations and Freedom (the predecessor of the current Identity and Democracy group). She addressed the rapporteur, asking:

> "Where did you hear that women are seeking asylum as LGBTI victims? Where did you hear that this communitarian labelling makes sense, except in some big bourgeois cities of Western Europe? By suggesting opening up the grounds for asylum to such vague and inappropriate concepts, you are putting us on the track of an ever-more massive immigration. How do you intend to prove whether someone is persecuted because of his or her so-called intersex gender? What elements will be required for that? As a European woman, I am saddened by your pernicious instrumentalization of women's rights for the purposes of your moral dictature!"

> (Mireille d'Ornano, in the name of the ENF, oral intervention, 08/03/2016).

D'Ornano's speech is somewhat typical of the radical right's vision of the European Union. There is, on one hand, the idea that the European Union is a factor of corrosion of morality through the imposition of supra-national values that do not respect specific national traditions, or that minimize the Christian heritage of Europe (Riva 2008; Leconte 2008b). "Big bourgeois cities" are opposed to the morally purer rural Europe. This narrative associates European integration to LGBTI rights; an association which, it must be said, is made both by actors favorable to LGBTI rights (Ayoub and Paternotte 2015) and by those opposed to them (Foxall 2017; Baker 2017; Korolczuk and Graff 2018). Therefore, LGBTI protection came to symbolize the European "moral dictature". Moreover, by using, in a plenary, a voluntarily provocative rhetoric that opposed the "good people" to the "European élites", d'Ornano relied on discursive and strategic strategies that are typical of the radical right (Brack 2013). It must be noted,

though, that not all interventions were as provocative as hers. One of the most striking oppositions to LGBTI asylum was the one deployed by the Italian deputy Gianluca Buonanno (European of Nations and Freedom, radical right):

> "I voted against. According to this report, the rise of extremism and extreme-right populism in Europe is what makes women refugees and asylum seekers more vulnerable to racist abuse, discrimination, and violence. The Member States will be forced to promote safe and welcoming spaces for asylum seekers and to combat all forms of discrimination. On refugees, the Commission will have to guarantee changes that take into account the situation of women, LGBTI people, and other vulnerable groups, providing them with special guarantees. The Commission and the Member States will have to guarantee the full access to healthcare and to sexual and reproductive rights, including safe access to abortion, and will have to dedicate resources to that. Women asylum seekers' and refugees' voices will have to be listened to and LGBTI people will have to get more attention. In sum, there is no further need to explain why it is necessary to strongly vote against this report."

<div align="right">(Gianluca Buonanno, written explanation, 08/03/2016)</div>

This intervention is remarkable for its accurate portrayal of the content of the 2016 Honeyball report. The deputy merely stated what this report provided for, using terms that could even be seen as hard to oppose (who would oppose the provision of safe and welcoming spaces?), simply to conclude that this was unacceptable to him. The unemotional and un-ideological tone he employed made his opposition perhaps even more striking than the one of d'Ornano. In this intervention, LGBTI protection, fighting discrimination, putting into place safe reception structures, and guaranteeing access to healthcare, were all opposed *per se*.

Nevertheless, whether they were strident or quiet, these interventions all were the occasion for deputies to deploy specific "crises imaginaries" (Krzyżanowski 2019; 2020). Krzyżanowski defines crises imaginaries as narratives that "carry visions of social, political or economic order by arguing for its alleged 'crisis', which specific function is to bring an alarmist tone to descriptions of the 'present' social reality and its apparently critical state". He further explained: "crisis imaginaries hence often cease to serve as actual descriptions of the 'real' (…). Their aim is to formulate visions of the future which, as such, may never come to fruition yet effectively yield a significant degree of legitimacy to current actions of (powerful) actors essentially geared towards controlling the present" (Krzyżanowski 2020, 506). This concept provides a grid of analysis with which to look at what often merely looks like bizarre conspiracy theories. Radical right parties, of course, sometimes rely on conspiracy theories. However, these theories should not be understood simply as strange beliefs, but rather and perhaps above all as rhetoric and ideational tools that help them sur-politicizing and issue and pushing forward specific visions of the European project—of what it should be, and of what it is instead becoming.

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The two main crises imaginaries that were mobilized by radical right deputies in relationship to LGBTI asylum were that of the invasion/islamization of Europe (Liogier 2016; Moffitt 2017), and that of the homosexualization of traditional European populations (Kuhar and Zobec 2017). These narratives were visible in the extract from d'Ornano's intervention quoted above. In this extract, she described LGBTI asylum as part of a European moral dictatorship that simultaneously opened the door to mass immigration. Other deputies also mobilized the argument that recognizing LGBTI asylum seekers would draw in more migrants always asking for more rights. The explanation of vote of Petr Mach, Czech deputy from the radical right group Europe of Freedom and Direct Democracy, is an ideal-type of this articulation:

> "I voted against. I disagree with the idea that special attention should be granted to sexual minorities during asylum procedures. This will only lead asylum seekers to go see sexual minorities to improve their asylum chances"[45]

(Petr Mach, written explanation of vote, 08/03/2016).

In this quote, Mach expressed his fear of the alliance of foreigners and sexual minorities. His argument resonated with historical depictions of sexual and gender minorities as traitors to their nation and as potential collaborators with foreign enemies (Smith 1994; Raissiguier 2010). These two existential threats developed by radical right parties—the islamization of Europe and the homosexualization of families—may appear little related at first sight. In fact, nothing is less certain than the idea that the imposition of Islamic law in Europe will result in a surge of homosexuality. However, both threats are sustained by similar discursive mechanisms. In particular, they are framed as a form of neo-colonization of Europe orchestrated by depraved elites (Uenal 2016; Korolczuk and Graff 2018). In these discourses, the idea that homosexual migrants could exist is simply unthinkable. For d'Ornano, these people do not exist outside Paris, Berlin, Brussels, Amsterdam, or London. For Mach, asylum seekers are necessarily fraudulent, and European sexual minorities are potential traitors who will choose to help foreigners over their nation. European elites are depicted as facilitating this collusion through the insertion of LGBTI-specific clauses in the Common European Asylum System. Therefore, debates over LGBTI asylum operated as an ideal vehicle for radical right crisis imaginaries.

The vilification of the European Union came hand in hand with the self-representation of the radical right as the "true defenders" of Europe and of the nation (Schneiker 2019; Bergmann 2020; Pytlas 2021). In this vision, Europe was still not understood as a political community, but rather as a cultural and civilizational unit, therefore echoing theories of "clash of civilizations"

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[45] Please note that this is an approximate translation, as I do not speak Czech. I could translate Italian, Spanish, and French deputies by myself, but I had to rely on an automatic translator for this quote.

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(Huntington 1993). This civilizational argument is of course, largely rooted in religion. Radical right deputies were numerous to deplore that the 2016 Honeyball report emphasized the protection of LGBTI people but not that of Christian minorities. However, there is more to this argument than the mere reference to European "Judeo-Christian roots". In 2016 debates as in press releases and interviews, radical right deputies also mobilized elements often associated to the ideal of European modernity, such as democracy, human rights, diversity, non-discrimination, and individual freedoms. As an example, in his interview, Jaak Madison, Estonian radical right deputy from the group Identity and Democracy and shadow rapporteur in the 2016 asylum law reform, explained to me that:

> *"The European Union is focusing on diversity and human rights, but they have tried to change the meaning of human rights. Human rights conventions are very clear, nowhere it's written that I, as a European citizen, have the right to go wherever I want and to apply for asylum. This is not a human right. And that means that it applies to Pakistan too, they do not have the right to come here and say "I am from Pakistan and I am a nice person so I have a human right to stay here and I want to be granted asylum". The ideological mindset has turned so much left in the EU that now they have tried to change the meanings of human rights compared to what you can find in the conventions on human rights. And that is also true for diversity. Diversity is supposed to be that we have these different backgrounds, histories, languages, cultures, and that's a richness for the EU to have this kind of things, but we will not have this same enrichment with the current migration policies."*

When asked to elaborate on the protection of "vulnerable groups", he further explained:

> *"The Refugee Convention from the United Nations says that every refugee has the right to asylum. So, for me, specifying that some groups—women, or children, or homosexuals—are more deserving of the refugee status, it is problematic. Where are the refugee rights for the men who are refugees? I think it's part of the ideology of the European Union; that we are taking care for some parts of the people, but at the same time, if you have special requirements for those groups, what about the others? (...) Lately, we had a minister from another party who said at a press conference that if we take refugees, we would prefer to take Christian minorities from Syria. And then the Commission said 'no, you can't do that, it's discrimination, you're discriminating Muslims if you take only the Christians, so you have to take Muslims, because there are Muslims.' (...) That's a double standard in EU policies. We're talking about diversity and equality and about the same rights, minority groups, ok; but if you're talking about religious minorities, then it's all disappearing. It is considered discriminating. Why? There are more attacks on Christians in Syria. But the priorities are on the homosexual side, or women, or children."*

<div align="right">(Jaak Madison, personal communication, 19/03/2020).</div>

Madison's discourse was not unique. In the 2016 Honeyball report debates, radical right deputies argued that the report was discriminating against boys because it favored women and discriminating against Christians because it mentioned sexual minorities but not religious minorities. In Madison's quote as in 2016 interventions, radical right deputies thus tried to re-signify "European values". They shifted the meaning of elements that are usually associated

with European modernity (diversity, human rights, etc) and portrayed them as a traditional European legacy that must be protected both from despotic[46] European elites and from unacultured Muslim migrants. This was visible in Madison's paradoxical defense of the 1951 Geneva Convention and of human rights convention in general, which he used to oppose LGBTI asylum. In this specific context, democracy lost its meaning as an ideal of participation and representation to become the incarnation of the active resistance of European peoples to technocratic elites. Human rights, on their side, became the rights of European populations to live among themselves, and diversity was framed as intra-European cultural diversity, losing its association with multiculturalism and sexual minorities (see Kesa 2021 for an analysis of Madison's party position on national minorities). Anti-discrimination was associated with the protection of Christianity which was depicted—in a trope already developed by Viktor Orban[47] —as facing extinction because of Islam and sexual minorities. Finally, individual freedoms referred to the abandon of prosecutions against hate speech.

The mechanism of re-signification of "European values" deployed by radical right deputies is at the same time a paradoxical recognition of these values, and a tool that allowed them to mainstream their discourse without necessarily de-radicalizing it (Akkerman, de Lange, and Rooduijn 2016; Pytlas 2021). In this context, their self-portrayal as enlightened defenders did not rely on homonationalism, quite the opposite: preventing sexual minorities from hijacking the "true meaning" of Europe was framed as part of their civilizational duty. Their position on Europe is therefore that of its "purification" through a return to the imagined roots of European civilization (Lucardie 2000). They re-signified the very same values used by the Greens and the Social-Democrats to articulate the protection of LGBTI claimants in order to oppose them and to build an idea of closed, autocratic Europe. This alternative vision of Europe is not grounded in the recognition of the necessity of pluralism, but rather in its closure. What these deputies argue for, in the end, is more of the same—more cultural, political, racial homogeneity. They thus tend toward antagonism rather than agonism. Of course, Mouffe underlines that antagonism is an inescapable dimension of politics, but she also argues in favor of its channeling into constructive conflict (Tambakaki 2014). However, this is the exact opposite of what radical

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[46] Recently, Madison's group published a petition against the New Migration Pact, stating: "With this Migration Pact, the undemocratic, technocratic elites in Brussels will implement the principles announced in the undemocratic Marrakech Pact/UN´s Global Compact on Migration (…) The Pact prevents member states from pursuing more restrictive immigration policies and aims to submit the peoples of the European nations and their governments to the despotism of the European Commission." Source: https://www.saveurope.eu/petition. Last consulted 15/09/2021.

[47] https://hungarytoday.hu/orban-christianity-europe-persecuted/. Last consulted 15/09/2021.

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right deputies have tried to do at the European Parliament when debating LGBTI asylum, as what they sought was the ontological elimination of this issue, not its debating.

2.2. Unexpected effects: agonistic politics, the radical left, and the increased support for LGBTI refugees

The question of whether this re-signification of "European values" may influence the debate over LGBTI asylum beyond radical right spheres, however, remains open. Recent research has underlined three main mechanisms of influence of the radical right upon European debates. The first is contagion. By fear of losing electoral support, more mainstream parties may tighten their position on migration or moral issues, thus resulting in a reframing of the premises of the debate (van Spanje 2010; Alonso and Fonseca 2012; Yılmaz 2012). The second is fragmentation. The introduction of new arguments by the radical right or would result in the division of political actors, both at the party and at the coalition level (Berti 2021). Finally, the third and last mechanism is polarization. As they try to emphasize their opposition to the radical right, other parties would strengthen their own position, resulting in the emergence of clear-cut, separate "blocs" (Meyer and Rosenberger 2015; Berti 2021). These mechanisms can all result in an increased politicization of the debate.

To evaluate whether these mechanisms were present in relation to LGBTI asylum in the post-2014 European Parliament, I compared two plenary debates, that of the 2016 Honeyball report, and that of the 2011 Qualification Directive. These debates differ on a number of levels: they were processed by different committees, and the 2016 debate generated more engagement, possibly because it was less technical in nature. Nonetheless, these files were selected because LGBTI rights were granted an important place therein. Moreover, they were interesting to compare because they were simultaneously close in time and separated by two major events: the consolidation of radical right parties, and the migration crisis. The following tables present the number of references to LGBTI rights in debates (oral interventions and written explanations), compared to the number of interventions per party. Rapporteurs were not included in the count because they act in part as institutional representatives (not simply as party members) and have more occasions to speak. These tables show that although the radical right has been relatively unsuccessful at contaminating and fragmenting other parties, they were very efficient in polarizing debates.

Political tendency	Number of interventions and written explanations	Number of positive references to LGBTI issues		Number of negative references to LGBTI issues	Ambiguous
		Unconditional support	Anti-immigration purposes		
GUE/NGL *(radical left)*	7	3			
S&D *(left)*	13	2			
Greens *(ecologists)*	2	1			
ALDE (now Renew) *(liberals)*	4	3			
EPP *(right)*	22	1			
ECR *(nationalist-conservative right))*	2				
EFDD *(radical right)*	5				
Non-affiliated radical right[48]	2			1	

Figure 5. Number of references to LGBTI issues during the 2011 debates on the recast Qualification Directive, per political group

Political tendency	Number of interventions and written explanations	Number of positive references to LGBTI issues		Number of negative references to LGBTI issues	Ambiguous
		Unconditional support	Anti-immigration purposes		
GUE/NGL *(radical left)*	30	9			
S&D *(left)*	84	2			
Greens *(ecologists)*	9	1			
ALDE (now Renew) *(liberals)*	25	3			

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[48] Note: the national party of every non-affiliated deputy who spoke was checked, and only those belonging to the radical right at the national level are counted here. Same for table 3.

EPP *(right)*	69				1
ECR *(nationalist-conservative right)*	24			8	
EFDD *(radical right)*	22		1	1	
ENF *(radical right)*	26			8	
Non-affiliated radical right	7			1	

Figure 6. Number of references to LGBTI issues during the 2016 debates on the Honeyball report, per political group

Comparing these two debates allows to show that opposition to LGBTI asylum increased within the radical right between 2011 and 2016. Consistently with what I have documented in the second chapter of this dissertation, in 2011, there was little opposition to LGBTI protection among European policymakers and politicians. The only deputy to oppose this protection was Bruno Gollnisch, a French radical right deputy. By contrast, in 2016, opposition was widespread among all radical right parties, including among more "moderate" nationalist politicians (such as the European Conservatives and Reformists). Therefore, and interestingly so, if the radical right has had any contagion effect at all, it is *on itself,* or on its own margins. Left-wing and liberal parties have not changed their position. The impact on the mainstream right is more difficult to evaluate. Positive references to LGBTI rights were absent in 2016 debates, but in 2011 this issue was evoked by only one deputy, so it is hard to draw conclusions based on that. Overall, the group seemed reluctant to take an official stance on LGBTI asylum. During 2016 debates, they proposed an alternative resolution in which the mention of LGBTI rights had disappeared, but when they presented their project, they above all emphasized their opposition to abortion and did not mention LGBTI issues as a point of contention. This testifies to their preference, as a group, for LGBTI recognition not to be mentioned. However, while in interviews, left-wing interviewees underlined the conservative position of right-wing deputies and their radicalization, they interestingly did not necessarily describe them as "hard opponents". They kept this label to describe the radical right. Consequently, while we can see clearly here that the mainstream right is uncomfortable with LGBTI recognition, it is hard to say whether their opposition constitutes a new trend. What they prefer is to avoid mentioning this debate altogether—probably as a mean of differentiation with the radical right.

In terms of possible party fragmentation induced by radical right arguments, these two tables show that party positions are rather cohesive. The main exception is the radical right Europe of Freedom and Direct Democracy group, which is known to be a composite (and hence volatile) structure. This apparent cohesiveness was nuanced when analyzing interviews. Indeed, during our discussions, a mainstream right (EPP) deputy acknowledged the presence of divisions on LGBTI rights within her party. Similarly, and quite unexpectedly so, a Social-Democrat assistant also reported that her party recently had to discipline deputies during votes on LGBTI rights, and she clearly related that to the influence and negative context created by the radical right. Nevertheless, mainstream parties still tend to present a cohesive face in public, by avoiding the debate altogether for the mainstream right, and by positioning themselves strongly in favor of LGBTI asylum for Social-Democrats. Among liberal, Green, and radical left parties, both interviews and public positions showed a strong cohesion in favor of LGBTI protection, although, as explained earlier on, disagreements existed on the form this protection should take.

Overall, thus, the polarization of debates appears to be the main success of the radical right. These two tables show that in 2016 debates, the European Parliament was divided into diametrically opposed blocs: those referring to LGBTI issues positively (from the radical left to the liberals), and those rejecting them (the radical right). This division contrasts with the 2011 debates, during which the Parliament was little divided. What further appears in 2016 debates is the increased interest of radical parties (left and right) for LGBTI asylum. While during 2011 debates the number of references to LGBTI asylum by the radical left was equivalent to that of liberals and Social-Democrats[49], in 2016, debates were numerically dominated by the radical left on the positive side (9 references out of 30 party interventions), and by the radical right on the negative side (18 references out of 79 interventions).

Is this polarization and sur-politicization of the European Parliament a negative phenomenon for the protection of LGBTI asylum seekers in the future? My argument is that, in fact, it is probably the opposite. By taking LGBTI asylum out of the fiction of consensus and into the realm of politics, radical parties have shed light on this issue, making it an autonomous and legitimate component of the European debate. Other parties have been forced to abandon the *telos* of consensus. This position is probably more demanding—and sometimes challenging— than the illusion of consensus, but it is also the condition of pluralist democratic debate. Radical

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[49] In fact, if we compare the number of positive references to the number of interventions *per* group, liberals and Greens were more proactive than the radical left (with respectively 3 references out of 4 interventions and 1 reference out of 2 interventions, compared to 3 references out of 7 interventions). Nonetheless, the low number of total interventions makes this indicator untrustworthy.

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left parties, in particular, have been pushed to state more clearly their position. This is especially true because the radical left, recently, has increasingly sought to embody a clear alternative to both the threat of the radical right and to the technocratic governance of borders. Portraying the radical right as an imminent existential threat eased their self-depiction as the "natural opponents" of these parties, and as the only viable political force contesting their widespread influence (for a similar analysis on civil society organizations, see Cullen 2020). This argument is best illustrated by the following extract from the interview of Sira Rego, shadow rapporteur for the Procedures Directive. She argued:

> *"[2019 elections were] a great opportunity for the left to slow down the far-right dangerous rise. However, they were supported—and benefited from—far-right policies that traditional conservative parties have been putting in place during the last years. These far-right parties made Von der Leyen President of the European Commission with their votes. Consequently, what we can expect is a development of the Fortress Europe policies that will put the focus on militarisation of the border control and massive deportations. However, we will not allow it. It is our duty not only as the left, but also as democratic citizens."*

> (Sira Rego, GUE/NGL group, personal communication, 23/06/2020)

Developing a similar narrative, Anne-Sophie Pelletier, shadow rapporteur on the Return Directive, explained:

> *"I think [radical right deputies] have a non-neglectable impact on European politics (...) [during the audition of Carola Rackete] she was insulted by some deputies, who called her a 'criminal', etc. It was an Italian from Fratelli d'Italia who was the harsher with her, along with Polish deputies. (...) Of course, we always oppose them, but it doesn't change much. Other deputies hear what they are saying too. We do our job as humanist people and as people who disagree with their ideas, their ways of doing, their lack of respect, but... then what matters are votes. But in votes, we don't have the majority."*

> (Anne-Sophie Pelletier, GUE/NGL group, personal communication, 05/05/2020)

In both extracts, radical right parties are depicted as irremediably incompatible with the values of the radical left, which the deputies framed as their legitimate ideological opponent ("it is our duty as the left", "we do our job as humanist people, people who disagree with their ideas, ways of doing, lack of respect"). But, beyond their opposition to the radical right, these radical left deputies also developed a strong critique of current European asylum practices. This was something that also appeared in Malin Björk's earlier contribution, when she argued that "to break with Fortress Europe, you had to break with EU law". By doing so, these deputies thus contributed to the reinvigorating of political conflict and to making visible clear political alternatives at the European Parliament.

The way debate is fundamental to the creation of clear alternatives and new solidarities was, in fact, something that appeared in interviews. For example, Juliette Sanchez-Lambert, ex-

General Secretary of the LGBTI Intergroup of the European Parliament, evoked the question of the impact of the radical right on the European debate, especially in relation to the growing presence of such groups throughout European Parliament cooperation structures. The salvatory aspect of breaching the surface of the consensus and of having (uncomfortable) conversations appeared clearly in her contribution, as she explained:

> *"Intersectionality is not easy, and it is a question that the Anti-Racism and Diversity Intergroup is also facing. Can you have members of the ARDI Intergroup who are anti-LGBTI? This is a real question, and it is going to become more and more important. Same goes for women's rights organizations who are increasingly opposing LGBTI organizations on LGBTI rights. When creating bonds of solidarity, who do we exclude? Can you just say, 'ok, you're too conservative, so I won't talk with you'?, or should we do this work of talking and debating together? But at the same time, can you debate with people who say that if you are LGBTI and white then that's great, but if you are an asylum seeker, or a racialized person, that's not? This is complex; and it is a conversation that is starting to emerge."*
>
> (Juliette Sanchez-Lambert, personal communication, 08/05/2020)

What appears in this extract is both the challenge constituted by honest, open-ended debates on what a desirable as a political horizon is; but also, the crucial importance of having such debates. What is the articulation of racism to LGBTIphobias? Of sexism to transphobia? This is, of course, reminding of the very debates that were circumvented in earlier debates (Chapter 2). It is thus interesting to see them re-emerging there because of the presence of the radical right. These uncomfortable conversations are crucial to overcome the illusion of consensus on LGBTI asylum, and to enable the development of stronger and better-informed alliances—alliances that are not found in the avoidance of disagreement, but rather in its constructive confrontation (bell hooks 1995). It is also what may allow to revitalize left-wing politics at the European Parliament after decades of governance based on broad left-right coalitions.

Before concluding on this section, it is important, however, to underline the main risk of an agonism that emerges out of the impossibility to channel antagonistic politics—such revival of antagonistic politics being symbolized by the growing presence, at the European Parliament, of radical right parties refusing pluralism. This main risk, indeed, is that this agonism to the cost of increased antagonistic politics may result into a simplification of debates (Anders 2021). This is already what has partially happened, as radical left parties have been unable, during debates, to build on the careful critique of the "list" format taken by LGBTI protection and of the differentiation between "vulnerable" and "non-vulnerable" groups that they had developed in interviews. In a similar way, the universalist vs. group-specific cleavage documented earlier has become largely flattened by these dynamics of opposition.

To sum up, if LGBTI asylum has become increasingly politicized at the European level, it is important to underline that this politicization that did not come from the mainstream, but rather from the margins of the hemicycle—radical parties, right and left. In the end, it is not only LGBTI asylum, but also European integration and European migration policies that are becoming a subject of more intense debate with clear emerging alternatives. My point is not to say that these alternatives did not exist prior to 2014—the first section of this chapter has shown the presence of underlying political cleavages at the European Parliament—but rather to note how they have been rendered clearer by the presence of the radical right, which has operated as a factor of disruption of preexisting narratives of consensus. In the end, what radical right deputies have achieved is, paradoxically, the reinforcement of the support for LGBTI asylum within the European Parliament. Though the European Union has much to gain from acknowledging that consensus is not always achievable nor desirable—for the political positions of the right and the left constitute irreconcilable projects—the main risk of this politicization "by and from the margins" is, perhaps, that of the simplification of (op)positions.

3. Toward a reconfiguration of the nexus asylum – LGBTI equality – Europe?

So far in this chapter, I have shown that the historical negotiation dynamics of LGBTI asylum at the European Parliament were relatively stable, and their outcomes predictable. Because moderate left-wing groups had framed the protection of LGBTI claimants in terms that could hardly be opposed by their adversaries—that of the human rights tradition of the European Union and of the importance of finding compromises—most deputies agreed, at least officially, with the recognition of LGBTI identities in European asylum law. The vocal opposition of the radical right to this protection disrupted these mechanisms of compromise-finding. As shown in the previous section, this disruption resulted in the increased politicization of the support for LGBTI asylum seekers. However, this reinforcement of support also came at the cost of the destabilization of the positive association that left-wing parties had carefully established between European integration, humanist approaches to asylum, and LGBTI equality.

This untying and the context of instability created by the radical right raises important questions. This last section therefore looks at the changes of equilibrium in discourses surrounding LGBTI asylum at the European Parliament. By focusing in particular on right-wing parties, it underlines the way this volatile context has enabled alternative arguments to emerge. These alternative arguments, and especially the few homonationalist stances developed by

radical right deputies from Nordic countries, remain largely peripheral at the European level. However, they do instill a supplementary dose of uncertainty in debates and votes. Nonetheless, what the last sub-section shows is that this apparent uncertainty should not lead us to focus exclusively on the emergence of new peripheral dynamics and discontinuities. Indeed, this destabilization has in fact created a context largely favorable to the maintaining of hegemonic right-wing ways of framing migration. The consolidation of these hegemonic frames, in the end, is not propitious to the questioning of preexisting ways of constructing LGBTI protection.

3.1. Varieties of sexual nationalisms: destabilizing negotiations to the cost of division

Previous sections have shown that discourses instrumentalizing sexuality against migration were quite uncommon, though not absent, from European debates. Table 3 indeed reported one occurrence of such type of narrative in relation to LGBTI rights. If we broaden the scope to references not just to LGBTI rights but also to gender equality, more instances of instrumentalization of gender-related issues do appear. To refer to this phenomenon, the term "sexual nationalism" will be preferred to that of "homonationalism" throughout this chapter. This is because Puar's concept of homonationalism was developed in relation to a very specific context and sometimes does not reflect the diversity of postures on gender and sexuality present in Europe. The notion of sexual nationalism (Jaunait, Le Renard, and Marteu 2013b), by contrast, allows to account for this diversity; and is therefore a concept better adapted to the political, cultural, and national heterogeneity of the European Union.

The question of whether sexual nationalisms can unfold at the European level is not an easy one. Nationalisms, and nationalist ideologies more broadly, are indeed deeply intertwined to the notion of nation-state (Anderson 1983). This does not mean, however, that supra-national polities are immune from feelings of belonging or of superiority. This chapter has indeed shown that deputies may mobilize imaginaries of Europeanness as rooted in a mythical past or in shared positive values. These imaginaries, nonetheless, are not always nationalist. To solve this issue, I suggest differentiating between Europeanisms and European pan-nationalisms. Europeanism(s) is defined as an identification with the European Union as a political project and a socio-cultural unit. This form of identification may supplant traditional nationalisms, for example when Commission civil servants put the interest of the European Union before those of their country (Ellinas and Suleiman 2011; Slavtcheva-Petkova 2014). European pan-nationalism, on the other hand, does not require an attachment to European institutions *per se:*

it rather designates a feeling of shared European identity and superiority. This feeling of belonging can very well accommodate traditional nationalist frames. Based on the difference between "civic" and "ethnic" nationalisms established by researchers, I suggest to differentiate between *civic pan-nationalism*—whereby what matters is European rule of law (Lacroix 2009b; 2009a)—and *civilizational pan-nationalism,* rooted in the ideal of a shared European cultural civilization (Brubaker 2017). Europeanism and European pan-nationalisms may overlap, in particular because those believing in European institutions may have some feelings of European superiority. The opposite, however, is not always true, hence the need to distinguish them.

The left-wing narratives analyzes in the first section of this chapter are clear forms of Europeanisms, especially for the Greens and the Social-Democrats—the picture is more complex for the radical left, which can be extremely critical of the European project. The posture of the radical right, however, rather took the form of European civilizational pan-nationalism. In the 2016 debates on the Honeyball report, the radical right was divided between an opposition to LGBTI rights and gender equality—the majority opinion—and marginal voices that portrayed respect for women and minorities as inherent to European culture. The oral interventions of British radical right deputies are excellent illustrations of this peripheral narrative. For example, Janice Atkinson, member of the radical right Europe of Nations and Freedoms group, asked to a Social-Democrat deputy:

> "We were at the same breakfast this morning celebrating International Women's Day, but I did not hear from you when I raised the question that actually the Islamic values of these women coming in—I am not talking about fundamental Islam, I am talking about Islam across the Middle East—is incompatible with our Western values and your feminism—and my feminism, which I think really differs. Should we not be protecting our own women and children against the rapes and assaults that we have seen across European cities before we start trying to integrate more? Because they do not integrate. They have not integrated for 40 or 50 years."
>
> (Janice Atkinson, ENF group, oral intervention, 08/03/2016).

More specifically on LGBTI rights, her colleague, Margot Parker, stated:

> "The EU has opened the door to millions of people from countries and cultures that treat women as second-class citizens and LGBTI people even worse. Is it any wonder that we see the shocking scenes in Cologne and Sweden with women being sexually assaulted and humiliated?"
>
> (Margot Parker, EFDD group, oral intervention, 08/03/2016)

In both interventions, these deputies opposed Islam in the name of gay rights and feminism as European traditions. This is very interesting because these deputies both came from a Eurosceptic party. Yet, they still mobilized imaginaries of shared Europeanness ("our women and children", "European cities", "Western values") to oppose immigration. Atkinson's and

Parker's ambition, here, was not to depict gender equality as a "European perversion" but on the contrary to use it to justify their anti-immigration stances.

Atkinson and Parker were not the only ones to mobilize the idea of Europe as a lighthouse for women's or gay rights in order to oppose migration. Their arguments were echoed by deputies from Sweden, France, and Italy. Very often, though, country-specific variations of these arguments existed. The Swedish deputy who spoke adopted a discourse similar to that of British deputies. Taken altogether, these discourses are tinted with gender exceptionalism (Edenborg 2020), whereby deputies portray the European Union as not ambitious enough on gender equality compared to their country. It is surprising to see British deputies using this narrative, given that British activists historically used the European Union to force their country to take action on a certain number of gender- and sexuality-related issues. French radical right deputies, on their side, depicted Muslims as both common law criminals and terrorists, referring simultaneously to Cologne sexual assaults and the Paris terrorist attacks. Italian deputies rather emphasized the cultural inadequacy of Muslims, often in religious terms, as shown by Gianluca Buonanno, member of the radical right Europe of Nations and Freedom group:

> "Mr. President, honorable colleagues, I would like to read you something to avoid being trivial on such an important topic: 'Be cautious not to make a woman cry, because God counts her teardrops. The woman came out of the rib of the men, not from the foot because she must not be trampled, not from the head because she is not superior, but from the rib, to be equal, under the arm to be protected, on the heart side to be loved'. For me, this is what we must think and do for women. We need less hypocrisy, and more concrete action, less caprice and more serious stuff, so that Muslims will quickly learn that too."

> (Gianluca Buonanno, ENF (IT/Lega Nord), oral intervention).

Buonanno was not the only one to refer to the supposedly inherent cultural-religious inadaptation of Muslims. So did Matteo Salvini, another member of the Lega Nord and later deputy Prime Minister of Italy and Minister of the Interior. Salvini compared asylum seekers to Erdogan and used misogynistic statements from the Turkish government to argue against what he perceived as the instrumentalization of women's rights to enable mass migration.

The common point of all these speeches is their reliance on the construction of an "us" Europeans versus a "them" Muslims. Paradoxically, even though these discourses were not widespread at all, during interviews, several left-wing deputies and assistants explicitly evoked it as a political risk. Similarly, the salience of the concept of homonationalism has increased a lot in activist debates in the second half of the 2010s, and the attention being granted to this concept somehow seems to outweigh its reality. What is key to underline, however, is that while

sexual pan-nationalist statements do not seem to have become the new normal at the European Parliament, they have added an element of unpredictability to the debates. These statements indeed challenge one of the most well-established premises of the European LGBTI asylum debate: that actors progressive on asylum are likely to be progressive on gender equality too. The way this uncertainty has permeated even the most progressive spheres of the European Parliament is illustrated in the following extract from the interview of Nathanael, past administrative staff member of the Intergroup on LGBTI Rights of the European Parliament:

> "*What was sometimes tricky at the Intergroup was that there were members who were pro-LGBT but not very enthusiastic about asylum seekers. We decided, and it was one of the decisions that were taken when I was there, to have a member of the bureau who was from the European Conservative and Reformists. And I remember it really was a debate in the bureau, and with other deputies. And in the end, we agreed, but with the idea to have a sort of... You have to sign something where you state basically that ok, you see LGBTI rights as human rights and not as some group-specific issue. And that you see the European level as a level where we should act. This was to prevent ourselves from having anti-European people in the Intergroup. (...) And then, sometimes, when people from the European Conservative and Reformists voted in a different way, we would have someone telling them that this was not what we had agreed on. When we see that there was a very important vote and that they voted against, you can still correct that. It happened maybe two or three times. (...)*
>
> **Was it a way for you to make sure that they did not instrumentalize LGBTI rights?**
>
> *Yes, of course, but pay attention – We would not check all the votes, right, only those that are related to LGBTI rights. Deputies are also adults, and they know what they want. There are 150 deputies at the Intergroup, and you cannot control them; sometimes they will not agree with you, and in fact sometimes they will not agree with other deputies too.*"

<div align="right">(Nathanael, personal communication, 28/02/2020)</div>

Nathanael was not the only one to express these concerns. His contribution is interesting because it shows the ambivalent effect of the radical right on the LGBTI Intergroup. A few pages earlier, Juliette Sanchez-Lambert, a past-General Secretary of the Intergroup too, had underlined the difficulties created by the insertion of radical right deputies in progressive structures, but also how it had allowed a renewed conversation to emerge among left-wing actors. In Nathanael's contribution, what appears clearly is the potentially disruptive effect that modern European sexual pan-nationalisms may have on progressive causes, as it produces an anxious affective atmosphere where deputies start to doubt of their own people. As being pro-LGBTI cannot anymore be equated with being progressive and pro-European, debates and public positions are rendered more unpredictable.

Nonetheless, it must be underlined that this element of instability introduced by modern sexual pan-nationalists largely hinged upon the introduction of slightly different national or regional frames on gender and sexuality. While British and Swedish deputies use a modern

vision of gender equality as involving sexual rights and autonomy, the portrayal of women French and Italian discourses was much more traditional: European women must be protected because they are "ours" and because they are weak. As a consequence, not only was it that the radical right was divided between those adopting anti-LGBTI stances and those instrumentalizing them but, beyond that, there were also ideological divisions *within* this second category (de Lange and Mügge 2015). This multiplicity was a strength when it came to destabilizing debates. But it also became a weakness when it came to acting together, and this is not specific to LGBTI asylum. In fact, scholars have documented the incapacity of radical right parties to move beyond their own nationalist interests and to cooperate on a European level (Fennema and Pollmann 1998; Almeida 2010; Startin 2010; Caiani 2018).

In the end, radical right deputies, whether they relied on traditional sexual pan-nationalisms or on modern ones, all asked the same thing: the end of migration. But, by speaking with different voices and mobilizing different ideological frames, they largely failed to coordinate enough to influence the debate. In sum, the mechanisms that allowed them to destabilize debates are also the very reason for which they have not managed to live up to their ambition. Ultimately, classical anti-LGBTI stances were much more efficient ways of building radical right unity. However, they came with their own risk: that of being sent back to the perpetual role of the enemy of the European project. Therefore, none of these two positions—anti-LGBTI stances and instrumentalizing narratives—enabled them to gain full power over debates.

3.2. *What remains when we all agree: border closures and reasonable accommodations in times of mainstream right hegemony*

The main risk of an exclusive focus on radical right parties in contributing to the redefinition of the humanist ideal of Europe developed by left-wing parties, however, is to look only at provocative stances to the detriment of latent dynamics. Recent research has challenged the idea that radical right parties "own" the migration issue. Indeed, anti-migration sentiments may exist in mainstream parties too, and they sometimes emerged before the strengthening of the radical right (Alonso and Fonseca 2012; Akkerman 2012; Meyer and Rosenberger 2015). At the European Parliament level, researchers have shown that in questions for oral answer, the radical right did not necessarily sur-emphasize immigration compared to other parties (Guinaudeau and Costa 2021). Based on this observation, the last part of this chapter demonstrates that the provocativeness of the statements of radical right deputies, recently, has

played to keep our attention away from more latent dynamics of securitization of migration that rely on a discourse emphasizing the need for better "migration governance". The mainstream right is a key actor of this increased securitization. While the securitization of migration is not a new trend in European politics, the tense and negatively charged affective atmosphere created by the presence of the radical right (Kantola and Miller 2021a) has allowed the mainstream right to strengthen their arguments by presenting them as the only rational way forward to protect Europe. In that context, discursive references to gender and vulnerability have played a key role in making the premises upon which the position of the mainstream right hinged more acceptable to progressive actors.

During fieldwork, one of the questions I asked to deputies was whether they felt that, due to multiple events—the 2015 crisis, the radical right, mass displacements resulting from climate change—European asylum policies were at a "turning point". To my surprise, no interviewee responded positively to that question. What rather came back was the feeling that current migration policies were characterized by their continuity with prior dynamics. Right-wing actors even regretted that migration was not *more* discussed at the European Parliament. In the words of Jeroen Lenaers, a mainstream right deputy from the European People's Party:

> *"I think that of course in the past years, [asylum] has been a very hot topic; because of the unprecedented influx of migrants and asylum seekers in 2015 and 2016. But maybe a less common opinion is that, in a way I think, in the past years, it has not been discussed enough. The European Union has a tendency—and Member States too—to only allow for sort of groundbreaking changes of policies when there is a crisis big enough to make it necessary. (…). So, it's a topic that is particularly being used in Member States by the extreme-right, who use it as a political tool, but in practice we see that the problems are actually not big enough for Member States to actually come to a solution in Brussels."*

> (Jeroen Lenaers, EPP group, personal communication, 23/03/2020)

What appears in this extract is Lenaers' perception that the 2015 "refugee crisis" has, in fact, not been enough for the European Union to take action on migration. Acting on migration, for the European People's Party, is understood as increasing the use of border procedures, implementing accelerated examination procedures, being more efficient on return and readmission, providing pathways to legal migration in Europe, and developing socio-economic partnerships with countries of origin (EPP 2020). Contrarily to radical right deputies, who depict Europe as facing an existential threat, mainstream right deputies rather tended to rely on a discourse rooted in narratives of rationality and efficacy, asking for the "rational" and "good governance" of migration.

This tendency is illustrated in the two following extracts of interview with European People's Party deputies, one from D., and the other still from Jeroen Lenaers:

> "The LIBE committee is a special committee. It is really emotional, really ideological, and it might be one of the reasons why we were not able to find a solution there. (...) The basic problem is that it's hard because we're always talking about people. We're not talking about statistics or whatsoever, we're talking about people. And this mean, from a personal point of view as someone who is part of the EPP and of this Committee, I try to distinguish between emotions and the practical way forward. (...) Sometimes, it's hard, people think that I don't care about the people which is not the case, but if we want to help them as much as we can, we need to come to an end in this discussion about asylum policies. (...) And this, in the end, will help more people. Not the hundreds of discussions about it but finding solutions on the ground."
>
> <div align="right">(D., personal communication, 30/03/2020)</div>

In a similar way, Jeroen Lenaers insisted that:

> "The main point for the EPP is first simply the realization that migration is an issue that has always been there, will always be there, and which has advantages and disadvantages. So, the EU should not seek to stop migration or to let migration be completely free, but to manage migration, which is, to know who is coming, and to make sure that these people in need of international protection receive the protection they are entitled to, and as a consequence of that, to make sure that those who are not in need of international protection are sent back to their country of origin or transit, in an efficient way."
>
> <div align="right">(Jeroen Lenaers, personal communication, 23/03/2020).</div>

In both cases, these deputies mobilized a vocabulary that de-ideologized the approach to asylum of their party. They presented their demands as a-partisan solutions ("manage migration", "in an efficient way", "practical way forward", "finding solutions on the ground" as opposed to "hundreds of discussions" in an "emotional committee"). Their final objective, though, remains that of a decrease in arrivals, acceleration of claims processing, and increasing of the return rate. The main difference with the radical right is that mainstream right deputies do accept the idea that debate is necessary and that stopping migration is not possible. They also consider that under certain conditions, migrants can be beneficial to their host countries, thus conditioning inclusion to economic deservingness and performance. The de-ideologized narrative developed by mainstream right parties and the presentation of their demands as being in continuity with existing European practices, however, should not obscure the way the 2015 crisis strengthened their positions in the European debate. The perception of Europe as being in the midst of a crisis helped them to modernize their discourses on the securitization of the Common European Asylum System. To do so, they relied on a depiction of this securitization as a condition of survival for the European (humanist) project.

Mainstream right deputies indeed portrayed the 2015 migration crisis as an ontological threat to the European project. What came back in interviews was the idea that if the European Union was not able to better manage migration, this would result in a loss of public support for European integration, and in the disruption of the Schengen area. Schengen was used here as a symbol of the European project: if it were to collapse, then, this would be the end of the European Union (Ceccorulli 2019). This fear appeared in the European People's Party press release on the New Pact on Asylum and Migration, in which they wrote, "a crisis-resistant EU asylum and migration policy and a crisis-resistant Schengen system are essential prerequisites for our common European future" (EPP 2020, 6). Moreover, in interviews, the better controlling of migration was also portrayed as an essential step to limit the growth of radical right parties throughout the European continent. The rationale supporting an increase of returns was that the less migrants there are, the better the chances of survival of the European project were. This argument is more subtle than that of the radical right because they present migrants as dangerous not because of their culture, but because of the way European populations react to their presence. Still, they reach the same conclusion: that they are, indeed, dangerous; and that in order to protect European ideals of democracy, borders must be closed.

References to vulnerability played an interesting role in this argument. In interviews, the mainstream right did not argue that migrants were incompatible with Europe because they were sexist and anti-LGBTI. This discourse was reserved to the fringes of the radical right. What mainstream deputies rather emphasized was the need, based on European humanist values, to protect the most vulnerable individuals while maintaining strict border policies. For them, this narrative of protection was not incompatible with the reinforcement of security measures. For example, when asked his opinion on the relation between security and human rights, Jeroen Lenaers, mainstream right deputy, replied:

> *"I think security and human rights are interlinked. You can't have one without the other. And the whole idea of the Procedures Regulation is to establish the needs of applicants and, at the same time, to also assess the security consequences for Member States. It's very important to establish during the procedure who you have in front of you, what is their story, what is their background, and what the consequences of that are. If we were to abolish human rights just to have an increase sense of security, in the long term, it would only lead to more insecurity. I am convinced of that."*

> (Jeroen Lenaers, EPP group, personal communication, 23/03/2020)

In this quote, Lenaers intertwines vulnerability and securitization in an interesting manner. Both are needed; and in fact, the deputy feared that an all-security approach—the shadow of

the radical right seem to be present here—would result in increased insecurity. However, what is worth underlining is the way vulnerability and security became, in his speech, co-constitutive of each other. Getting to know the asylum seeker was essential both to "*establish their needs*" and to "*assess the security consequences for Member States*". It is impossible to say if the sentence stating "*it's very important to establish during the procedure who you have in front of you (...)*" refers to the potential dangerousness of asylum seekers, or to the importance of providing them with adequate services and facilities. The existence of conflicting representations of asylum seekers—as vulnerable victims or fraudulent criminals—within the Common European Asylum System is a well-documented phenomenon (Costello and Hancox 2016). Yet, here, these two figures do not simply cohabit but are articulated together. Identifying vulnerable claimants also allows to better protect Europe and its Member States— because the protection of the most vulnerable groups is soluble in the logic of "governance" of migration essential to the survival of Schengen, and because this identification further enables the control of potentially dangerous individuals or bogus migrants.

This intertwinement between the protection of the vulnerable and the protection of Europe is what makes the coexistence of security-oriented principles and vulnerability-specific measures in the Common European Asylum System seem logical and reasonable. Concepts such as "safe country of origin", "safe third country", and "border procedures" coexist with clauses specifying that, of course, these tools must be applied in a "gender-sensitive" manner. These concepts, although they are mostly aimed at discouraging asylum claims and accelerating return procedures, are portrayed as rational and fact-based tools of migration governance. They also have the advantage of being "gender-sensitivizable" at a minimal cost. Some countries have already taken steps into that direction. For example, the Netherlands has implemented one of the longest lists of "safe countries of origin" in Europe. However, what is interesting is that this list comprises LGBTI-specific exceptions, whereby some countries are considered as "safe except for LGBTI" (European Migration Network 2018). The United Kingdom has developed a similar practice for gender-based violence, with some countries being marked as "safe except for women" (European Migration Network 2018). One might wonder how a country can be considered to be safe when women—half the population—are not. Beyond that, this practice presupposes that "vulnerable groups" are identified early in the procedure, because otherwise procedural safeguards cannot be applied. Yet, this identification is impossible. In the case of LGBTI asylum seekers, many come out late in the procedure and cannot be identified earlier on. And, beyond this pragmatic argument, vulnerability is always contextual and relational

(Freedman 2018). A young Afghani man may be more vulnerable than a Syrian woman with her children in certain contexts, and not in others. In other words, contrarily to its depictions in European texts and discourses, vulnerability is not a pre-existing and natural condition; and its use in conjunction with security-oriented measures is not viable nor desirable.

Yet, in the context of anxiety created by the rise of the radical right, vulnerability-specific measures became, for many progressive actors, "reasonable accommodations" that could not be refused. At a meeting organized by ILGA-Europe, I observed how the organization's representatives behaved as if they could not refuse recent Commission proposals because they provided some clauses of exception specifying that the most conservative tools should not be applied to vulnerable groups. This position was challenged by some of the organizations present that day, but the general feeling was that these clauses of exception were, for ILGA-Europe, that which cannot not be wanted, to take back Brown's (2000) and Spivak's (1983) words. The more policies securitize, the more these vulnerability-specific measures that alleviate the suffering of some groups become that which cannot not be wanted. Yet, it is also because these measures are developed that the broader system is immunized against critique—both on a rhetorical and on a strategic level, since they put progressive actors in a position where they cannot refuse the few reasonable accommodations that are offered to them.

In the end, the mainstream right, because they framed their demands in terms of rational governance, continuity with preexisting European practices, and compatibility with European human rights ideals, were much more successful at shaping the migration debate than the radical right. Their discourse was further strengthened by the fact that it inserts itself in the broader narrative of "migration governance" that characterizes international and European politics way beyond the European Parliament, as we shall see in the following chapter. Because of these correspondences, mainstream right deputies have, in a sense, achieved a form of hegemony over the European debate. Hegemony is understood here as the sedimentation of social practices that lead to one specific social order to become perceived not anymore as political, but rather as natural and commonsensical—to the detriment of possible alternatives (Mouffe 2010). Reinscribing this naturalized order into the realm of politics is precisely what agonistic politics are about. Yet, because of the negative atmosphere created by the rise of the radical right, mainstream right deputies were able to portray their position as the only way out for the European project, therefore durably shaping the current premises of the European debate over migration. In essence, the unchanneled reemergence of antagonism, by creating an atmosphere of ontological threat in a policymaking ecosystem that is more used to cooperation than to

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confrontation, has resulted, in the end, in the reinforcement of existing hegemonic arguments. These hegemonic arguments that intertwine security and vulnerability have little to offer to asylum seekers, LGBTI or not. What remains to be seen is whether progressive actors will manage—especially now that the Ukrainian crisis has shown that what was portrayed by most right-wing actors as unfeasible, such as the activation of the Temporary Protection Directive, can in fact be implemented—to escape from the binds of these hegemonic discourses.

Conclusion

This chapter has examined the debate over the inclusion of gender and sexuality in European asylum policies after the 2015 "refugee crisis". Its departing point was the hypothesis that the 2015 crisis would have constituted a discursive and political opportunity for radical right parties, and that these new actors would have been crucial in reshaping the debate over LGBTI asylum, sur-politicizing it through their opposition both to asylum seekers and to gender equality. This was thought to be a potential turning point for European LGBTI asylum policies, given that what had predominated earlier on was a lack of politicization of this debate. What was further expected was that radical right discourses might have permeated broader debates, potentially diluting support for LGBTI asylum or making its recognition more difficult.

The main conclusion of this chapter is that while the radical right has indeed affected the way LGBTI asylum is discussed today at the European Parliament, it is not exactly in the straightforward, "backlash" way that could have been expected. Most radical right deputies, of course, opposed the development of group-specific policies for people persecuted for their gender or sexuality. For them, these policies incarnated all they rejected in the European project as it exists today: multiculturalism (a shorthand for Islam), gender ideology (LGBTI rights) and European integration (cultural homogenization). Contrarily to what has been observed by some researchers at the national level, stances instrumentalizing LGBTI rights against migrants' rights were minority. What rather prevailed was the merging of both the figure of the migrant and that of the homosexual into one single existential threat to European civilization. This finding is a caveat for those who argue that radical right parties have changed on LGBTI rights. What the European case study shows is that the very same parties that may instrumentalize gay rights in their respective national arenas may as much oppose them when they are out of electoral sight.

The provocativeness of radical right deputies has paradoxically reinforced the support of progressive actors for LGBTI asylum. However, a closer look at its effects reveals a more contrasted picture than what appears at first sight. Groups that had been wary about the explicit protection of LGBTI asylum seekers in European legislation now unequivocally support it and consider it as a key point of contention—sometimes to the cost of the minimization of deep-lying, important cleavages about what LGBTI asylum policies should look like. In parallel, though, the disruption of usual patterns of behavior induced by the increased presence of radical right deputies at the European Parliament has pushed many left-wing actors to be more reflexive about their alliances. In sum, the partial flattening out of cleavages coexists with the emergence of more complex and much-needed debates about what it means to be pro-LGBTI in a securitizing Europe. For now, it is difficult to fully assess the extent of these changes on future policies of LGBTI protection. What is sure, though, is that the prior dynamics of confined, discreet negotiation of LGBTI asylum documented in the second chapter of this dissertation have been eroded by this new context. This could represent a unique opportunity for activists to break down the barriers that interstitial strategies had set around European LGBTI activism. Now that European deputies and civil servants know what LGBTI asylum stands for and given the widespread support of left-wing groups for this type of protection, more ambitious—and more overtly political—demands could be voiced.

Nonetheless, the negatively charged atmosphere created by the rise of the radical right has also been particularly favorable to mainstream right deputies. This may seem paradoxical given that the mainstream right is often depicted as being outcompeted by their radical counterparts. However, the provocativeness and the extreme stances of radical right deputies have, in the end, allowed mainstream right deputies to depict their own positions as a-ideological and as the mere "rational governance" of frontiers that is very much needed to safeguard Schengen and the European project, including in its human rights aspects. These mainstream right deputies are divided on LGBTI asylum, though they do not recognize it publicly. They have rather preferred to participate, even if distantly so, in the fiction of consensus that surrounds this issue, avoiding the subject in plenary debates. The concept of vulnerability has been very useful to them in order to avoid the debate on LGBTI protection. Not only did it allow them to participate into a discourse without opponents—that of the protection of the most fragile individuals in need of humanitarian help—but it has also provided them with a useful trade-off to offer in negotiations with left-wing actors. Vulnerability, in the way it is currently framed in the European migration debate, is indeed not incompatible with securitizing policies. Quite the contrary, it is often used

to balance them, thus legitimizing their existence. In a context of perceived existential threat, it became difficult for pro-LGBTI actors to reject altogether these counterbalancing measures. The temptation to make concessions on security in order to safeguards elements perceived as humanist and vulnerability-oriented thus became high.

In the end, while the European Union indeed seems to have moved toward a vulnerability-sensitive securitization of its asylum policies, homonationalism has little to do with it. This story rather is one of an institution that has long relied on smooth dynamics of negotiation and ideals of deliberation, and which is now learning to respond to the resurgence of an unchanneled antagonism and to processes of increased polarization of the debate. The paradox is that the resurgence of this unchanneled, existential antagonism was the condition for a renewed agonistic debate. Antagonism thus constrained agonism as much as it enabled it. This has both positive and negative consequences for the future of LGBTI equality. On the positive side, one may note that LGBTI asylum is now recognized as a true political issue—one it is worth mobilizing for. This might open new forms of solidarities among left-wing actors, solidarities where the articulation between LGBTI emancipation and respect for migrants' lives could be rethought. On a more negative note, though, one can only notice that so far, what has prevailed has been the temptation to save vulnerability-specific clauses at all costs, thus establishing divisions between sub-groups of foreigners rather than contributing to the unification of their struggles. This, however, is not ineluctable; and the *devenir* of equality policies in Europe will very much depend on future left-wing mobilizations. The way forward out of this double-bind, for LGBTI actors and their allies, may lie in the construction of security and technique as political and therefore contestable objects too. This challenge lies at the heart of the next chapter, which focuses on the displacement of the LGBTI asylum debate from elected or overtly political arenas into the world of agencies, expertise, and high-level civil service.

CHAPTER 4

Circulating Knowledge, Closing Borders

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This dissertation, so far, has focused on European legislation and political debates. This emphasis was justified by the necessity to analyze the role played by politicization, under all its forms, in shaping LGBTI protection at the European level. However, a too-exclusive focus on political debates and mobilizations would lead us to pass under silence one of the most crucial aspects of LGBTI protection in Europe today—that of the everyday work of agencies, courts, expert networks, and other types of high-level administrative actors. Actors working in these arenas often do not seek the spotlight as much as their political counterparts. This does not mean, though, that their action is any less crucial. And, most importantly, the growing place they take in discussions over LGBTI asylum is not unrelated to the European aversion for political conflict presented in the first three chapters of this dissertation. This fourth chapter therefore seeks to articulate these two elements of European politics—political discourses on one hand, and operational practices on the other.

The importance of satellite arenas in making of LGBTI protection in Europe today cannot be fully comprehended without referring to the literature on governmentality, governance, and migration management. The term "satellite arenas" designates, as defined in the introduction, non-elected institutions gravitating around the European decisional center and playing a crucial yet non-initiatory role in the making of policies. This term will be preferred here to that of "governance networks"[50], which is more common in the literature (Torfing 2005). This is because the notion of governance networks is, perhaps, slightly too horizontal to fully apply to European institutions. Of course, European policymaking relies on the participation of a wide

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[50] Torfing (2005) defines governance networks as follows: "(1) relatively stable horizontal articulations of interdependent, but operationally autonomous actors who (2) interact with one another through negotiations which (3) take place within a regulative, normative, cognitive and imaginary framework that is (4) self-regulating within limits set by external forces and which (5) contributes to the production of public purpose."

diversity of actors, and this participation has taken in increasingly informal turn (Christiansen, Føllesdal, and Piattoni 2003). However, despite narratives of participation and consultation, it is very clear that power is inequitably shared among these actors. In terms of policy initiation, political representation, and everyday decision-making, the Commission remains the hierarchic superior of satellite arenas—to the exception of the Court of Justice of the European Union, which exercises a great power of control over other European institutions, Commission included. The term "satellite arena" thus allows to move away from the fuzziness governance networks, providing a stronger sense of the power relations between these actors.

Beyond these semantic specifications, though, a similar phenomenon is at stake whether one talks about the turn to governance networks or about the displacement of the debate to satellite arenas. This phenomenon is that of the increased role of non-elected actors in policymaking and the detachment of "governing" from "government" (Foster, Kerr, and Byrne 2015). This is not exactly a new phenomenon. In its 1978 lectures to the Collège de France, Foucault (2004) had already proposed the notion of "governmentality", based on the contraction of "government" and "rationality". By contrast with disciplinary power and law-making, governmentality symbolized an administrative and more "positive" type of power—one that seeks not so much to forbid and punish but to know, classify, and control populations. This concept has inspired many authors now working with the notion of governance. The notion of governance was initially forged to problematize traditional forms of government, and it was associated to ideals of "formal as well as informal interaction between public and private actors, competent and knowledge-based decision making, creative problem solving and innovative policy solutions, flexible and well-coordinated policy implementation, the realization of democratic ideals about inclusion, empowerment and ownership, and a more realistic account of the actual form of governing society and the economy" (Torfing and Sørensen 2014, 330). It is therefore considered to be one of the archetypal forms of modern power (Bauman 1991).

There is, of course, a literature that has approached the notion of governance unreflexively, seeking to define what is "good governance" or suggesting ways to improve it (Carbone 2010; van Doeveren 2011; Pomeranz and Stedman 2020). However, in recent publications, this term has become increasingly associated with a critique of its depoliticizing effects. Depoliticization, in this particular context, does not mean the retraction of the political space, but rather its extension—but an extension that does not say its name, since it occurs through the framing of the solutions put into place as merely technical and thus a-political (Foster, Kerr, and Byrne 2015; Kauppi, Palonen, and Wiesner 2016; Louis and Maertens 2021). In the field of migration

studies, authors have underlined how, under the smooth and polished façade of the good and rational management of migrant populations, international organizations reinforce border controls and seek to achieve the differentiated management of migrant bodies, depending on how they are categorized (Aas 2011; Andrijasevic and Walters 2010; Georgi 2010; Pécoud 2015). Under the guise of technicity, it is therefore the interests of the most powerful countries that are preserved, thus resulting in intensified control over migrants (Pécoud 2017).

This turn to governance is observable in European LGBTI asylum policies too; and its effects are complex. European institutions, in fact, have probably never talked so much about LGBTI asylum than today in their operational discourses. The struggle of these asylum seekers is the subject of an increasing body of reports, guides, list of "best practices", judgements, and public statements. This body of knowledge on LGBTI asylum seekers, of course, can hardly be detached from its context of production: that of the production by European administrations of a corpus of information designed to better understand, manage, and control migration. In the third chapter of this dissertation, I have shown how these narratives of technicity and rational governance are often unfavorable LGBTI asylum seekers. Yet, at the same time, the effect of this corpus of knowledge on LGBTI asylum as a political object is more ambivalent than what could appear at first sight. Indeed, these productions have also enabled the emergence of an increasingly "autonomous" discourse on LGBTI asylum. What I mean there is that in previous chapters, I have shown that what was at stake in initial mobilizations on LGBTI asylum was not *just* the plight of LGBTI foreigners, but broader normative battles. To a few exceptions, when I asked, during interviews at the European Parliament, what were the specificities of LGBTI asylum claims, many of my interviewees remained elusive. Behind their emphasis on the importance of protection, they did not seem to know much about this issue. LGBTI asylum was also and perhaps above all a question of symbol for them. It was the stage upon which greater battles—about LGBTI equality, but also about the past, present, and future of Europe— were fought. By contrast, in recent European discourses participating in the logic of governance of migration, what is at stake is, *de facto,* the constitution of the category of "LGBTI asylum".

Thus, the figure of the LGBTI asylum seeker has become more "real" and more embodied in European policies precisely *through* the production of governance-oriented discourses. This raises important questions in relation to the articulation between European equality and migration policies. Indeed, what has further emerged in previous chapters was the argument that for a long time, LGBTI asylum activism was about obtaining LGBTI equality through asylum policies. This equality was more an equality between LGBTI and non-LGBTI people

than an equality between Europeans and foreigners. Against this background, the emergence of increased concerns for LGBTI asylum seekers themselves—*as LGBTI foreigners*—does raise the question of whether these claimants will, finally, be at the center of the very clauses of protection developed in their name. It also raises the question of their representation in these policies. Are they considered as LGBTI people who happen to be foreign, or as foreigners who are also LGBTI? This difference is not trivial, for the European Union has been more keen to include LGBTI people in its equality policies than foreigners, whose rights—including rights normally not reserved to citizens—are often implicitly considered to be naturally lesser than those of nationals (Bélorgey et al. 1989; Guiraudon 2000; Valette 2016).

Based on this initial questioning, this chapter seeks to answer the following question: to what extent does the renewed concern for LGBTI asylum seekers in European operational productions challenge preexisting articulations between migration and equality policies? My initial hypothesis was that in fact, this emphasis on the recognition and protection of LGBTI asylum seekers should not be read as the testimony of the inclusion of equality concerns into migration policies. I rather hypothesized that this flourishing of positive discourses on LGBTI asylum seekers would be an occurrence of what Lavenex (2018), based on Brunsson (1986), has described as the "organized hypocrisy" of the Common European Asylum System. Organized hypocrisy refers here to the simultaneous upholding of protective discourses and protectionist policies. Based on this notion, I thought that the publication—in a context of structural violence against migrants—of reports and tools claiming to improve the situation of LGBTI asylum claims would be above all an example of this unresolved tension, and not an indicator of major changes in European asylum and equality policies.

To put the notion of organized hypocrisy to the test, I focused my analysis on interviews with European civil servants working for the Commission and the European Union Asylum Agency (seven interviews in total). However, I also looked at interviews with other types of actors participating in the production of this corpus knowledge on LGBTI asylum. These actors included experts (two interviews) and activists acting at the local level (27 interviews). Indeed, I realized during fieldwork that many associations are in fact connected to the European Union Asylum Agency. Some participate in formal consultation mechanisms, but beyond that, these associations also produce frames and data that are then used by European institutions. Finally, much more than in previous chapters, written documents (reports, tools, guidelines, lists of best practices, glossaries) produced by institutions and nongovernmental organizations played a

central role in the analysis presented in this chapter. They allowed me to examine the content and the representations upheld by this growing corpus of knowledge on LGBTI asylum.

To some extent, fieldwork findings confirmed the hypothesis of organized hypocrisy. Indeed, none of the civil servants I interviewed seemed to be able to fully make sense of the coexistence of inclusionary discourses on LGBTI asylum and protectionist asylum policies. However, the notion of organized hypocrisy is not sufficient to think the interpenetration of inclusion into exclusion—and *vice versa.* Inclusion-oriented discourses can participate in broader dynamics of exclusion and this interdependence does not always rely on organized hypocrisy. In the case of LGBTI asylum, what happened was that these inclusionary discourses were mostly preoccupied with the protection of depoliticized individual characteristics but did not challenge the treatment of the broader group their holders belonged too. As a result, the knowledge developed to improve the condition of LGBTI asylum seekers in Europe, though it resulted in short-term improvements, did not render European borders more permeable to LGBTI bodies, but rather heightened them. To unfold this argument, this chapter is organized as follows. The first section investigates the recent constitution of a positive body of knowledge on LGBTI asylum seekers, examining its conditions of emergence and analyzing how it breaks away with previous intrusive practices of assessment of gender and sexuality in European asylum systems. The second section shows how, despite—or rather because—of its depoliticized and neutral appearance, this body of knowledge still participates in the strengthening of European borders. Finally, the third section examines the paradoxes of LGBTI recognition under such context of migration securitization. It interrogates the forms of equality underlying in LGBTI asylum protection clauses, along with their reappropriation by activists.

1. Furthering European LGBTI asylum policies in a politically adverse context: knowledge production for better protection?

The progressive constitution of a discourse seeking to characterize and understand LGBTI asylum seekers is not a new phenomenon—or at least not at the international level (Hamila 2021). However, the production of this discourse has accelerated in the past decade, especially at the European level. In 2015 and 2017, the European Union Asylum Agency and the Fundamental Rights Agency published reports specifically dedicated to LGBTI asylum

claims.[51] The Tool for Identification of Persons with Special Needs launched by the Asylum Agency in 2016 also comprised LGBTI-specific recommendations, and most of the reports published by the agency today do include a section on LGBTI people. Major nongovernmental organizations have also increasingly tackled this issue in their advocacy, and activist projects have flourished.[52] Last but not least, between 2013 and 2017, the Court of Justice of the European Union has produced three key judgements related to LGBTI asylum, delimiting permissible from impermissible practices of evaluation of one's sexual orientation.[53]

This first section investigates the flourishing of this discourse, analyzing its conditions of emergence and acceleration after the 2015 crisis. Of course, the fact that most of the reports and tools quoted above were published after 2015 does not necessarily entail a relation of causality between the crisis and these publications—or, at least, it would be very difficult to prove so. However, what the first part of this section shows is that the atmosphere of crisis and threat that marked the European debate post-2015 did reinforce, among progressive actors, the conviction that implementation measures are more needed than ever to ensure the protection of LGBTI asylum seekers in Europe. This belief has fed into the broader dynamic of production of an operational-oriented and depoliticized corpus of knowledge on LGBTI claims. This body of knowledge sharply contrasts with preexisting disrespectful practices of LGBTI claim assessment, and it presents LGBTI protection as something to be implemented, not debated.

1.1. The implementation desires of progressive actors post-2015

The strengthening of the radical right in Europe created a context of anxiety among policymakers that was already partly documented in the third chapter of this dissertation. Indeed, the strengthening of these parties has resulted in the development of an increasingly negative atmosphere at the European Parliament (Kantola and Miller 2021a). It was also perceived as an existential threat by the Commission and many nongovernmental organizations (Ruzza 2021a; 2021b; Ruzza and Sanchez Salgado 2021). This context of anxiety influenced the discourses of many of my progressive interviewees. During our discussions, it was common

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[51] FRA (2017), "Current migration situation in the EU: Lesbian, gay, bisexual, transgender and intersex asylum seekers". EUAA (2015), 'Researching the situation of lesbian, gay, and bisexual persons (LGB) in countries of origin". Both are available online.

[52] ILGA-Europe's sections on LGBTI asylum have been recently re-published by mainstream European medias, major international nongovernmental organizations such as Human Rights Watch have published on the subject; and projects funded by the European Union—such as Epsilon and Rainbow Welcome! —have flourished.

[53] The cases are, by chronological order, *X, Y, Z v Minister voor Immigratie en Asiel* (2013)*, A, B, C v. Staatssecretaris van Veiligheid en Justitie* (2014) and *F v Bevándorlási és Állampolgársági Hivatal* (2017).

for deputies, organizations representatives, or civil servants to complain that things were getting more unpredictable, or that something that could have been discussed more easily a few years ago was now impossible to set at the agenda. In the words of Julia Zelvenska, head of legal support and litigation at the European Council for Refugees and Exiles:

> *"I prefer litigation-related work, I think there is always a clear outcome. It can be positive, it can be negative, but there is a clear outcome. In the past, at some point, it was easier to foresee the outcome. Now, things are getting very unpredictable and politicized, so it's more complicated."*
>
> (Julia Zelvenska, personal communication, 22/04/2020)

Similarly, for Lisa, parliamentary assistant for a Social-Democrat deputy:

> *"Today, when you issue a statement in favor of migrants' rights or even of basic human rights, you are perceived as a leftist. But for me, twenty years ago, people who defended migrants' rights were normal people, it wasn't that much about ideology, it was normal to defend people's rights, no matter where they came from. So, we are moving backward."*
>
> (Lisa, personal communication, 20/03/2020)

Whether it really was easier to defend migrants' rights a few years ago is an assessment beyond the scope of this research. But what is interesting here is the narratives developed by these interviewees, especially as they contrast today's "unpredictability" and "regression" with a form of idealized past where things were not perfect, but somehow easier, or at least less unstable. Similarly, during interviews, the idea that the European political landscape was changing and that this was not a good sign for LGBTI asylum seekers often came back. In other words, the illusion of consensus that had surrounded LGBTI asylum in early European debates seemed to have been disrupted, or at least very much challenged.

This negative atmosphere pushed many of my interviewees to put a renewed emphasis on the need for implementation of existing LGBTI asylum policies. It must be underlined, here, that most of them still called for a bold reform of the Common European Asylum System, sometimes in radical terms. The need for implementation measures was not constructed, in their speeches, as a way out of political debates. However, simultaneously, they emphasized the need to think the "after" of legislation. The following quote from the interview of Juliette Sanchez-Lambert, past General Secretary of the LGBTI Intergroup of the European Parliament (2018–2020) and past staff member of ILGA-Europe, is an excellent illustration of this articulation between the anxious current political atmosphere and the argument that better implementation measures are needed. When I asked her what was needed to make European asylum policies more gender-sensitive, she answered:

> *"Well, from a personal viewpoint, I would say, let's abolish the Dublin system. That would be a first step. But that's very radical, so it is just a personal opinion. And then there is something else which I mentioned only briefly, which is the implementation of legislation. The way LGBTI people are treated in some Member States today is very problematic, and it's worsening every day (...). When I see how difficult it is for the EU to say something about LGBTI rights in general, I wonder how feasible it is for them to talk specifically about LGBTI rights in asylum. That's a whole different level. So... I don't know. And I must admit that I am not optimistic about this. Because the thing is, yes, mentioning LGBTI rights in the Common European Asylum System is going to improve the situation of people in many countries, but in the end, will it be implemented? Will it be accepted? This is about training the personnel, the decision-makers, the people who do refugee status determination, etc. So, what's going to happen next? Simply legislating is not enough. And so, this is the 'after' of legislation, and I think this is going to take time, and there will be moments and places where it will be very difficult."*

<div align="right">(Juliette Sanchez-Lambert, personal communication, 08/05/2020)</div>

For Sanchez-Lambert, the problem is not that European policies should be marginally improved: drastic political change is needed, as visible in her call to "*abolish the Dublin system*". At the same time, though, it is crucial to underline that she still considered European legislation on LGBTI asylum as something that is "*going to improve the situation of people in many countries*". In her speech, thus, echoing the work of researchers, law is depicted as a necessary but insufficient condition for change (Langlois 2018). However, what is particularly interesting in her contribution is the way she connected together the need for implementation measures and her fears surrounding the present and future of Europe. Echoing previous interviewees, Sanchez-Lambert framed current European political developments in a negative and anxious manner, emphasizing how "*the way LGBTI people are treated in some Member States is worsening every day*". She also expressed doubts about the capacity of the European Union to keep acting politically on progressive causes. This negative relation to current European politics is what made her express doubts about the effectiveness of legislation, and, therefore, what brought her to put the accent on the importance of implementation.

Sanchez-Lambert's worry that legal recognition will not be enough to protect LGBTI asylum seekers was largely shared among progressive policymakers. Their main fear was that the protection voted at the European level would remain a worthless piece of paper in Member States. However, her call to "abolish Dublin" was an uncommon position among interviewees. Most other interviewees rather emphasized the need to reform European asylum law and, in parallel, to rely on European agencies and international organizations to complement political action through the development of concrete tools. As an example, Lisa, the Social-Democrat assistant quoted earlier on, when asked how to make sure that the asylum claim of a gay asylum seeker is processed in the same way independently of the Member State, explained:

> *"The idea really is that we need an upward harmonization. Normally, you are not supposed to be able to interpret the Geneva Convention and the Qualification Directive the way you want, but of course, there is always a gap between theory and practice. It may be a very utopic idea, but I think that it would be a good thing to have a sort of monitoring of the quality of decisions, managed by European Asylum Support Office or the United Nations High Commissioner for Refugees for example. (...) Having an increased role of European Asylum Support Office has always been part of our demands, provided that this agency is entirely independent from Member States, which is not the case as of today".*

<div align="right">(Lisa, personal communication, 20/03/2020)</div>

In a similar way, when asked what the role of the European Union should be in countering the use of stereotypes during interviews of LGBTI asylum seekers, Lilian Tsourdi, Assistant Professor in European Law at Maastricht University, expert, and past consultant for ILGA-Europe, answered:

> *"This is why I mentioned the High Commissioner for Refugees and the European Asylum Support Office. It is not a matter of legislation anymore, but it is a matter of training, and there are training materials specifically on vulnerability, on this issue, prepared by the European Asylum Support Office. (...) So now it is a matter of case law, exchange of practices, creating of training material, guides, etc, etc. (...) And it is mainly for Member-States themselves to take these tools up, and most of them are, let's say, desirous of these rules, of this guidance, and of this training that are being offered."*

<div align="right">(Lilian Tsourdi, personal communication, 20/03/2020)</div>

In these two extracts, interviewees placed the emphasis on implementation as the next logical step of LGBTI protection. This is particularly visible when Tsourdi argues that *"it is not a matter of legislation* anymore" (my emphasis). Since legislation already exists and is unlikely to know a huge breakthrough in the upcoming months due to numerous blockages and a context unpropitious to progressive change, implementation appeared as a solution to enhance the protection of LGBTI asylum seekers despite this negative atmosphere. These two quotes are also interesting for their positive depiction of the United Nations High Commissioner for Refugees and of the European Union Asylum Agency (at the time of the interviews, the European Asylum Support Office). This positive depiction contrasts with what can be found in the literature on the subject, where these institutions, and especially the High Commissioner for Refugees, are often depicted as unofficial promoters of the better control of human mobility (Scheel and Ratfisch 2014). This representation is absent from the quotes above. On the contrary, the Agency and the High Commissioner are both portrayed as positive actors. The first interviewee argued that these organizations must operate a form of control over Member States. For the second one, they should all collaborate constructively together. In both cases, the operational knowledge produced by the High Commissioner for Refugees and the European Union Asylum Agency is understood as a way out of the blockages created by Member States.

It is also understood as a re-opening of the field of possibilities in terms of LGBTI protection. Still in the words of Lilian Tsourdi:

> *"There is only so much you can do through a legislative text, it would be ridiculous to write everything down. Saying, well, on credibility assessment this is allowed but this is not allowed. Legislation is about principles, and then of course it becomes a matter of implementation. Today, LGBTI asylum has moved into the implementation stage, it is about practices, and sometimes the judicial challenge of some practices."*

(Lilian Tsourdi, personal communication, 20/03/2020)

In this quote, what could not be achieved through law can be achieved through practices, trainings, and tools, because these tools can be more specific than law, but also because their production is less directly submitted to the validation of states. On the contrary, in this environment, the action of Member States can be judicially challenged and controlled. Here, thus, operational knowledge plays a dual role. It allows the deepening of LGBTI protection, and at the same time enables the circumvention of the politicization of this issue, with the idea that actors such as the High Commissioner for Refugees or the European Union Asylum Agency will always be more progressive than states, and that they will be able to impose progress more effectively through practices and tools than through debates.

The anxious atmosphere created by the rise of the radical right among European progressive actors has thus coalesced with preexisting discourses on the importance of European satellite arena in the better implementation of LGBTI protection throughout the European Union. The convergence of these trends has created a context favorable to the partial displacement of LGBTI asylum out of the domain of law-making. This centrifugal displacement from the political into the operational is not a phenomenon unique to LGBTI asylum nor to European migration policies. Researchers have documented how, elsewhere, fears of a looming crisis have also favored models of "management" of migration (Georgi 2010; Pécoud 2010). Moreover, the displacement of European action to spheres of policymaking that are supposed to focus exclusively on administrative, informative, and operational matters is also a key political strategy of the European Commission to increase its margin of action (Loschi and Slominski 2021). But, in this particular case, it is worth noting that this shift has been supported by historical defenders of LGBTI asylum policies too. These actors do not support the end of political debates, of course, but the dispassionate approach to LGBTI asylum promoted by satellite arenas has proved reassuring to them. This displacement symbolizes the possibility to make LGBTI asylum an everyday reality in Europe despite a politically adverse context.

1.2. Constituting an inclusion-oriented corpus of knowledge on LGBTI asylum

There is more to the displacement of LGBTI asylum to satellite arenas, though, than the rise of the radical right. Given how poorly treated LGBTI asylum claims historically were in Europe, it is easy to understand why progressive actors are looking at implementation measures as the "next step" of LGBTI protection. The question here is not just that of the reluctance of conservative states, but rather that of the presence of latent heterosexism and xenophobia in all societies, including societies that pride themselves on protecting LGBTI asylum seekers. To fully grasp the extent of the structural exclusion of LGBTI asylum seekers in Western states, it is worth remembering that, until 1990, LGBTI people were considered, in United States immigration policies, as having a "psychopathic personality", and were thus barred from entering the territory (Minter 1993). This explicit exclusion did not exist in European countries, but this does not mean that LGBTI people were not perceived as abnormal too (Borrillo 2005).

In the case of asylum seekers, contempt for sexual deviants intertwined with the xenophobia of national authorities. This intertwinement allowed all forms of violence to take place. To give a few examples, in 1996, in the United Kingdom, a Home Office representative requested the anal examination of a Romanian gay asylum seeker (McGhee 2000). Although the anal examination was ultimately dropped, it was replaced by a psychiatric certificate—illustrating the perception of homosexuality as a form of mental pathology. It is worth noting that psychological assessments—which, interestingly, were historically used to identify homosexuals in the army (Hegarty 2003)—were precluded by the Court of Justice of the European Union only in 2017. Still in the United Kingdom, lawyers used to submit pornographic pictures of their clients to immigration judges until at least 2013 (R. A. Lewis 2014). Beyond this, up until well into the 2010s, Czech authorities used "phallometric tests" to disprove the sexual orientation of gay asylum seekers. Asylum seekers had their genitals monitored while watching heterosexual pornography, and if they seemed to be aroused, their cases were dismissed. It must be underlined that this practice was used to disprove asylum claims, not to corroborate them: the test did not involve homosexual pornography. The publicization of the tests caused public outrage and the practice is now said to be abandoned, although some researchers have found traces of it until 2016 (Mrazova 2019).

The common point between phallometric tests, pornographic videotapes, and psychological expertise is that they all took place within European Union Member States long after the first directives of the Common European Asylum System were passed. Same goes for the intrusive,

pornographic, or stereotypical questions that are still often asked to LGBTI claimants:[54] working on Greek asylum authorities, Zisakou (2021) has documented the existence of sexually explicit questions in asylum interview data collected up until March 2020, despite this practice being forbidden by the Court of Justice of the European Union. In other words, violent practices of assessment of LGBTI asylum claims have largely coexisted with European directives supporting their protection or asserting their needs for "special guarantees". This situation has thus convinced many actors of LGBTI protection that European legislation is too general to protect LGBTI asylum seekers and that something must be done at the level of practitioners.

Against this background, it should not come as a surprise that actors in favor of LGBTI asylum have responded positively to the self-positioning of European satellite arenas as key actors of LGBTI protection. There is, first, a certain coherence between the narratives of knowledge and fact-based policies promoted by these actors and the way LGBTI asylum emerged as an issue within the LGBTI movement. As evoked in the first chapter of this dissertation, in the 1980s, initiatives such as the "Pink Books"—a series of books that documented the persecution of LGBTI people worldwide—were crucial to the identification by LGBTI activists of asylum as a potential issue. The politics of LGBTI asylum have thus always been embedded in broader politics of knowledge production and circulation. But, beyond these historical considerations, LGBTI activists also perceived the Court of Justice of the European Union and the European Union Asylum Agency positively because these arenas often took position in favor of LGBTI asylum seekers *against* Member States. Although the Court of Justice cannot control practices on the ground, it is still perceived as a progressive actor, especially in comparison to the European Court of Human Rights (Peroni 2018; Voss 2020; Ferreira 2021). It has produced several key judgements limiting the leeway of Member States in processing LGBTI asylum claims. For what concerns the European Union Asylum Agency, LGBTI activists have placed high hopes in its action since its foundation in 2010, calling for the agency to better document the situation of LGBTI people and to revise the European Asylum Curriculum for national asylum officials.[55] These demands were heard, resulting in the publication of several documents dedicated to this issue, and in the mainstreaming of LGBTI-

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[54] The most famous occurrence of such inappropriate questions is that of leaked documents from the Home Office, published in 2014. Source: https://www.theguardian.com/uk-news/2014/feb/08/gay-asylum-seekers-humiliation-home-office (last consulted 28/05/2022).

[55] ILGA-Europe, EWL and Amnesty International position paper, available at https://www.ilga-europe.org/resources/policy-papers/en-gendering-european-asylum-support-office (last consulted 28/05/2022).

specific information throughout the reports they publish. This was reported by interviewees acting at the local level to be a great source of legitimization for their activism.

Before going further, it is crucial underline that these satellite arenas do not produce this knowledge just out of selflessness. It is part of their job, and their productions therefore cannot be detached from their positioning in the European policy architecture. For example, Abigail, Country of Origin Information[56] officer at the European Union Asylum Agency, explained that the publication of a guide on LGBTI-specific research derived from the practical needs they identified within the community of European migration actors. She stated:

> *"During a thematic meeting on LGBT issues in 2014 we noticed that Country of Origin Information researchers were struggling with researching the situation of LGBT persons. They found it especially difficult to pose the appropriate questions to interlocutors during their fact-finding missions, especially in interviewing NGOs working with LGBTI groups and who feared national authorities. That was the reason why we developed this research guide in the first place."*
>
> (Abigail, personal communication, 01/12/2020)

Abigail herself had been close to LGBTI activism, so the fact that she emphasized operational needs demonstrates how the *raison d'être* of these reports and tools, even if they are progressive, is above all to improve the European governance of migration. This does not mean that they cannot serve the cause of LGBTI asylum seekers, but simply that they cannot be untied from their context of production. In this context, one must realize that it is *through* ideals of governance of migration that a corpus of knowledge perceived as positive for LGBTI asylum seekers has emerged.

The actors and origins of this corpus are hard to pin down because it does not have a single source—nor is it a purely European phenomenon. Among them are European agencies and courts, the United Nations High Commissioner for Refugees, major international or European nongovernmental organizations (ILGA-Europe, ILGA-World, the Organization for Refuge, Asylum, and Migration, etc), along with smaller actors such as local activists, lawyers, and researchers. These actors do not have the same identity or purposes. For example, the European Union Asylum Agency is important for its reports and its trainings, during which national asylum officers are taught to deal appropriately with LGBTI asylum claims. The role of the Court of Justice of the European Union is to interpret European legal principles and to delineate permissible from impermissible practices based on that. The High Commissioner for Refugees

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[56] Country-of-Origin Information related to the production of data on the human rights situation in given countries in order to provide background information to decision-makers when they evaluate the claims of asylum seekers.

is important for its notes, reports, and toolkits; while nongovernmental organizations are often more active in the production alternative frames and in documenting the situation of people.

This is a simplified overview of roles and positions that often intermingle in real life, especially as these actors meet in European consultations and international roundtables.[57] It is through their everyday interactions that a global corpus of knowledge on LGBTI asylum has been progressively constituted. If this corpus had to be characterized, three main strands could be distinguished: the documentation of the situation of LGBTI claimants both in their countries of origin and in their host countries (often done by agencies, national administrations, and activists), the evaluation of practices of treatment of LGBTI claims (courts play a crucial role therein, but so do guides of "best practices"), and, finally, the definition of what being LGBTI means. The predominant conception of this definition—sketched in the 2002 by the High Commissioner for Refugees and since then refined through reports, caselaw, and statements—is that of gender and sexuality as intimate components[58] of one's identity (Waites 2009).

It is important to underline that this corpus of knowledge should not be understood just as what its actors often think it is, namely, as a step forward in the quest to approach the absolute truth of what a LGBTI asylum seeker *really is.* It is a corpus of knowledge that, to take back Hacking's words (1986), "makes up people". Hacking is a philosopher who worked on 19th century statistics and on the classification of individuals that took place at that time. He insisted that his claim "is not that there was a kind of person who came increasingly to be recognized by bureaucrats or by students of human nature but rather a kind of person came into being at the same time as the kind itself was being invented. In some cases, that is, our classifications and our classes conspire to emerge hand in hand, each egging the other on" (Hacking 1986, 165). In other words, the knowledge on LGBTI asylum produced by activists, national asylum authorities, European satellite arenas, and international organizations is what "made up" these claimants, who did not simply preexist out there. This new and growing body of knowledge is not any more natural than its predecessor, or, to put it differently, it is not a step further on the theoretical ladder that ranges from the "incorrect" to the "correct" assessment of the true essence of LGBTI asylum seekers. It rather constitutes a quasi-paradigmatic change in their

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[57] For example, in 2019, the European Union Asylum Agency organized a Consultative Forum Meeting on Gender-Related Persecution. In 2021, the United Nations High Commissioner for Refugees organized a global roundtable (last consulted 28/05/2022)

[58] In fact, the High Commissioner for Refugees distinguishes between two definitions of "particular social groups": one grounded upon a shared characteristic, the other based on the perception of a group by the surrounding society. In European jurisprudence, both criteria are needed. The jurisprudence today shows that in LGBTI claims asylum officers look primarily for the inner identity of LGBTI claimants.

perception. I write "quasi-paradigmatic" and not "paradigmatic" because always underlying in these different approaches to LGBTI asylum claims is the perception of homosexuality as an individual's essence (Dudink 2013; Foucault 1975; 1976). But, where previous understandings of LGBTI asylum considered homosexuality or gender non-conformity as a shameful anomaly and therefore as something that does not have to be respected or protected—hence intrusive practices and discretion reasoning[59]—today, the emphasis is on their recognition as individual characteristics that must be protected under human rights frameworks. This evolution is visible in in the Training Package on LGBTI asylum claims published in 2021 by the United Nations High Commissioner for Refugees and the International Organization for Migration, trainers were incited to ask to their audience, "we all have a sexual orientation [or a gender identity, or a gender expression]. Take a moment to think about the word you would use to describe your own sexual orientation."[60] In suggestions of answers, "heterosexual" was next to "queer" and "asexual". In other words, sexual orientation—framed as a universal human experience—had replaced homosexuality, which itself was approached not as a pathology but as an intimate characteristic that must be assessed in the respect of human rights (Tissier-Raffin 2015).

The positive understanding of gender and sexuality upheld by this growing corpus of knowledge on LGBTI asylum constitutes, without any about, a major improvement in the situation of LGBTI asylum seekers in Europe. One can only rejoice about the fact that genital examinations and psychiatric certificates are not welcome anymore in asylum procedures. These tools constituted a humiliation that sent back LGBTI asylum seekers to their double exclusion from the European polity, as deviants but also as foreigners, because they were used on them at a time when they were not used anymore on Europeans. In other words, the trust progressive actors have put in satellite arenas and their production of operational knowledge seems largely justified. In a context of political tension combined with the latent persistence of heterosexism and xenophobia throughout Member States, these arenas have indeed been reliable in producing positive change for LGBTI claimants throughout Europe. Nevertheless, as warned earlier on in this sub-section, this inclusion-oriented corpus of knowledge cannot be detached from its context of production, that of arenas concerned with the governance of migration. Given the way the notion of governance has been framed by authors as way of

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[59] Discretion was about evaluating whether the asylum seeker could simply "live discreetly" if returned to their country of origin. If the evaluation was positive, the claimant could be returned, based on the assumption that they merely had to hide better. In 2010-2011, discretion reasoning was applied in 17 European countries (Jansen and Spijkerboer 2011). The Court of Justice of the European Union has ruled against this practice.
[60] Training course module 1-7, slide 35. Link to the training package: https://www.unhcr.org/workingwithlgbtiq-sogiesc-trainingpackage.html (last consulted 28/05/2022).

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presenting harsh migration policies as a-political, this raises important questions. And, while the intertwinement between racist or nationalist stances and LGBTI asylum has been largely analyzed in the literature—as testified by analyses grounded on the notion of homonationalism—the articulation between governance techniques and LGBTI recognition has been way less investigated. This is what the next section aims to do.

2. Producing knowledge in a world of closing borders

The lack of explicit articulation between governance and recognition in the literature creates an important gap in the analysis of contemporary politics of LGBTI asylum. Of course, it is obvious that the knowledge produced by satellite arenas and international organizations has marked a move away from the treatment of LGBTI asylum seekers as perverts. Moreover, the documentation of the experiences of these asylum seekers can hardly be considered as a negative phenomenon—especially from the viewpoint of the researcher, whose mission, after all, is to produce knowledge. The production of data, arguments, and analyses is often crucial to the making of an issue a "public problem" deserving of political attention (Cefaï 2016). History is also full of moments where the subjects of knowledge reappropriated the data produced about them to claim their legitimacy as autonomous actors (Foucault 1976). Yet, at the same time, it has also become widely acknowledged that the production of "evidence-based" and "objective" policies aimed at making procedures "better" is one of the way bureaucratic power is exercised (Barnett and Finnemore 2004; Littoz-Monnet 2017; Louis and Maertens 2021). This is particularly true for European non-elected institutions, which compensate for their lack of democratic legitimacy by developing narratives of expertise (Robert 2001).

Consequently, the objective of this second section is to analyze the paradoxes of the production of an inclusion-oriented corpus of knowledge in a world of closing borders. Taking a step aside from the question of nationalist instrumentalization, it examines the way this depoliticized knowledge dedicated to LGBTI asylum seekers participates in a broader "ideology of triage" (Green 2002). The fact that nationalist instrumentalization cannot explain everything is particularly visible at the level of European administration, where policymakers may oppose nationalism, but triage nonetheless flourishes. To unfold this argument, this section first questions whether the inclusion-oriented discourse on LGBTI asylum analyzed above has led to a change in subjacent relations of power in European migration policies. It shows that in fact, it has done very little to challenge preexisting power balances, and that it has even

contributed to their naturalization. In the second part of this argument, I thus show that in this context, depoliticized knowledge—including knowledge deemed to be "progressive"—can and should be conceived as an act of closure from the part of the European community.

2.1. The politification of migration and the depoliticization of power

In a key article on the relation between European integration and politicization, Kauppi, Palonen, and Wiesner (2016) distinguished between three main forms of politicization, explicitly pushing aside the idea of "depoliticization" as an actual phenomenon. For them, they argued, depoliticization does not exist, for "what has once been marked and named as political cannot simply be forgotten or neglected, as it refers to an experience that has taken place" (Kauppi, Palonen, and Wiesner 2016, 83). While this argument can appear to contradict the growing body of literature emphasizing the current depoliticization of public action (Flinders and Wood 2015; Louis and Maertens 2021), it is in fact very much compatible with it. For Kauppi, Palonen, and Wiesner, if depoliticization exist, it is as a form of politicization—which they call "politification", but to which I will refer to as a form of "depoliticizing politicization", for matters of clarity. Depoliticizing politicization does not designate the shrinking of the space of politics, but rather the presentation of some issues as not-politicized by actors who seek to increase their margin of action. In the case of LGBTI asylum, indeed, European institutions have not tried to portray this issue as irrelevant to politics—quite the contrary—but they have emphasized the need to approach it through neutral knowledge and good practices. This phenomenon has been described by authors working on the notion of governmentality, arguing that "depoliticization creates the ostensible façade of rolling back the state, while governmentality allows the insidious rolling forward of the state's agenda through the buying in (or buying off) of other organizations" (Foster, Kerr, and Byrne 2015, 118).

This argument is of great analytical interest for the study of European LGBTI asylum policies. Indeed, the recent emergence of an inclusion-oriented corpus of knowledge on these asylum seekers cannot be untied from the politics of migration governance in Europe. The main question, based on the literature evoked above, is very simple: to whom has this knowledge-based approach to LGBTI asylum benefitted? This question is even more relevant considering the emphasis put by European institutions on the participation of a multitude of actors in the elaboration of policies (Saurugger 2002; Steffek, Kissling, and Nanz 2008). The depoliticized politicization of LGBTI asylum, against this background, could perhaps favor the increased

participation of peripheral or inferior actors, such as activists. At first sight it seems indeed easier to participate in consultations than to be elected at one's parliament.

Yet, what appeared during fieldwork was that this depoliticization of asylum has not resulted in a shift in the preexisting relations of power marking the field of asylum. On the contrary, it has largely contributed to the naturalization of the position of dominance of the Commission and its satellite arenas, depicted as the only actors able to rationally manage migration in Europe. In a context of latent interinstitutional competition (Shackleton 2017; Robert 2021a), these administrations have indeed benefitted from the portrayal of political debates as too ideological. Because the production of expertise is part of their *modus operandi,* this depiction of debates has enabled them to sideline other actors—the Parliament, governments, activists— by presenting them as unable to meet the challenge of migration governance. This dynamic was very much perceivable in interviews with civil servants present in different services of the European Union. Some emphasized that the Commission has a particular way of doing politics, one that was very different from the European Parliament, where political ideology was much more present. The underlying argument, here, was that politicization and political ideologies were not political dynamics like any other but a problem to be remedied—and one that the Commission was particularly fit to affront. This idea was also present in the discourse of civil servants with a more critical approach. As an example, when asked about her opinion on European migration policies, a civil servant who worked in a service of the Commission[61] answered:

> *"If you analyze the EU Policy Framework and the communications that have been produced by the European Commission since 2015, you see that, indeed, as the result of this migration crisis—which was not really a migration crisis, I mean, if you want to have a critical view of the situation, yes, there were quite a number of people arriving but if the relocation system had worked well it could have been handled in a very different way—we talked a lot about that topic in 2015. Migration became the favorite topic used also by the right-wing parties in many EU countries, and most of the time because of this distorted perspective that populists were giving of this phenomenon (...) [it] resulted in a disaster. People started thinking that migration is a bad thing and the governments of some Member States then, in return, started concentrating their action on tackling irregular migration and refugees (...), neglecting other pillars of the policy framework, which are very important if not more important, because obviously if it is well managed, migration can be a resource."*
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> <div align="right">(civil servant, personal communication, 06/05/2020)</div>

This civil servant's contribution was much more critical than the discourse of de-ideologization of the Commission evoked in the paragraph above. Nonetheless, despite their

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[61] This civil servant's position is only her own personal position, not the one of the European Commission.

differences, these two positions still invested the Commission with the role of "neutral arbitrator". This ideal of neutrality was also present in the third and final extract presented here. When asked how she related to the current emotional debate on migration in European politics, Abigail, Country of Origin Information officer at the Asylum Agency, answered:

> *"I have sometimes the impression that not everyone knows what country of origin information is. Country of origin information is not policy; it doesn't have an agenda of its own and aims at being as neutral and unbiased as possible. We only do research aiming at providing a neutral and accurate factual base which supports the efficiency and quality of asylum decisions and policies.*
>
> **EASO has been working with a diversity of actors since its beginnings, Member-States, asylum officials, civil society organizations, other EU institutions, etc. What are the challenges of working with such a diversity of actors?**
>
> *(...) We do work well with civil society NGOs, mainly with those NGOs that also produce country of origin information That collaboration goes very well because they know and often adhere to EASO's Country of Origin Information methodology as well. Some civil society organizations do conduct reviews of our reports. Some other civil society organizations are more expressing advocacy rather than neutral country of origin information."*
>
> (Abigail, personal communication, 01/12/2020)

These three extracts present major differences, especially as these interviewees oversaw very different aspects of European migration governance—from asylum policies to neighborhood relations. However, bridging them together allows to show how European administrations have sought to de-politicize migration to strengthen their legitimacy and control over it, and how this depoliticizing politicization has, in turned, enhanced their legitimacy as the sole actors able to rationally manage human mobility in a world of political passion. The Parliament, national governments, and associative actors are all depicted as too emotional, too unrealistic, too *political*—and therefore as hurting the very cause they are supposed to help (Sanchez Salgado 2021). By contrast, the Commission and its agencies provide "accurate" information. They are thus portrayed are the ones most legitimate to govern the complex issue that migration represents, because they are able to detach themselves from the debate to find non-biased solutions (Boswell 2008; Sanchez Salgado 2021; Kist and Rosset 2020).

The depoliticized politicization of migration has therefore reinforced the dominant position of European administrations. [62] It has thereby favored the displacement of the debate over

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[62] It must be noted, however, that not all agencies have benefited from the politification of migration in the same way. While Frontex and the European Union Asylum Agency have had their budget multiplied and their competences increased over the past few years, the Fundamental Rights Agency has barely managed to obtain the right to monitor the work of other agencies working on migrants (E. Tsourdi 2021; Loschi and Slominski 2021; Meissner 2021). Therefore, not all European administrations are equal: those emphasizing human rights duties benefit less from the current context than those adopting narratives of rational governance.

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LGBTI asylum to satellite arenas, in particular to agencies, which are framed, again, as the actors best able to rationally manage this divisive issue. But what does it mean then if administrations are to become the new key actors of LGBTI protection? This raises, first and perhaps most obviously, a question of accountability. The European Commission and European agencies are much more difficult to monitor than the European Parliament, where even though trilogues[63] are gaining in importance, many debates remain public, and deputies can be called out. The Commission and the European Union Asylum Agency are more difficult to penetrate. They have developed consultative mechanisms, but these fora often serve to better channel alternative contributions without necessarily guaranteeing future change (Thiel 2014; Kist and Rosset 2020). Even authors who are optimistic about these mechanisms acknowledge that it is difficult to say whether they will increase the influence of associative actors (Giannetto 2020). Against this background, the displacement of LGBTI asylum to satellite arenas entails a possibility of associative cooptation and dilution. This is especially true due to the framing by administrations of their action in de-ideologized terms, as a form of scientific rationality. This discourse of science and facts, when combined with the promises of consultation, is difficult to challenge.

Nonetheless, beyond the question of accountability, the depoliticization of power relations entailed by the discourse of "good governance" does not stop there. It also depoliticizes power relations in asylum more broadly; by placing on an equal footing all the actors of asylum policies—states, officers, activists, asylum seekers, etc. Traces of this depoliticization of power relations can easily be found in the discourse of civil servants. For example, when referring to the Vulnerability Expert Network of the European Union Asylum Agency, Rachel, another civil servant working on vulnerability at the European Union Asylum Agency, described it as:

> *"The VEN is a forum where Member States and civil society organizations can sit together and discuss the issues of vulnerability"*

<div align="right">(Rachel, personal communication, 25/05/2020)</div>

In this description, it is as if states and associations merely needed to "*sit together*" and to "*discuss*" to fruitfully cooperate on vulnerability. This is not very representative of the distorted relations of power that exist between governments and local activists. The European Union Asylum Agency is imbued, again, with the role of the good and neutral arbitrator—the one that reconciles different parties and make things happen. The power relations that exist between

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[63] Trilogues are informal meetings between the Commission, the Parliament, and the Council. The objective is to find a preliminary agreement between the Parliament and the Council. Researchers have questioned this practice for its lack of transparency and accountability (Rasmussen and Reh 2013; Reh 2014)

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asylum officers and asylum seekers was similarly minimized in the contributions of other civil servants. For example, referring to the training provided by the Asylum Agency to national asylum officers, Anna Baracchi, training officer, explained:

> *"The European Asylum Support Office's training is professionally oriented, so it is not only about legal knowledge but also about the challenges that trainees could phase in the different phases of the asylum procedure. (...) What is done on many of these [LGBTI] aspects is valid for any kind of vulnerability, and the methodology relies among others on face-to-face interactions such as role plays, which allow trainees to understand how things are perceived from both sides. Trainings may also include the use of norm circles, allowing to show to the trainee what does it mean to be outside the norm; and it is working quite well so far."*
>
> <div align="right">(Anna Baracchi, personal communication, 25/05/2020)</div>

The underlying assumption in this extract there is that the violence faced by LGBTI asylum seekers at the hands of European asylum officers arises not out of distorted relations of power, but because knowledge is lacking (Sebastiani 2017). It can thus easily be resolved through "*face-to-face interactions such as role plays*", and "*norm circles*". The unbalanced relation of power between asylum officers and asylum seekers, along with the general disbelief in foreigners and the context of structural violence faced by LGBTI people in European societies today are all minimized. They become something that can be remedied at the individual level.

In this process, the violence faced by LGBTI asylum seekers—and thus the very reason for which they may need special considerations—is depoliticized. They are sent back to their individual characteristics, and the aim is therefore to improve their situation as individuals, but not necessarily to question the structural factors that enable their mistreatment as a group. This is also perceivable in the way their group belonging is systematically minimized in European productions. For example, in its 2017 report on the situation of LGBTI asylum seekers in Europe, the Fundamental Rights Agency emphasized the specificities of LGBTI asylum claims in terms of interpreters, accommodation, healthcare, and hate crime; but the broader situation of migrants in Europe—from which many of the struggles of LGBTI asylum seekers only are a magnified version—was simply not questioned. This argument should not be misread as entailing that the fact that they are LGBTI does not matter. Quite the contrary, this is something important. However, the structural factors of exclusion faced by LGBTI people in Europe are minimized too in these discourses, in which the fight against violence only seems to be a matter of conscientization and empathy. In both cases, the collective and socio-political roots of suffering are dismissed to the profit of an emphasis on the individual (Farmer 1996).The fight for the improvement of the situation of LGBTI asylum seekers is presented as a matter of recognition and respect for everyone's individual identity, and as something that is, therefore,

entirely compatible with narratives of governance and border controls. This does very little to disrupt existing inequalities: the situation of foreigners, perceived as a group, remains unchallenged; and LGBTI people keep being perceived through the prism of their individuality and unfair discrimination. Any sense of the structural character of violence is lost in this process. In other words, the depoliticizing politicization of migration has not only reinforced preexisting power hierarchies among European actors, but it has also largely contributed to the negation of the political aspects of the mistreatment of LGBTI asylum seekers in Europe, which is reduced to a question of individual prejudice, practices improvement, and awareness-raising.

2.2. Knowledge as closure: organized hypocrisy, triage, and the fuite en avant *of identification*

Yet, the analysis presented above openly contradicts the argument that the current corpus of knowledge being produced on LGBTI asylum improves the situation of these claimants. This contradiction is far from being trivial because civil servants working at the Commission or at the European Union Asylum Agency can hardly be described as anti-immigration. Similarly to what has been observed by researchers at the national level, people working in European institutions dedicated to asylum often have a high opinion of the right to asylum (Fassin and Kobelinsky 2012). They consider it as a positive symbol and therefore as something important, which must be preserved. They are certainly not among those who oppose or seek to limit the protection of LGBTI asylum seekers. Quite the contrary: they are persuaded that their work supports this protection and in fact, if one looks at LGBTI asylum seekers only as "LGBTI" and not as "asylum seekers", it is easy to understand why they think so. The problem is that their very same work also supports a form of governance of migration that is more oriented toward the closure of borders than toward their opening. This necessarily leads to the question of how they cope with this contradiction, and this is where "organized hypocrisy" proves useful.

Inspired by Brunsson (1986), Lavenex (2018, 1196) defined organized hypocrisy as "an unconscious organizational strategy to cope with irreconcilable demands". For her, the European Union was caught, in 2015, in the contradiction between its strategic and its normative environments. At the strategic level, states could not agree on collective solutions, and fears of generalized crisis were looming. At the normative level, the European Union considered human rights and refugee protection as essential to its own identity. When faced with "the absence of viable solutions, organizations (…) find themselves in a 'true dilemma – there are no solutions, only ways of dealing with the problem'. The default option then is to keep on with organized hypocrisy by further decoupling the policy's normative core and

symbolic discourse from action" (Lavenex 2018, 1201). As emphasized by the author, organized hypocrisy is not necessarily intentional, nor that it is a morally negative phenomenon. It is a coping mechanism to which multi-level polities are particularly vulnerable.

The decoupling between European action and European discourses was perceivable in several interviews. It must be underlined that it did not fool actors themselves. In interviews with civil servants from the European Union Asylum Agency, the question of borders was circumvented. One interviewee simply stated that they wished to skip my questions about European politics. Some other interviewed civil servants underlined how the field reality could sometime differ from the standards set in the legislation. In these conversations, the gap that existed between European protective claims and its protectionist policies was subjacent, and the uneasiness of interviewees sometimes noticeable. Interviewees were very much aware of this gap. There was, on one hand, the reality of a legislation that seeks to protect the most vulnerable, and, on the other, the reality of borders. Both do not—in fact, cannot—connect. It is as if they had an autonomous, independent existence. The autonomy of these two spheres was visible in the contribution of Lefteris Papagiannakis, past Vice Mayor on Migrant and Refugee Affairs at the Municipality of Athens, and sometimes heard as an expert at the European level. When questioned about the validity of the notion of vulnerability, he explained:

> *"On the field, it [the notion of vulnerability] does not make sense, but I understand its interest at the European level. I work a lot with the Commission and even though sometimes we have major disagreements, we do understand each other (...) and I do understand why they make this separation, because it is easier for them to justify their action and their interventions if there is a sort of vulnerability everyone can relate to. But… it has limitations. The content of vulnerability constantly changes (...) and even though I understand the Commission's rationale it just does not work. It is not possible to differentiate between people. Leaving your home, on your own, is enough to be vulnerable. The rest, as they say in English, is semantics."*

> (Lefteris Papagiannakis, personal communication, 14/05/2020)

The disconnection of European action and European discourses—upon which Papagiannakis critically reflects—could not be more visible than in this quote. Papagiannakis emphasized how vulnerability "does not make sense" at the operational level, while at the same time reasserting its usefulness in European discourses. What is interesting is here is the way he considered both arguments (vulnerability does not make sense and yet it does make sense) as equally legitimate even though they contradict. In this extract, action and discourses coexist without touching, and they are both true, but according to their own internal referential and system of values—and this referential is not shared among them. Taken together, these few elements show very well how the concept of organized hypocrisy works in European asylum policies. However, to deepen

Lavenex's (2018) analysis, it is interesting to note that in fact the actors interviewed were conscious of the contradiction between European action and discourse. They simply had no way out to offer.

This is where the idea of knowledge as serving the depoliticization of migration helps furthering the input of organized hypocrisy. Since actors are aware of this paradox in current European migration politics and still nourish a positive vision of European migration policies, it means that something allows them to hold these beliefs together. This "something", I argue, is their belief in knowledge. The reason why knowledge is key is because it allows a displacement from the terrain of debate and values into that of science and effective, truthful action—and who could oppose effective and fact-based policy? (Hammersley 2013) In this context, knowledge thus operates as an act of closure of the political debate. If something is true, then, action based on it cannot be wrong. This was illustrated in the interview of Abigail, Country of Origin Information Officer at the European Asylum Support Office. When asked about the potential instrumentalization of her work for the purposes of "safe country of origin" lists[64], she answered:

> *"The current European legislation only foresees national assessments of this concept and no European-level 'Safe Country of Origin' lists or assessments. From our perspective, working only on country-of-origin information, our information may be supportive of the assessments, but we are not involved in those. The Commission may request the European Asylum Support Office to deliver country-of-origin information in support of this concept, but also here, we limit ourselves to producing factual information along standardized terms of reference on rules of law, democracy, and other topics, and on specific profiles and their situation, such as LGBTI. (...) Regardless of whether this concept could be distorted by political matters, this is very different from the factual country-of-origin information reports on which the assessment of safe country is based."*

(Abigail, personal communication, 01/12/2020)

Abigail's contribution is an example of the way information that is not produced with exclusionary purposes can still underpin the promise of a world where exclusion is not political but scientific, and hence unquestionable. The reflexive link between knowledge and politics is cut off, and her unwillingness to consider the political aspects of her work and how it may serve bordering processes is even more striking given that initial proposals of the Commission for the reform of the Common European Asylum System did propose a European-level list of "safe

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[64] Safe country of origin lists are lists of countries that are deemed to be "safe" in general. The claimants from these countries will usually see their claims processed more quickly, have reduced access to material conditions of support and legal safeguards, and have higher chances to see their claims dismissed. It has been described by researchers as a "self-fulfilling prophecy" (Stefanova 2014; Atak 2018).

countries of origin". The 2016 Procedures proposal initially went as far as to affirm that claimants filing "manifestly unfounded claims"—a category that included claimants from safe countries—could be refused an individual examination. Here, thus, not only is it that the information produced by the European Union Asylum Agency can end up consolidating the division between "refugees" and "migrants" (Crawley and Skleparis 2018), but it can also participate in the construction of new, knowledge-based walls within European asylum policies.

In that context, knowledge serves what Green (2002, 43) has theorized as an ideology of triage, allowing to "organize", "regulate", "filter" migrants, and ultimately, to "separate the wheat from the chaff, the 'good' migrant from the 'bad' one" . This ideology of triage is perhaps what explains best why an inclusion-oriented corpus of knowledge on LGBTI asylum has come to modernize the exclusion of these claimants instead of disrupting it. Indeed, paradoxically, the emergence of this corpus has coincided not with a lessening of the expectations directed toward LGBTI asylum seekers, but rather with their rearticulation. The "will to knowledge", as Foucault (1976) called it, pervades all aspects of the asylum procedure in Europe today. Asylum officers want to establish who the person "really is" deep inside, social workers seek to fairly divide between the "vulnerable" and those who are not, and institutions work to produce the knowledge necessary to this permanent triage. This explains why actors of this corpus of knowledge are mostly preoccupied with finding new and better ways to define and recognize LGBTI bodies, therefore resulting in the *fuite en avant* of identification methods.

I use the term *fuite en avant* here to refer to the observation that while ways of assessing gender and sexuality have changed, the will to knowledge persists. Standards of evaluation have not lessened, quite the contrary. Confessions of one's deep feelings and correspondence to the "DSSH model"[65] have replaced videotapes of sexual acts and psychiatric evaluations, but this emphasis on emotions and identity still constitutes an important barrier for LGBTI asylum seekers, many of whom are unable to develop the well-crafted and emotional discourse expected by asylum officers (Jansen 2018; Dustin and Ferreira 2021). The point is that now, asylum seekers need to *be* homosexual, not to *have done* homosexual acts. This notion of "being", although it does not correspond to lived human experiences (Sullivan-Blum 2006), is probably reassuring to asylum officials, because it entails the existence of a truth—a truth that needs to be uncovered by deploying the right techniques, but a truth that does exist nonetheless, and that therefore makes triage a rational behavior and not an ideology. It offers the promise of

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[65] A model that looks for narratives of difference, stigma, shame, and harm in the speech of asylum seekers, initially developed by a British solicitor and that can now be found in documents of the European Union Asylum Agency.

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a world in black and white, where knowledge helps separating those who "are" from those who "are not" and where the boundaries between both categories never blur. The fantasy of this clear-cut division is central to the production of "docile bodies" with unambiguous identities, allowing their triage for the purposes of differentiated governance—on one side, gay refugees, on the other, bogus migrants (Aas 2011; Weber 2014). Little does it matter if researchers have underlined how this narrative does not correspond to the reality of many people who are facing death for gender- or sexuality-related reasons (Nasser-Eddin, Abu-Assab, and Greatrick 2018).

In the end, the argument of this section is that the modernization, in the field of asylum, of tools and discourses about what homosexuality "really is" and how to document it correctly—tools and discourses that were developed in the name of inclusion and gay-friendliness—has not rendered European borders more permeable to LGBTI bodies. It has rather heightened them: not only do LGBTI asylum seekers still struggle with proving their claims, but this struggle is made even more inaudible to European policymakers, who consider the knowledge and the tools they produce to be fair and true. Narratives of knowledge, in this context, have naturalized preexisting power structures, and enabled policymakers to find a way out of the contradiction entailed by organized hypocrisy. This exit route does not rely on the questioning of the premises of the system, but rather on its marginal improvement. As such, it immunizes the system from being too drastically challenged, and it reinforces preexisting exclusions by portraying them as merely in need of marginal fixes. Yet, when a boat is returned in the Mediterranean, little does it matter if LGBTI people are onboard or not. And, when asylum seekers are deemed to come from a "safe country" and their claims are therefore processed in an accelerated manner, LGBTI claimants—and especially the most frightened ones, those who do not dare speaking—are deported too (Le Bellec 2021). In other words, the treatment of exception that seems reserved to them when reading institutional productions is, by large, a hollow promise. There can be no LGBTI-protective protectionist policy; and yet, knowledge allows to maintain this fiction.

3. The paradoxes of LGBTI recognition as "that which we cannot not want"

An easy argument to oppose to the critique formulated above would be that of the real-life situation of LGBTI asylum seekers. Indeed, in the current European asylum context, the fact that LGBTI claimants benefit from some form of recognition is certainly better than nothing at all. Of course, again, LGBTI asylum seekers are often submitted to the same violence as other asylum seekers do, especially when they try to reach Europe. But does that mean that these

asylum seekers and their European allies have the luxury to refuse policies that aim to improve, even if marginally so, the situation of those who already are in Europe and whose claims are being processed? And is it not unfair to always ask to the most excluded of all to be critical of broader policies when these policies seek to include them after years of exclusion?

This tension is at the core of the third section of this chapter. Referring to Brown's (2000) conceptualization of rights as that "that which we cannot not want" and to Fraisse's (2008) call to "inhabit the contradiction", this last section explores the paradoxes of LGBTI recognition in a context of migration securitization. It also links this reflection more explicitly with the question of equality in migration policies. To do so, the first sub-section analyzes the forms of group-specific recognition awarded to LGBTI asylum seekers under current European policies. It underlines how they constitute a form of "equality through alterity", where LGBTI asylum seekers are at the same time recognized as deserving of protection and assigned to their difference. The second sub-section pursues this reflection by showing how alternative forms of recognition can nonetheless emerge from this initial form of recognition, especially as activists navigate conflicting demands and negotiate the protection of the claimants they support.

3.1. Equality through alterity: the recognition of the vulnerability of LGBTI asylum seekers as a "disabling entitlement"

Despite all criticism, the production and diffusion of knowledge on LGBTI people is sometimes not a luxury but a vital need for LGBTI claimants—one that can make the difference between life and death. There are still places where asylum officers refuse to grant protection to an asylum seeker due to a lack of specific information about the situation of LGBTI people in a country, misleading them to assume that if most people are safe, then LGBTI people should be too (Jakulevičienė, Biekša, and Samuchovaitė 2012; Andrade et al. 2020). Newspapers are also filled with articles about people facing death after having been deported because judges did not believe them.[66] Beyond that, while today many asylum officers do understand what "lesbian" or "gay" mean, this is not necessarily the case for all claims based on gender or sexuality. This was visible in the interview of Luan Pertl, Finance and Administration Officer at the Organization Intersex International Europe, and in charge of the organization's asylum project. When asked what problems intersex asylum seekers faced in Europe, Pertl explained:

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[66] The New Yorker published an article about cases where people effectively died. Some of the reported cases were gay asylum seekers. Link to the article: https://www.newyorker.com/magazine/2018/01/15/when-deportation-is-a-death-sentence (last consulted 06/06/2022)

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"So, first of all, one of the biggest problems is that people who are seeking asylum, very often don't know what 'intersex' means, they don't know the name. So, they are not asking... They don't say 'I'm intersex and that's why I want to be granted asylum', and that's a big problem. (...). So, when people are coming to you, you are giving them a word. That's the first step, the initial problem if you want. And then there are other problems, such as being put in the wrong place, in camps, housing, things like that (...). And then of course you have... if people went under medical surgery or treatment as a child, medical issues may arise because they are not... most of the time, they are not able to see a doctor that knows about intersex issues and then of course the problem again, is that they don't have words. So sometimes they don't get the medication (...) I don't like to talk about diagnoses, but there are diagnoses where you need medication, you don't need surgery, but you need medication. And we sadly realized that for some people, during their journey, the medication box became empty. Because they did not realize how much time it would take to come here. And we had two cases where people were in a very, very bad health situation when they arrived. (...) Finally, the problem also is that for now we only have two or three cases where intersex people got a positive decision because of the variation of sex characteristics. All other people got asylum because the doctor said they could not survive in their country because they could not get the medical treatment they needed. So, we are working with this doctor, and he does not do surgeries or things like that, but.... The problem is, then people get asylum just because he wrote a letter. For medical reasons, not for sex characteristics. And this is something we would like to change (...). Because it produces the idea that intersex people are sick. And we want that to stop."

(Luan Pertl, personal communication, 04/06/2020)

In this quote, Pertl explicitly framed knowledge as a matter of survival. The form that this knowledge takes is varied: Pertl mentions self-knowledge (being able to refer to oneself as intersex), medical knowledge (being able to access adequate care), and legal knowledge (knowing intersex issues well enough to grant asylum based on sex characteristics and not health conditions). All these forms of knowledge are essential to the survival and decent life of intersex refugees in Europe. Interestingly, while Pertl underlined the existence of major disagreements on ways of framing intersex issues, this did not entail the plain rejection of all forms of cooperation with doctors, although their contribution was strongly criticized.

Pertl therefore approached knowledge not as truth but as multifaceted corpus of information; one that is not always perfect but can hardly be refused at all. This ambivalence is at the core of the reflection of Brown (2000) on politics of recognition. Brown worked not on knowledge but on rights, but her analysis is nonetheless of particular relevance to the situation of LGBTI asylum seekers in Europe. In a seminal article published in 2000 and inspired by Spivak (1983), she argued that "given the still precarious and fraught conditions of women's existence in a world ordered by a relentless construction and exploitation of sexual difference as subordination, certainly rights appear as that which we cannot not want" (Brown 2000, 231, my emphasis). What she meant was that when we suffer intensely, any measure designed to reduce this suffering is welcome. In the case of Pertl, the support of doctors in achieving the protection

of some intersex asylum seekers could not be rejected altogether. And, more broadly, in a context of generalized suspicion toward foreigners in Europe (Bohmer and Shuman 2018; Affolter 2021), the recognition of LGBTI asylum seekers—of their existence, needs, and vulnerability to certain forms of violence—certainly appear as that which cannot not be wanted.

However, Brown warned, there is a paradox in claiming liberation with and through the tools that were designed in a system of domination. As she reminded her readers, "to have a right *as* a woman is not to be free of being designated and subordinated by gender. Rather, while it may entail some protection from the most immobilizing features of that designation, it reinscribes the designation as it protects us, and thus enables our further regulation through that designation" (Brown 2000, 232). In the case of LGBTI asylum seekers, it is obvious that the corpus of knowledge constituted around them is oriented toward the documentation of their difference. They are recognized for their "special needs", or their "distinct vulnerabilities". This is how the Fundamental Rights Agency referred to them in its 2017 report, writing:

> "Lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons may have special reception needs and/or grounds for international protection that are related to distinct vulnerabilities (…) This report reviews how asylum claims based on sexual orientation and gender identity are assessed and analyzes the existence of specific reception measures for LGBTI persons"

> (FRA, Current Migration Situation in the EU report, 2017).

The language of difference and specificity is omnipresent in these two sentences. So is it in the rest of the report, which emphasizes the way eligibility interviews are not "specific enough", the need for "special accommodation" or "special measures" in case of harassment, the importance of "specific training", and the provision of "specific healthcare". In sum, what matters to European institutions is how these asylum seekers are *different,* not *similar,* to other asylum seekers. This difference is what justifies their need for recognition. In other words, similarly to what Sénac (2012; 2017) has argued in a different context, the very terms that served to justify the historical exclusion of LGBTI asylum seekers are now used to justify their inclusion. They were excluded because they were different; they are now included in the name of their alterity, which comes to symbolize the openness of the European community to the diversity of humankind. Of course, this move away from the universalist figure of "the" refugee is positive for LGBTI asylum seekers (Tissier-Raffin 2019). However, as both Sénac (2017) and Brown (2000) would warn us, this inclusion into the polity in the name of difference necessarily entails important limitations. Recognition, in this context, is imbricated into an assignation to alterity, because entrance into the polity relies on the performance of difference.

This difference, furthermore, is framed in terms that are not trivial. As visible above, it is tied to the notion of vulnerability—a notion that the Fundamental Rights Agency argued should cover LGBTI asylum seekers too. Both vulnerability and special needs are highly gendered constructs (Hollander 2001; De La Cruz 2017). Being categorized as a vulnerable means being categorized as a victim, or as a potential one (Furusho 2018). It also means being associated with notions of passiveness, weakness, frailty. This association between victimhood and vulnerability is clearly visible in the following pictures, which are screenshots from the 2021 Training Guide of the European Union Asylum Agency. The guide advertised the modules offered by the agency. While their module on sexual orientation and gender identity did not have pictures of human beings, their modules on vulnerability were illustrated as follows:

Figure 7. Screenshot from p.27 of EUAA Training Guide. Authorization to reproduce granted on 21/06/2022

Figure 8. Screenshot from p.35 of EUAA Training Guide. Authorization to reproduce granted on 21/06/2022

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Figure 9. Screenshot from p.36 of EUAA Training Guide. Authorization to reproduce granted on 21/06/2022

In the pictures presented above, the association of vulnerability to victimhood, along with its underlying gendered component, are clearly visible. All applicants are crying; two are women, one is a man. For the vulnerability of women to appear, not much is needed: they stand on their own, tearful. The man, on the other hand, is presented in a setting remindful of a doctor's practice. The way vulnerability is intertwined to weakness is thus clearly illustrated here (in slightly different gendered terms). Of course, this does not mean that all those who qualify as vulnerable must be passive and tearful. However, to correspond to this definition, they must not over-emphasize their capacity to act (Freedman 2018; Papada 2021). Subjacent in European asylum policies indeed is the idea that agency is something that only economic migrants, and not refugees, possess (Spathopoulou, Carastathis, and Tsilimpounidi 2020).

At the same time, though, what is interesting in the portrayal of LGBTI asylum seekers as vulnerable is that it is precisely the diagnostic of weakness that justifies the development of measures that are supposed to provide them with a more "humane" approach to their claims. Other asylum seekers do not benefit from this. To come back, again, to Brown (2000), when she started her paper on rights, she quoted Spivak's notion of "violating enablement"—a violation that at the same time enables the subject. It is clear that she considered rights as one of these. There is a similar sense of oxymoron in the process recognition-as-vulnerable. However, I would argue that it should be considered not as "violating enablement", but as a "disabling entitlement". Recognition-as-vulnerable entitles some asylum seekers to rights and protection, but at the same time it disables them as individuals by constructing them as ineluctable victims. It functions as a conditional inclusion into the European community, an

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inclusion that provides protection and some form of equality to some sub-groups *in the name* of their assignation to subalternity and to a depoliticized identity grounded upon victimhood.

3.2. Inhabiting the contradiction: the relation of local activists to truth and difference

This conditional inclusion produces a situation of "contradiction with no way out" (Fraisse 2008) for LGBTI asylum seekers and those who support them. It is a contradiction unlike many others because the question it asks, in the end, is nothing less than one of the major questions of feminism and LGBTI activism: that of universal or group-specific politics. Abandoning the politics of recognition-as-vulnerable and adopting a universalist approach to protection indeed allows to stop assigning LGBTI asylum seekers to their difference, but to the risk of negating the relevance of heterosexism in explaining their situation. Conversely, emphasizing their need for group-specific guarantees is essential to improve their condition, but it reassigns them even more strictly to their alterity at the same time as it provides them with some form of emancipation from the most debilitating forms of violence they face. There is no good solution to the contradiction between universal and group-specific politics, nor is there one to many other types of contradictions—such as the one, for example, between "knowledge as closure" and "knowledge as recognition". Based on this observation, Fraisse (2008, 62) called her readers to acknowledge that some contradictions must be "inhabited" rather than avoided.

Fraisse's argument is particularly useful to analyze the situation in which activists supporting LGBTI asylum seekers in Member States today are caught. These activists navigate a complex environment, especially as they are increasingly asked by national and European authorities to cooperate in the production of knowledge allowing them to better identify LGBTI claimants. This puts them in an ambivalent situation, where they are caught between the role of the "protester" and that of the "contributor" (Jens Steffek and Ferretti 2009; Kohler-Koch 2010; Pette 2014). Beyond that, their own field of activism also brings its own share of tensions, especially as they are caught between two conflicting logics of activism. The first is that of a (universalist) critique of borders: borders are inherently unfair, and everyone should be helped. The second is that of (group-specific) community support and non-mixed spaces: supporting LGBTI asylum seekers is an act of resistance in a heterosexist society, and these asylum seekers should be able to meet among themselves, especially in the face of their social exclusion. Both contradictions interconnect when being a member of an organization specifically dedicated to LGBTI asylum seekers becomes a criterion for asylum authorities when they assess if someone

is "really gay". This is a practice that has become increasingly common in the past few years, as many of my interviewees—from all around Europe—reported that they often submitted to authorities certificates attesting the participation of asylum seekers to their activities. This practice puts organizations in a delicate position, where politics of truth, border controls, and community support intertwine. Nowhere is this intertwinement more visible than in the contribution of Aderonke Apata, Nigerian lesbian activist, refugee, and founder of the British charity African Rainbow Family. She explained:

> "Our policy is that we are not Home Office. And we are not going to police people for Home Office. But then, if we suspect that anyone is faking it, we would call them out, and we would tell them, African Rainbow Family is not the right place for them, because other people would not feel safe (…) and that damages our credibility. So, the process that we go through… I'm not saying it's watertight, and like I said, we do not police people, no! But it is for us to be sure that we are doing the right thing. So, we have signed-up forms that people will go through, and our volunteers will spend a lot of time with anyone who wants to join us. (…) And because we have all been in that situation before, we would be able to pick it up if someone is still in the closet and is an LGBTIQ person or not an LGBTIQ person. If someone is from your country, you will know. (…) And then if we observe anything contrary to what we expect from a LGBTIQ person in the group, we call the person out, we have a chat with them, to understand what's happening, and if we are not able to establish any reasonable grounds for that we ask them to leave. And, hm… as a charity, we don't rush to write letters for people. (…) Some organizations will write the letters straightaway, some will take three months, our own policy is six months. Service users have got to be with us for at least six months. And they have to have attended all or 85% of our meetings, and a majority of our events. So, it allows us to observe them. (…) We want people to obtain asylum, we don't want credibility issues. Naturally, if you're asking me, I would just… I would say, if you're an LGBTIQ person, just come on in! But because we know the culture of disbelief that exists… If I go to give some evidence for someone in court, and I get criticized, the Home Office will use it against me when I go back to support another person. It is never just about one person"

(Aderonke Apata, personal communication, 10/09/2020)

It is crucial to underline that Apata was not the only one who refused to support claimants whom she suspected to be lying. Often, activists were uncomfortable voicing it too explicitly, but in reality associations with an uncontrolled "open door" policy were a minority. Most operated a form of control over their public, though not always as meticulously as Apata's association. What is interesting in Apata's contribution is the way it illustrates the tension that authorities' emphasis on "truth" creates for local associations. She started by underlining that such control is needed for intra-community purposes—for LGBTI asylum seekers to feel safe. She also underlined several times that they were not the Home Office and were not going to act on their behalf. However, the figure of the Home Office still lurked throughout the extract, especially when she explained how the (in)credibility of asylum seekers is passed onto the reputation of her association, which then transmits it to the future claimants they support. This

transfer of credibility is always done at the detriment of associations and asylum seekers: it does not result in lower standards of credibility for asylum seekers, but if their claims fail, it will have an impact on all future asylum seekers supported by the association. This puts associations in a situation where they too must seek to know who they "really have" in front of them. Narratives of truth, vulnerability, and difference become once again central. In sum, in this context of reliance of authorities on association membership to "prove" homosexuality or transness, the bordering operated by these associations—independently of the purposes for which it is done—can only come to reiterate the bordering of the national community.

The trade-off that activists face is therefore at the same time very simple and insoluble. Their participation in the politics of truth and difference surrounding LGBTI asylum claims in Europe today will often be indirectly detrimental to the claimants they support. However, at the same time, refusing to participate in the fabrication and reiteration of the truthful and documentable difference of LGBTI asylum seekers can only result in more difficulties for the claimants they support on the short term. When facing this contradiction, there is no other option here than to inhabit it and to renounce the temptation of clear-cut answers. This is also what Lugones called activists and researchers to do when she wrote "I won't think what I won't practice. This is also a commitment against utopianism, which seems to me what keeps one out of despair when one cannot act, at all. (…) My perspective is in the midst of people mindful to the tensions, desires, closures, cracks, and openings that make up the social" (Lugones 2004, quoted in Chávez 2013, 5). Fully inhabiting the contradiction is only what can allow alternative forms of solidarity and equality to emerge in real life. And, while some interviewees did not question narratives of truth and difference, others were openly critical about these discourses—and this without abandoning the LGBTI asylum seekers they supported. The metaphor of "translation" often came back in interviews, as several activists explained how they helped translating the life experiences of asylum seekers in a way audible to asylum authorities.[67] Of course, research has underlined how translation can be a normative act (Berger 2009; Akin 2017). But, through the act of narrative reconstruction it offers, translation also questions the presumption that there would be such a thing as an inherent and unproblematic "LGBTI nature".

Beyond the question of translation, some interviewees underlined how they conceived truth as a multifaceted rather than a monolithic phenomenon. Nowhere was this attempt to explore the "cracks of the social" better illustrated than in the words of Leonardo, Italian activist:

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[67] The doctoral dissertations of Florent Chossière and Sara Cesaro (forthcoming) analyze this question in depth.

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"Our position is, basically, that our job is not to play the role of institutions; we are not the police, the commission, or the tribunal. So, we take all cases. Whether we think that they are fake or not. (...) This being said, when it comes to intervening at court, in general, we only do that for people who really need it, because the credibility of the organization is at play. (...) But what really helps us is that within the organization we have a group of LGBT migrants and so, even if we do not really trust the person, we can still say that they went to this group, did some advocacy, went to the Pride. Those are official things and they do not depend on us, so we cannot object writing that. Some judges do not even read what we write, they are happy with having the paper in hand, but we always try to be specific, to write five or six pages. (...)

Aren't you afraid that it may play against asylum seekers who don't have this report?

Yes, of course, this is always the risk. And we've thought a lot about that. And what we always write in our papers is that not all LGBT people will want to join a LGBT organization, and that we should stop assuming that the activism of LGBT migrants must be the same as the activism of LGBT Italians; and that even among Italians, there are some people who do not want to join organizations! (...) There are a lot of people in X [another organization] that say, 'we don't give the membership card of the organization to support claims', but as we don't have membership cards, it's easier for us (laugh) (...). But in general, my personal opinion – and that's not the opinion of my organization, even though try to influence it (laughs) – is that I don't care whether that person is LGBT or not. Because asylum is a useful tool to protect people who, in their country, are in danger, or even simply to give them another life. And for me, this is what is right. These are my values, my core principles."

(Leonardo, personal communication, 17/04/2020)

In Leonardo's contribution, truth is a continuum. It is not entirely absent from his contribution—he still referred to people they "do not really trust"—but the form it takes is multifaceted. Truth can be about being trusted, but it can also be about participating in activities, doing advocacy, going to the Pride. The organization plays with that multiplicity to avoid the binary of the true refugee/bogus claimant. Leonardo's contribution is also an interesting example of someone who inhabits the present (providing asylum seekers with the documents they need) while staying simultaneously committed to long-term activist goals (challenging borders and remaining committed to broader ideals of justice). It is also interesting to note that, somewhere else in his interview, Leonardo reported that he found the Country-of-Origin Information produced by the European Union Asylum Agency to be very important, not so much because he considered it as neutral and truthful but because "it gives information that has a legitimacy" and helps people getting the status of refugee.

In these different cases—the translation of claimants' narratives, the production of different letters, the use of Country-of-Origin reports—activists at the same time utilize and destabilize the narrative of truth and difference produced by European and national institutions. Because they at the same time participate in these narratives and refuse to take them for granted, they contribute to reintroduce uncertainty and friction into a model that, under its smooth façade,

relies on black-and-white divisions. In sum, in this context, knowledge, under its naturalized form, can be a synonym of closure; but it can simultaneously represent an openness toward new paradigms of recognition, depending on who mobilize it and for which purposes. This, however, necessitates that the actors of this corpus of knowledge are reflexive about its content, purposes, and conditions of production.

Conclusion

This chapter sought to interrogate the current rearticulation of migration and equality policies in European-level politics. It started from the observation that never have European institutions talked so much and so explicitly about LGBTI asylum seekers than in the past decade. Moreover, current institutional productions, because of the form they take—that of an operational corpus of knowledge aimed at better governing asylum claims—are concerned explicitly with the situation of LGBTI claimants. This differs from previous materials analyzed in this dissertation, where, under the term "LGBTI asylum", it often was broader issues that were being debated. In light of this evolution, this chapter sought to examine whether this renewed emphasis on the figure of the LGBTI foreigner would entail a better interpenetration of equality and migration policies in the European debate. Can the subject of LGBTI equality be a foreigner? And, given the way the discourses analyzed here are often framed in depoliticized terms, what does that mean about the role of (de)politicization in enhancing the protection of LGBTI people despite political disagreements? This second question was particularly important because I concluded the previous chapter by showing how technical and depoliticized discourses were political objects too, and how, despite their neutral appearance, they were often not favorable to the making of more inclusive asylum policies.

Based on this initial questioning, this chapter has documented the progressive displacement of LGBTI asylum away from the European political debate and into the domain of policy implementation. It is important to underline that this displacement is partial because most progressive actors support the idea that the Common European Asylum System must be reformed. However, in a context of political polarization and fear of the influence of the radical right, these actors have found comfort in the idea that it is still possible to move forward on the protection of LGBTI claimants through the action of European satellite arenas. The operational knowledge produced by such arenas is understood as helping to overcome, through the soft harmonization of practices and tools, the political blockages created by Member States or

conservative actors. Beyond the momentum created by the current crisis atmosphere surrounding European politics, this emphasis on implementation must also be understood in relation to two broader phenomena: the historical focus of activists on improving the situation of LGBTI asylum seekers here and now—and not just in legislation—and the European reliance on technique as a policymaking *modus operandi.* It is through the coalescence of these three distinct dynamics that satellite arenas have come to become key actors of LGBTI protection in Europe today.

The work of these satellite arenas, when understood in articulation with the action of other actors situated above and below Europe—activists, lawyers, national asylum authorities, international organizations—has enabled the emergence of a positive discourse on LGBTI asylum seekers. This discourse, inclusionary in its purposes, is also grounded upon research and documentation. In that sense, it contrasts sharply with prior understandings of gender and sexuality in asylum. It has helped moving away from the perception of homosexuality and transness as pathologies or as perversions, by framing them as natural human experiences— and therefore as something that must be cherished and protected, rather than reprimed and rejected. Moreover, by putting the figure of the LGBTI asylum seeker at its center, this emerging corpus of knowledge has also provided a form of recognition of these claimants as subjects of migration policies. Indeed, when European satellite arenas produce reports on LGBTI asylum, they are talking about the specific experiences of these asylum seekers *as LGBTI foreigners*—and not about LGBTI equality in general. This is a shift in the European politics of asylum because it opens the door to policies more specific to LGBTI asylum seekers than what they have been until now. This is the direction taken, for example, by the Fundamental Rights Agency when it underlines the need for better training, better interpretation, better accommodation solutions, etc. These suggestions are much more specific than previously vague calls to better recognize the need for protection of LGBTI claimants.

Nevertheless, while this new body of knowledge has allowed a more specific understanding of the issues faced by LGBTI asylum seekers, it has not disrupted the *status quo* of equality and migration policies in Europe today. This is, in part, because its production cannot be untied from ideals of migration governance. The objective, for satellite arenas, is primarily to produce information and tools to better identify individuals, differentiate between them, and process their claims in an appropriate way. The need for this triage is not questioned in this body of knowledge. The tools and methods sustaining this triage may need to be improved to become fairer, more humane, and more efficient, but the very *raison d'être* of the differentiated

treatment of asylum seekers is not called into question. Yet, what is at stake in triage is, ultimately, the extraction of some individuals—the vulnerable victim, the deserving refugee, etc—out of the broader group of migrants. This is precisely what happens when a few hundred individuals, based on their vulnerability, are picked by Greek authorities to be transferred "from reception centers on islands to shelter on the mainland" (the difference between "reception centers" and "shelter" is worth underlining).[68] And, in this context of selective inclusion, the knowledge produced on LGBTI asylum seekers by satellite arenas serves similar purposes.

This corpus of knowledge indeed seeks to pinpoint the *difference* of LGBTI asylum seekers to constitute them as *individuals* distinct from the broader *group* they belong to. In sum, their difference—a difference equated here to frailty—is what makes them potentially rescuable. This is far from being unproblematic. Not only does it entail that LGBTI asylum seekers enter the European community not as potential equals but as subalterns—because their entrance is conditioned to their assignation to the status of precarious minority—but, beyond that, their inclusion does not destabilize current migration and equality policies. Being LGBTI remains perceived through the prism of individual identity, not through that of structural hierarchy, and the political aspect of their persecution is reduced to a question of valorization of the different social groups that make up the diversity of humankind. Under this framework, gender and sexuality lose their critical potential—after all, if being homosexual is not visible at first sight, then how could the protection of LGBTI claimants be compatible with policies that dismiss asylum seekers *en masse*?—to become criteria like any other, to be objectified, weighed, corroborated. In parallel to this depoliticization, the violence and the exclusion faced by migrants in Europe, on their side, simply goes unquestioned. The rationale is that given that it is possible to provide people with reasonable accommodations based on their individual characteristics, then, there is no need for a global change of the system.

In the end, therefore, the fact-based, knowledgeable, and depoliticized vision of LGBTI asylum promoted by European administrations has consolidated preexisting structures of power more than it has challenged them. Of course, again, the fact that this new corpus of knowledge has allowed to stop or limit intrusive and humiliating practices of assessment cannot be minimized. However, it is still based on ideals of truth and deservingness that have resulted more in the modernization of the culture of suspicion surrounding LGBTI asylum claims than in its disruption. In other words, it has actualized European borders, not rendered them more

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[68] UNHCR (2018), "Thousands of asylum-seekers moved off Greek islands". Online. (last consulted 11/06/2022).

permeable to LGBTI bodies. This actualization of strict border policies is veiled by depoliticized discourses of knowledge, thus negating the political nature of the decisions being made—and discharging decision-makers from their responsibilities. This is what allows civil servants to make sense of the conflicting demands inherent to their work: protecting the most vulnerable, while ensuring the ever-stricter closure of European borders. It offers the comfortable promise that a "way out" of the contradiction between protectionist policies and protective claims does exist, even though in the end, it is borders that end up being consolidated, not international protection standards. Depoliticization, in this context, can very well be as (if not more) detrimental to the inclusion of LGBTI asylum seekers as the polarization of the debate induced by the radical right, because it naturalizes exclusions and power unbalances.

One final point remains to be made before closing this analysis. It is that this chapter does not question the importance of recognizing LGBTI asylum claims, but rather underlines the necessity to have a critical reflection upon the form that this recognition takes, especially in its articulation to broader migration policies. Of course, LGBTI activists and asylum seekers cannot not want that recognition. However, the risk, if recognition is not associated to a critique of the context of closing borders under which it takes place, is that it will at best reiterate the assignation of LGBTI refugees to the status of deserving (but subaltern) "Other", and at worse naturalize their exclusion when they do not correspond to the standards set by European institutions. In sum, there can be no fair asylum procedure to LGBTI people only, and this must be acknowledged to open new horizons of solidarity and equality. This has already been evoked toward the end of this chapter, and it is at the core of the last and fifth chapter of this dissertation.

CHAPTER 5

Repoliticizing from Below: Local and National Organizations and the Contestation of European LGBTI Asylum Policies

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"Paris, the 29th of January 2016

Mr. Minister,

Considering the critical situation of asylum seekers in France and in the European Union, our organizations, members of the French Coordination for the Right to Asylum, many of which call for the abrogation of the EU regulation n° 604/2013 ("Dublin III" regulation) are requesting prefects to use (…) the discretionary clause provided by article 17 of the regulation so that all the people who have applied for asylum in France to have their claims examined by [French authorities].

This demand is based in the first instance on the observation of a disparate and uncoherent treatment, in France, of asylum claims by the administrations in charge of processing them. (…)

But beyond that, our demand arises in a broader European context, which is marked by the declarations and discussions that have followed the dramatic shipwrecks in the Mediterranean Sea during the month of April 2015. (…)

This double context, both national and European, fully justifies, in our view, the immediate suspension of all Dublin III transfers."

(Collective press release, members of the French Coordination for the Right to Asylum (CFDA), 2016)

In 2016, in the midst of what was to be known as the European "refugee crisis", a collective of French associations challenged the then French Minister of Interior, Bernard Cazeneuve. The situation was already dramatic in Europe, they argued, so at least French authorities could

follow the lead of Germany and decide to stop applying the Dublin III regulation.[69] The demand of these associations was not acted on, but they did not stop mobilizing. Three years later, in 2019, another collective of associations organized a march against the regulation in Paris. The march was framed as a transnational European protest, even though most participants were based in France. At the metro station closest to the march, nine persons were controlled and arrested by the police, and three of them—two from Darfur, one from Senegal—were kept in retention in order to be sent back whether to other European countries under Dublin III, whether to their country of origin. In all these different events, the ARDHIS (*Association pour la Reconnaissance des Droits des personnes Homosexuelles et trans à l'Immigration et au Séjour*), the largest association supporting LGBTI foreigners in France, was present. The association still regularly denounces the Dublin III regulation, including during the 2022 French presidential elections. [70]

These events demonstrate that it is important to avoid looking at the European politics of LGBTI asylum as no more than the negotiation of supra-national policies by European elites. European policies can indeed be a subject of local contention (Imig and Tarrow 2001; Balme, Chabanet, and Wright 2002; Monforte 2014). The role that local associations may play in shaping European policies came up subtly throughout this dissertation—from their influence on early ILGA-Europe asylum activism, evoked in the first chapter, to their participation to consultations organized by the European Union Asylum Agency briefly analyzed a few pages above. These actors are therefore not just passive recipients of European policies, but important stakeholders to consider—both for their relationship to European lobbies and in their role as autonomous players (Kriesi, Tresch, and Jochum 2007; Sanchez Salgado and Demidov 2018). In spite of this, their role in supra-national politics is seldom documented in the literature, which, to a few exceptions, often focuses on European-level lobbies or on transnational coalitions. This gap is problematic because it makes local associations the poor relation of research on the Europeanization of mobilizations (Imig and Tarrow 2001; della Porta and Caiani 2009). It is even more of a problem in the case of LGBTI asylum because researchers have argued that migrant and LGBTI communities, due to their insertion in transnational networks of solidarity and their low expectations *vis-à-vis* states, may be even more willing to

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[69] Dublin III is a regulation that states that asylum seekers must be processed in their country of arrival and therefore organizes their transfer back to that country, usually in Southern Europe. It has been criticized for its negative impact on asylum seekers (in terms of access to material support and right to fair treatment) and for overburdening countries placed along the Mediterranean.

[70] All the facts quoted above can be found in the "Press release" section of the French association supporting LGBTI foreigners, the ARDHIS. Link: https://ardhis.org/communiques-de-presse/ (last consulted 12/06/2022)

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organize transnationally (Guiraudon 2001; Ayoub and Paternotte 2016b). Of course, European policymaking still is a very elite-oriented process (Favell and Guiraudon 2009). But alternative paths to influence do exist. Yet, to the exception of Monforte (2014), the role of local associations in making these alternatives emerge has often been understated.

Against this background, Monforte's (2009; 2014) analysis is crucial to fully grasp the importance of local associations to our discussion of European politics of LGBTI asylum. Working on migrants' rights associations in France and Germany, Monforte classified these organizations into three categories: humanitarian, politicized, and oppositional groups. While humanitarian organizations framed their beneficiaries as victims deserving of relief and did not criticize too openly asylum policies, he described politicized groups as tending to be more critical of the categories established by authorities, and to "mobilize on behalf of what they define as populations facing unjust or inhuman policies" (Monforte 2014, 70). He characterized oppositional structures, finally, as emphasizing the autonomous self-identification of migrants and framing policies as inherently exclusionary. The vast majority of the organizations I interrogated during fieldwork seemed to me to belong to Monforte's second category, that of politicized groups. Most were LGBTI organizations with an interest in migration—the opposite, migrants' rights with a LGBTI interest, was less common. In general, they were often critical of asylum policies and political discourses, as visible in the example of the ARDHIS and Dublin III, highlighted at the beginning of this chapter. However, they often simultaneously developed activities that did not fit the model of "oppositional groups". The ARDHIS is, again, a case in point, as they have a long tradition of cooperating and lobbying national asylum authorities.

The politicized identity of these associations raises important questions regarding the research question of this dissertation. One might wonder, first, whether the action of these groups might interfere with the trend of depoliticization of LGBTI asylum analyzed earlier on. Can mobilizations on European frameworks organized at the local level—such as the 2019 "Stop Dublin" march—help unveiling the political aspect of technical policies? Beyond this question, moreover, we might wonder whether their tendency, as politicized groups, to question established categories of public action, will lead them to challenge the way LGBTI asylum has been constructed in European public policies. Throughout this dissertation, I have sought to characterize and delineate this European definition of LGBTI asylum. The findings exposed in previous chapters, taken together, show that it is based on three main characteristics. The first is the prevalence of anti-discrimination and humanitarian frames. At the European level, LGBTI asylum is understood not so much as a political struggle against a normative order but as a

question of mainstreaming of LGBTI non-discrimination in European legislation—or, in the case of asylum seekers, as a question of protection against extreme forms of violence. The second characteristic of this definition is that it is identity-centered. Gender and sexuality are understood as a form of personal inherent truth that can be grasped if adequate tools are deployed. Finally, the third characteristic of this European understanding of LGBTI asylum is that it is firmly grounded on the notion of difference of LGBTI asylum seekers and is thus siloed. Throughout this thesis, indeed, we have seen policymakers, civil servants, and activists framing LGBTI as distinct from the broader migration debate, and as an issue that belongs more to the domain of LGBTI activism than to that of migrants' rights movements.

Can this limited definition of LGBTI asylum match with the activism of local LGBTI asylum associations? And, if not, what could these associations do about it? It is indeed something quite different for an association to be critical of European policies or even to mobilize against them at the local level, and to manage to get one's voice heard in Brussels. Based on this initial interrogation, this final chapter goes back to where this dissertation had started: at the level of local associations supporting LGBTI asylum seekers in Europe, but half a decade later. It evaluates whether these associations may contribute to the "(re)politicization from below" (Dolezal, Hutter, and Becker 2016) of European action, answering the following question: to what extent is the mobilization of local associations disrupting the European pattern of treatment of LGBTI asylum? My hypothesis, originally, was that although European lobbies may solicit input from local associations, their actual influence over the European debate would still be very limited. Schematically, I expected more "radical" activists to be very efficient at politicizing LGBTI asylum in their Member States but not at influencing the European debate, and their more "reformist" counterparts to be influential partners of European lobbies but ineffective at critiquing European action. In sum, I thought that elements of contention would be "lost in translation" when transferred from the national to the European level.

To test this hypothesis, I analyzed interviews with 27 representatives of associations inserted to varying degrees in European networks. These associations came from all over Europe. I then complemented these interviews with an online survey, with the objective to reach out to organizations with less time and resources. I sent it to all the organizations I could find the contact of online, and 66 organizations (based in 19 Member States, plus Norway and the United Kingdom) filled it. It is crucial to underline here that I do not have quantitative ambitions, and that the results presented here cannot be generalized, especially due to biases in the sample constitution—to make sure that responses were reliable, I personally contacted the

people who filled it, so the sample is everything except randomized. Moreover, because of the angle I am using in this dissertation, I focused on organizations with some degree of insertion in European networks (though this insertion could be basic, such as simply being present in European lists of contact-organizations for asylum seekers arriving in a country). The data used here therefore not representative of all LGBTI asylum associations. However, it still has, I believe, some heuristic value for the study of LGBTI asylum in Europe. So far, indeed, there has been no other survey bringing together more than 50 organizations from all over Europe. The few studies that have relied on surveys (see for example Andrade et al. 2020) were focused on individuals, not organizations. This survey, on its side, brings together the official positions of associations, in order to analyze their potential for collective action.

While I found the direct influence of local associations over European debates to be indeed limited, I was also led to notice how, among themselves, they have been increasingly constituting LGBTI asylum as a highly political and potentially contentious matter. Their discourses and praxis are a challenge to European LGBTI asylum policies; and the 2015 crisis has had a radically different effect on them compared to European actors, pushing many associations to become even more critical of European frameworks. In that regard, I had to call into question the division I had assumed to exist between "radical" and "reformist" groups, because most of the groups I interviewed were critical of European policies, including those who simultaneously displayed a strong Europhilia. This re-politicization, however, circulates more among associations, transnationally, not on a bottom-up basis. It has therefore not reached European actors (yet). Constructing a local critique that effectively targets European institutions is probably one of the main challenges for the future of LGBTI protection in Europe.

To unfold this argument, this chapter is organized in three sections. The first section examines the access of local associations to European-level debates. It shows that these association have historically had a limited access to European negotiations, but also that they kept their independency from the European lobbies they work with. This independency is key to understand why, as shown by the second section of this chapter, the representations of LGBTI asylum present in these associations are so different from the ones developed by their European counterparts. This difference has been magnified after 2015, which has been an entry point into a political understanding of European migration frameworks for many of these organizations. Nonetheless, as shown by the third and last section, this emerging critique has not resulted, so far, in Europeanized protests nor in a significant bottom-up influence over European negotiations. What predominates among associations supporting LGBTI asylum seekers is a

form of Europeanization "from below to below". While the transnational cooperation developed by these actors is deeply rooted in European structures, they have not managed to construct Europe as a target for transnational collective action. Although their short-circuiting of European-level actors does allow them to articulate more easily alternative political solidarities, this neglect is also what allows European lobbies to selectively coopt some parts of their input, while rejecting aspects deemed too critical.

1. National organizations as the "consultative outsiders" of European policymaking

Associations acting at the local level are often neglected in European studies. Although this has been changing lately, the focus has historically been on European lobbies, which seek to act as the representatives of these organizations (Ruzza and Bozzini 2008; Persson and Edholm 2018). This observation sharply contrasts with the interest shown by European institutions for local actors, who are increasingly constructed as potential partners in the design and implementation of policies (Lahusen 2014). Based on this observation, recent studies examining the role of local and national groups have offered contrasted findings. For some researchers, European institutions, despite grand narratives of democratic participation, are still not accessible to small organizations (Roth 2007; Grote 2019). For others, these organizations constitute a reservoir of democratic innovation for the European Union (Sanchez Salgado and Demidov 2018).

In light of this contradiction, this first section analyzes the access to European politics of local associations supporting LGBTI asylum seekers. It first shows that these organizations have had, historically, a structurally limited direct access to European processes. Most of the time they rely on broader structures to "translate" their demands to European institutions. This limited access originates both from structural obstacles and from the division of activist labor established between European lobbies and local associations; a division that, although desired and reiterated by both parties, has somehow disempowered local associations and pushed them to adopt a position of permissive consensus toward their European counterparts. This positive but distant relation to Europe, which also derives from their specific position as LGBTI activists mobilizing on asylum, is what has limited their capacity to become critical (in both senses of the term) actors of European policies.

1.1.The limited direct access to European processes of local associations

Contemporary mobilizations are often thought to take place predominantly at the national level (Guiraudon 2001). This dominance of the national is true in terms of identity, because the nation-state still is the frame of reference of many Europeans when they protest, and in terms of collective action, because it is often easier to target national decision-makers compared to European ones (Imig and Tarrow 2001; Díez Medrano 2011). Local associations supporting LGBTI asylum seekers are no exception to this. Although, as this chapter will then unpack, many have a complex relationship to Europe, it is important to first underline that what permeated interviews was their feeling that European policymaking, perhaps, was "not for them"—because it was too distant, too complex, and too closed to the outside world. Aude Le Moullec-Rieu, president of the French organization ARDHIS, voiced it explicitly, explaining:

> *"European law is something that feels quite away from us. And in the end, even if we were willing to do some European advocacy, how and when would we do that? I suppose that we could do it when French members of the European Parliament are elected, but we did not do it in 2019, because the Commission had not published any clear work plan on the asylum package. Of course, there is always the threat of a Dublin IV regulation, or of the Return directive becoming a regulation. Yes, I suppose these rumors are floating around. But without a clear work plan from the Commission, it's hard to act. Maybe we could have seized these questions and tried to meet French candidates, because if this happens, we will feel a bit powerless, you know. Because apart from French representatives at the European Parliament, we do not have that many entry points."*

(Aude Le Moullec-Rieu, personal communication, 27/11/2019)

In Le Moullec-Rieu's contribution, Europe is above all characterized by its remoteness and by its unattainability. European legislation does exist, of course, and rumors surrounding its reform do "float around", but it is not a core aspect of their everyday activism. Her statement is even more remarkable because the ARDHIS counts among associations that are the most well-inserted in European networks. Throughout the years, they have participated to ILGA-Europe annual conferences and meetings, and compared to other interviewees, Le Moullec-Rieu distinguished herself by her knowledge of European legislation. Still, this extract illustrates her feelings of powerlessness with regard to European politics. What is even more interesting is the way she framed French politicians as the ARDHIS' main pathway to Europe. European influence, here, is to be gained through national channels. In a similar manner, most other associations privileged national frames to depict their activism. An interesting exception was that of activists from Nordic countries, who reported looking at what was done in other countries from their region—including non-Member States or countries with an opt-out clause—rather than to European politics. In other words, in the discourses of most interviewees,

the European Union was in general a secondary frame of reference, one to which they had difficulties to relate to directly, without the mediation of national or regional identities.

The difficulty for these associations to envision themselves as potential European actors can hardly be untied from the observation that European policymaking is a well-guarded field. There are indeed structural barriers that largely prevent small local associations to interact with European policymakers. As argued by Saurugger (2007, 399), "at the European level, the participation of citizens in the decision-making processes is still linked to the mastery of European forms of interest representation, which are strongly influenced by the EU institutions' need for expertise and legitimating, and less by the idea of creating new forms of political representation". Local associations rarely possess the transnational, unfragmented overview of the situation of LGBTI asylum seekers that European institutions are looking for, and thus may feel that they have little to offer in exchange for attention. Moreover, accessing European negotiations requires material resources, specific expertise, a good address book, and many other "soft skills" that are not homogeneously spread within the population (Marks and McAdam 1999; Geddes 2000; Johansson and Uhlin 2020; Lindellee and Scaramuzzino 2020). Even among my interviewees—the vast majority of whom, it must be underlined, spoke two to three languages—the combination of all these elements was rare. European politics still is very much an elite affair, and this is important to understand why so many of my interviewees shared Le Moullec-Rieu's feeling that Europe was "not for them".

This feeling of distance was largely reinforced by the way the relation between local associations and European lobbies has been structured. The time when ILGA-Europe was a horizontal coalition is now very far away, and as analyzed in the first chapter of this dissertation, the organization now position itself as an expert, and as independent from its members. This was very clear in interviews with past ILGA-Europe members, such as Joël Le Déroff, who worked as a policy and programme officer from 2009 to 2014. Referring to the 2008–2013 reform of the Common European Asylum System, he explained:

> "In terms of calendar, it all started at ILGA-Europe. I don't know how ILGA-Europe works today but a few years ago we had a network, which we called the EU Network, in which there was at least one association per country (…). A representative of the association came twice a year for meetings, but they also were connected online to relay and receive messages, information, calls to action. (…) Of course, the energy that associations could put into that networked varied a lot depending on countries, but it still helped us to maintain an information flow, and to activate national associations when action was needed. (…) And so, while, as I was telling you, the initiative came first from ILGA-Europe, because we had identified this opportunity and we were in a position, due to our European institutional

expertise, to better manage the process, we did have regular exchanges with associations on that. Not just during the legislative period, but also later. Some associations were very mobilized, and we had regular meetings, workshops with interactive activities to help them understand how negotiations worked, the role of the Council, the way governments position themselves at the Council. We had roleplay activities with some associations playing the role of countries, others playing the role of Parliament negotiators, for example."

(Joël Le Déroff, personal communication, 23/03/2020).

In this extract, the preeminence of ILGA-Europe appears several times—they are the one to "*take the initiative*", they have the "*expertise*" needed, and they take the role of the coordinator of the network constituted by associations. These associations are here to provide them with information, to be activated when needed, and to "*relay and receive information*". Even when they are at the initiative—for example when they mobilize and seek ILGA-Europe's help— ILGA-Europe still is in the position of the expertise-provider, the ones that organize roleplays and provide them with tools and knowledge. A similar dynamic was observed in a meeting between ILGA-Europe and its associations I was able to attend in 2020, where what was clearly expected from the part of participants was to provide feedback on their national context, not to influence ILGA-Europe's claims.

It is against this background that many of the organizations interviewed developed what could be described as a form of division of (activist) labor with European lobbies. The idea of a division of labor, in this context, entails that both European lobbies and local associations have clearly delineated roles, and are expected to act in accordance to them to avoid conflict (Skleparis and Armakolas 2016). Local associations provide European lobbies with information; and European lobbies in turn translate these demands to institutions and provide local associations with some knowledge about European politics. While this might appear at first sight to be a circular exchange of goods (information is exchanged against lobbying), this should not withhold us from noticing underlying power hierarchies. Division of labor, indeed, should not be read as an apolitical concept. Of course, some local associations might not wish to do the work that lobbies do; and, it must be said, the opposite holds true, as many staff members of European lobbies are not willing to work for free in small local groups. However, in the same way that the gender division of labor does not mean an absence of domination but rather is, in itself, a modality of this very power, the division of activist labor has profited more to European lobbies than to small-scale associations (Sanchez Salgado 2014).

During fieldwork, indeed, local associations often were demanding of European input. However, they often did not envision themselves as capable to participate autonomously in the

European debate, and they often minimized their own input. A sense of inferiority underlaid many interviews. It was Europe that had something to offer them—not the opposite. This was visible, for example, in the contribution of Elias, from Malta. When asked if his organization collaborated with other groups, he answered:

> *"Yes, and that is, I think, the key for us, to make things change in Malta. Because we go abroad and learn. We are geographically very isolated, so this is something very important for us. Every year or every two years, we go abroad for trainings, etc. We are part of ILGA-Europe, IGLYO [International Lesbian and Gay Youth Organization], and TGEU [Transgender Europe]. (...)*
>
> **And when it comes to LGBT asylum, do you feel that this European network helps you to understand better what could be done?**
>
> *Whether it will help us in our project [on LGBTI asylum] I cannot tell you yet. But listening to other stories and narratives from people at TGEU, for example, is very useful, because TGEU talks a lot about refugees. So, for example, when a few weeks ago, I met in my work a trans person without papers and who was HIV positive, it was not… It was not 'oh fuck what are we gonna do'; I mean, if course it still was 'oh fuck what are we gonna do', but since I had already met this type of narrative it was not something shocking or so new that we had no idea about what to do. In the Maltese case, some things are happening after other places, like in Berlin. So… yes, it's making us aware of certain realities, that we haven't met yet here in Malta, or that we are meeting only now"*

(Elias, personal communication, 21/04/2020)

Elias was, as visible here, much more enthusiastic about European politics than Aude Le Moullec-Rieu, who was quoted earlier on. In his contribution, the European Union is framed as a learning tool for local associations: transnational cooperation allows local associations to de-enclave their activism, to get a better sense of the broader picture. Later on, he underlined that Malta probably had some good practices to teach to other countries, such as legal gender recognition for asylum seekers; but he mentioned it only briefly. On the opposite, he emphasized all the information he was able to get from Transgender Europe at the European Union level. The idea that there would be a "center" of Europe and that his association rather is located at its peripheries is very clear in this extract (Colpani and Habed 2014). In his contribution, the exchange of goods between European and local associations mostly takes place in a top-down manner, not because local associations have nothing to provide to European lobbies, but because these lobbies are thought to be more knowledgeable and the expertise they possess is considered to be more valuable.

There were a few exceptions to this argument. Some associations—especially associations with important material resources—were able to develop their own advocacy. This was the case, for example, of Forum Réfugiés-Cosi, a French organization with enough resources to have a full-time paid advocacy officer lobbying European institutions. Other organizations,

such as COC-Nederland, have been documented to have enough political clout to shape the demands of European lobbies (Osterbur and Kiel 2017). In a more uncommon manner, some smaller structures tried to position themselves as European players. This was the case of Queer Base, in Austria. As reported by Marty Huber, one of its members:

> *"We refer a lot to the Qualification Directive, and right now, I'm very much into lobbying the European Asylum Support Office. To have LGBTIQ people officially recognized as a vulnerable group in the Reception Directive. I know that you can have all kind of directives and that in real life practices it will always look different. But I also think that if this comes from the top, and that people from the bottom push as we are pushing, it could change something"*
>
> (Marty Huber, Queer Base, Austria, personal communication, 10/12/2019)

The European level, in Huber's contribution, is constructed as an instrument that must be seized by local activists to complement their action at the national level. Using European tools to achieve influence at the national level is a well-documented strategy for activists (Keck and Sikkink 1999), and Huber was certainly not the only one to do so. However, the way Queer Base's action was framed as "*lobbying*" and not as "participating in consultations" was unique among interviewees. They were the exception rather than the rule; and despite that, even in Huber's contribution, the idea that there would be "the top" and "people from the bottom" still remained, revealing hierarchies. It is also worth noting that the association gained access to satellite arenas of European policymaking and not to the European core center.

Apart from these few exceptions, the access to European institutions of local associations supporting LGBTI asylum seekers was largely mediated by European lobbies. These associations had in general no direct access to policymakers and were thus assigned the status of "consultative outsiders"—in the sense that although they were often asked to collaborate and share their input, they were never granted a stable or central space, and the value of their knowledge was often considered to be minimal on its own, or at least as valuable only when brought together and processed by lobbies. This division of labor grants much power to European-level professionalized lobbies, who are placed in the situation of "gatekeepers" and may pick selectively some aspects of the discourses of their members, but not others (Guiraudon 2001; Coen and Richardson 2009; Baillie Smith and Jenkins 2011). In other words, while local associations are not as powerless in European politics as they might seem at first sight—they do have some established channels of influence through European lobbies—they are often not in control of the demands that are formulated on their behalf. During fieldwork, some interviewees suggested that maybe that their demands were not heard because of a mismatch between their calendar and the one of the European Union. Although this might play indeed be

part of the explanation, it should not hide the broader observation that, in fact, neither European lobbies nor European institutions are particularly keen to see them taking roles that go that of the outsider who can be consulted for information in well-defined settings, be they consultative forums or annual meetings.

1.2. *Mobilizing on asylum as LGBTI activists: distant Europhiles, critical Europeanists, and the belief in Europe as a promotor of equality*

Structural limits in local associations' access to European negotiations, however, cannot fully explain their overwhelming lack of engagement with European policymakers. Researchers have indeed shown that local activists may very well develop alternative forms of contention when they are not able to access European actors through traditional channels of influence (Balme, Chabanet, and Wright 2002). Moreover, in recent years, other scholars have documented how associations supporting migrants and asylum seekers in Europe have become increasingly critical of European policies (Pries 2019; Castelli Gattinara and Zamponi 2020). This also includes support groups that were more "humanitarian" than "politicized" previously, such as faith-based and humanitarian organizations (Engelbert, Awad, and van Sterkenburg 2019; Ricucci 2021). Some groups have even sought to develop their alternative coalitions, therefore circumventing their presumed European representatives (Monforte 2010). In other words, local associations supporting LGBTI asylum seekers could probably try to circumvent the blockages analyzed above if they wanted to. Why, then, do they accept such situation of disempowerment? To answer this question, it is necessary to reinscribe the relation to the European Union of these association in its broader context. Doing such contextualization is important because it allows us to understand that many of these associations have difficulties questioning the exclusion created by European asylum policies *precisely* because of their beliefs in equality.

Indeed, despite their feelings of remoteness of the European Union, the vast majority of the associations who answered my online survey tended to consider European frameworks as "somewhat" to "very" important to their activities. The following graph illustrate their position on the importance of European legislation in comparison to national law:

Compared to national law, how important is the EU framework to your activities?
(0: not important at all; 10: much more important)
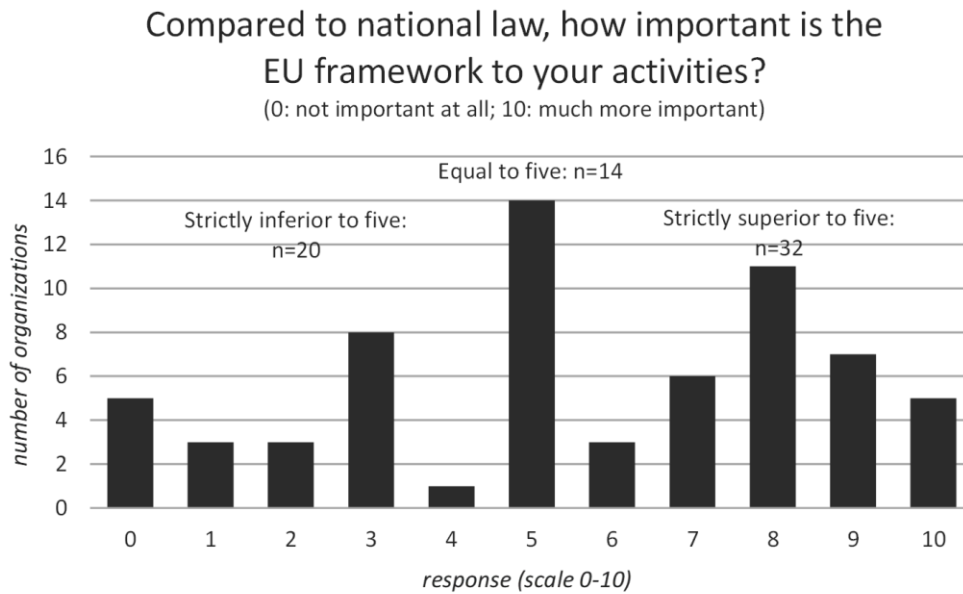
Figure 10. Comparative importance of European frameworks for organizations supporting LGBTI asylum seekers (66 respondents)

This graph shows that although slightly less than one third of respondents considered European frameworks to be less important than national law, the vast majority of organizations considered them to be as important, or more important, than national frameworks. An important number of organizations considered both frameworks on equal terms. Of course, one might argue that the ratio "organizations mostly with European frameworks / organizations operating mostly with national frameworks" is not exceedingly unbalanced. However, the prevalence of European frameworks is still noteworthy, especially for organizations that reported feeling rather distant to the European Union in interviews. This distance apparently does not prevent them from considering European frameworks as important to their work. Even more interestingly, when asked how they perceived these frameworks, associations answered that they considered it in a "rather positive" manner, as illustrated by the following graph.

n=2

n=23

How do you consider EU frameworks?

■ Mostly positively
■ Mostly negatively
▦ Not relevant
▥ Other

n=33

n=8
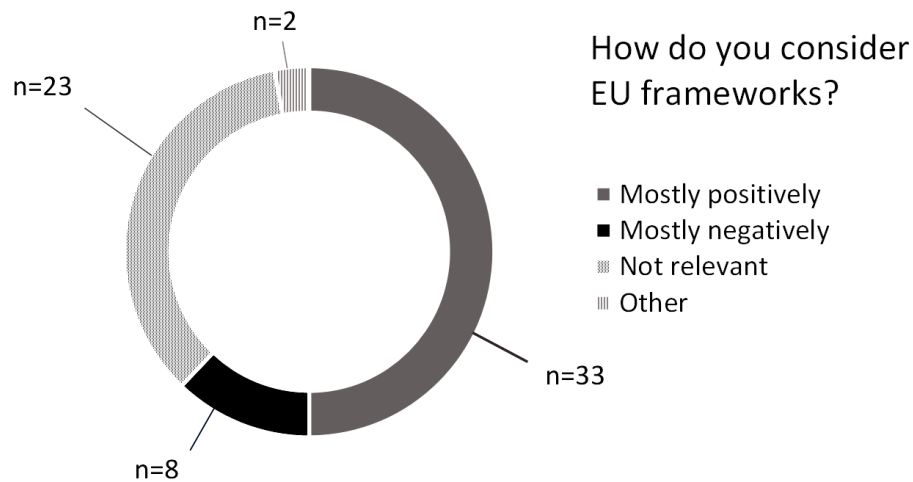
Figure 11. Relationship to EU frameworks of organizations supporting LGBTI asylum seekers (66 respondents)

As shown by this graph, one third of respondents reported that they considered European Union frameworks as "not relevant"—thereby refusing to describe in normative terms their relationship to European legislation. This is consistent with figure 11, where around one third of respondents considered European frameworks to be less relevant than national law. The two organizations that answered "Other" specified, for one, that European frameworks could be both positive and negative at the same time, while the other argued that the issue was discrepancies between national systems. But, beyond that, what is striking in this graph is that the majority of associations (41 out of 66) were able to clearly position themselves in normative terms in relationship to European Union frameworks. Only a small minority (eight) perceived these frameworks negatively. The other 33 associations (four-fifths of organizations with an opinion, and half of the total sample) considered European frameworks mostly positively.

Taken together, these two graphs show the presence of a relative Europhilia among associations, as those perceiving European frameworks negatively represent less than one-sixth of the total sample. Most organizations relate to Europe whether positively, whether with some level of indifference. This phenomenon is reminiscent of the notion of "permissive consensus", which was used to characterize European citizens' positive but distant relationship to Europe until the 2000s (Hooghe and Marks 2005). Of course, it must be stressed that these graphs relate

only to associations' *general perception* of Europe, and that this general positive relationship does not mean that they cannot be critical of some specific migration policies. Still, this enthusiasm sharply contrasts with the growing critique of European frameworks that has emerged among many migrants' rights organizations (Monforte 2019; Ricucci 2021).

Qualitative data is useful to unpack this apparent paradox—that associations that often feel remote or marginal in European negotiations still consider the frameworks produced supranationally to be important and often positive. Indeed, what interview data allowed to show was that the specific positioning of activists as *LGBTI activists*—and not just as actors of migrants' rights—largely shaped their incapacity to criticize too harshly the European Union. Two main positions can be distinguished here, namely, that of "distant Europhiles" and that of "critical Europeanists". Distant Europhiles perceived the European Union first and foremost as a normative and progressive actor. I described them as "distant" because very often, these associations did not get involved in the details of European migration policies, but rather observed them from a more "general" and distant standpoint. An ideal-typical example of this position can be found in the contribution of Collette O'Reagan, training officer at LGBT Ireland. During the interview, she stated:

> *"Let's just go back to one of your earlier questions about how important Europe is for us. If it wasn't for Europe, the decriminalization of homosexuality, you know, may have taken another ten years to happen in Ireland. In Irish terms, I don't think the influence of Europe can be underestimated in terms of women's rights, children's rights, people with disabilities and LGBT rights. Ever since we joined what would have been the European Economic Community in 1973, in the eighties and certainly in the nineties, for the various social movements who were trying to bring about badly needed social change in Ireland, Europe was definitely, you know, a big tool and opportunity, and leverage, that was used. For example, the decriminalization of homosexuality was upheld at the Irish supreme court in 1988, and the European Court of Human Rights found the Irish Court in breach in 1989, and it still took the Irish government until 1993 to enact that. So, I think that LGBT rights activists working on anything difficult in Ireland, Europe is on our right shoulder at all times."*
>
> (Collette O'Reagan, personal communication, 27/11/2019)

Similarly, Eva Gračanin, activist at Legebitra, in Slovenia, explained to me that:

> *"When it comes to LGBTI rights in general, I must say that we do rely a lot on EU reports, directives, resolutions… Because in Slovenia, it gives value to your argument if you cite them, even if resolutions are not legally binding (…). So we do rely on that a lot, also when it comes to LGBTI persons in migration. (…) Slovenian authorities try to be the 'good pupil' and to listen to the EU teacher. So, this is why we rely a lot on whatever the Commission is saying, or the Parliament, we always try to get the most out of these documents. Every time the EU (…) passes on documents that are in favor of LGBTI rights or human rights, we have the leverage to persuade the authorities to do better."*
>
> (Eva Gračanin, personal communication, 22/11/2019)

In both contributions, the European Union was framed by O'Reagan and Gračanin as a strategic actor of human rights, and as the promotor of equality in Europe. These organizations perceived it not so much as an object of their lobbying but as a tool to be strategically mobilized at the national level. During interviews, some local activists were in fact shocked when I asked them about specific policies—such as the Commission's initial plans for a European-wide list of "safe countries of origin" that would include Eastern European countries—because these policies did not correspond to their idea of the European Union. In the tradition of European transnational LGBTI movements, many of which were characterized by their early Europhilia (Ayoub and Paternotte 2016b), Europe, here, was understood as an ideal, not so much as a regulatory actor. This was the position of an important part of interviewed associations.

By contrast, "critical Europeanists" were slightly less numerous. Critical Europeanists are defined by della Porta and Caiani (2009) as activists that do not oppose European integration *per se* but are critical of the form it takes and of its lack of emphasis on social rights and protection. Their criticism does not make them less important actors of Europeanization. As written by the authors quoted above, these "civil society actors are, at the same time, critical toward the European Union, but also (potential and actual) entrepreneurs of Europeanization. They legitimize Europe while criticizing it" (della Porta and Caiani 2009, 178). This position was present among a certain number of interviewees. For example, Marta Ramos, executive director of Associação ILGA Portugal, explained to me that:

> *"Not only in the trainings that we provide but also when working on specific cases, we always refer to the jurisprudence of the European Court of Justice, for example. We also use the statements from the European Parliament on LGBTI asylum seekers. European institutions do play a very important role, also because all Member States must comply with the international obligations that they've agreed to. (...) And of course, we hold them accountable. But I personally do believe that the European Union and the Council of Europe are very far from doing what they should be doing, especially in relationship to the refugee crisis. (...) Personally, working on the field more and more, what I see is that the whole work that is being developed is not to protect people, but to protect Europe. And we don't need to be protected. We cannot forget our own history, and the fact that the Geneva Convention was adopted after the Second World War".*

> (Marta Ramos, personal communication, 12/11/2019)

A similar argument was found in the interview of Michela Sartini, member of the Centro Risorse LGBTI of Bologna (Italy) and former social worker in the migration field. Sartini led on a project developed by the Centro that sought to offer special accommodation to trans migrant women. When asked what she thought of European policies, she answered:

> *"For me, the European Union is a bit of a paradox, because on one hand their legal framework is very appropriate, positive, and humanitarian, and it should be underlined*

that European Union law is very positive for what concerns the protection of LGBT people.
But on the other hand, the European policy migration in general… It's quite cruel. We saw
this in Greece last month, we saw it in Turkey, we saw it in Libya. It's an ambiguous actor."

(Michela Sartini, personal communication, 27/04/2020)

Both Ramos and Sartini developed a well-informed critique of European migration policies, depicting them as inappropriate or "cruel". Here, the European Union is far from being just an "ideal": it is a polity that governs, and can govern harshly. Their position is therefore quite different from the one of distant Europhiles. However, still underlying in their contribution is a positive vision of Europe as a project. This is particularly true when Ramos stated that she believed the European Union and the Council of Europe were "*very far from doing what they should be doing*" and referred to the Second World War, thus simultaneously critiquing European action, and imbuing the European project with a positive meaning. Something similar can be perceived in Sartini's emphasis on the legal framework of the European Union as "*very appropriate, positive, and humanitarian*". In both cases, there is an underlying longing for a "better" European Union.

Beyond that, Sartini's contribution is also interesting for the way she hinted at the major tension LGBTI activists face when mobilizing on European asylum policies: the contradiction between the European action on LGBTI rights on one hand, and its action on migration on the other. What indeed runs throughout the contributions quoted above, whether they come from distant Europhiles or from critical Europeanists, is the inscription of the asylum activism of these associations within the broader and longer history of LGBTI struggles. While this might contribute to the radical criticism deployed by some groups (such as "Queers Against Borders" for example) it also means that non-oppositional groups such as the one studied here often have difficulties denouncing European action. The long tradition of Europhilia in the LGBTI movement entails that framing European policies as "mostly negative" would be equivalent, for many actors, to mourning one of their historical allies. Managing to reconcile these two contradictory facets of European equality policies—the one of LGBTI inclusion, and the one of migrants' exclusion—is beyond the limit of the imaginable for some of them. In other words, their positioning as LGBTI activists can very much, like what happened to European lobbies, play against their capacity to critique the European Union. Because of their work on emancipation and equality, the idea that the European Union may be a negative actor of migrants' rights becomes much harder to envision.

To summarize, the historical affinities between European integration and LGBTI rights is thus an important factor in explaining why, contrarily to many migrants' rights organizations,

associations supporting LGBTI asylum seekers seem to be caught in a relatively positive or at least permissive relation to Europe. The more "distant" of these organizations have a perception of Europe rooted in a principled understanding of European integration. Other associations, while critical, still consider the European project as linked to ideals of peace and equality. In other words, these associations are not relating to the European Union solely in terms of material benefits but also based on how they imagine it. In this context, despite their difficulties in accessing European negotiations and their awareness that migration policies are tightening, they are reluctant to envision the European Union as an adversary. While this might facilitate their transnational cooperation, it also makes them—like in any "permissive consensus"—easy to coopt by European lobbies, and it leaves them with little leverage in terms of contestation. Taken together, the findings presented in these two sub-sections allow to formulate some reasonable doubts about the capacity of local associations to re-politicize the debate over the inclusion of migrants and its articulation to the broader fight for LGBTI rights in the European Union. Not only do they appear as relatively disempowered actors, but they also face tensions that are specific to their position as LGBTI activists mobilizing on asylum. (LGBTI) equality, here, may play against (migrants') rights.

2. Alternative solidarities, alternative contentions: re-politicizing the European politics of LGBTI asylum from below

Can the position of local associations on Europe, though, be understood without looking at the way they "practice" European legislation daily, in their work of support provision to LGBTI asylum seekers? These associations, indeed, can hardly be analyzed in the same way as European lobbies, for their activities are significantly different. The two sub-sections above have analyzed the way they relate to the European Union on a discursive level, but in reality, European legislation, in their activism, is not something that they only talk about: it is something that they practice daily, as it affects the asylum seekers they support. This was already perceivable in the introduction of this chapter when the mobilizations of the ARDHIS on the Dublin III regulation were evoked. The ARDHIS got interested in the regulation not just because it existed, but because of its direct impact on their public. Against this background, any discussion of local associations' relation to Europe that does not look at the way they practice European asylum legislation daily can only be extremely partial. It also entails the risk of brushing aside too quickly the potentially disruptive aspects that might be present in these association's daily work.

Based on this observation, the second section of this chapter analyzes the activism of local associations from the viewpoint of their "micro-politics" of LGBTI asylum (Cesaro 2021). It shows that, behind the discourse of Europhilia and the "top-down" provision of knowledge on asylum by European lobbies, local associations are increasingly developing alternative solidarities and forms of contention that might very well disrupt the premises of European-level discourses on LGBTI asylum. Indeed, as shown by the first sub-section, despite their difficulty to envision Europe as a negative actor, these associations have been increasingly operating a rearticulation of LGBTI rights and migrants' rights that reinscribes LGBTI asylum seekers as migrants, and that contrasts with siloed European representations of LGBTI asylum. This emerging form of solidarity between LGBTI activists and migrants has been reinforced by the current context of crisis, resulting in a stronger critique of some aspects of European policies over the past few years and even in their partial destabilization at the local level.

2.1.LGBTI asylum seekers in the eyes of their supporters: foreigners like any others?

The previous section of this chapter has shown that organizations supporting LGBTI asylum seekers tend to consider European frameworks in a positive way, and that their relationship to the European Union was more marked by "top-down" than by "bottom-up" logics. In light of this, one may legitimately wonder whether that means that European frames and understandings of LGBTI asylum are being adopted within these organizations; and, if not, what alternative understandings of LGBTI asylum might circulate among them—and why. Of course, one can never fully stand outside mainstream framings of LGBTI asylum, even when contesting them (Reda and Proudfoot 2021). However, at the same time, scholars have documented the difficulty of transnational networks to build mobilization in their constituency and to effectively incite their members to appropriate themselves concepts that were developed at the European level (Lang 2009). There is therefore still a strong possibility that organizations operating at the national or local level do not necessarily share the perception of LGBTI asylum—as humanitarian, non-discrimination-oriented, identity-centered, and siloed—of their European parents. To examine how associations understand LGBTI issues in relationship to asylum, two questions were asked in my online survey. The first was designed to push associations to position themselves on the tension between seeing LGBTI asylum seekers primarily as asylum seekers, or primarily as LGBTI people. The second allowed them to complexify their previous answer by considering a vaster range of factors of influence over this type of claims.

Associations were first asked to assess the degree of difficulty they had to do their activities in support of LGBTI asylum seekers in their country. For associations assessing their difficulty to be five (quite difficult) or above, a subsequent question then asked them whether they thought that their difficulties came from the perception of LGBTI issues as controversial, or whether it was related to the tensions existing around migration. The following graphs illustrate the answers of associations to these questions:
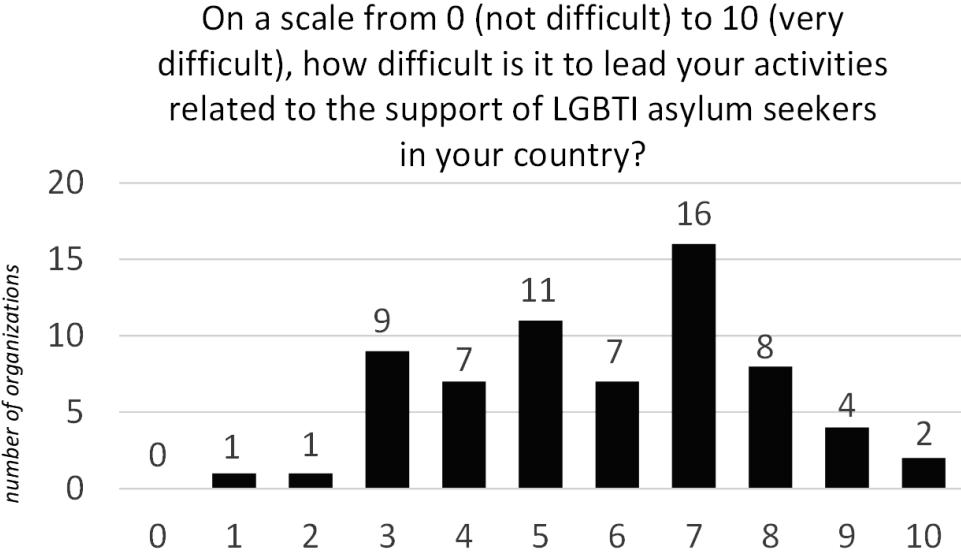
Figure 12. Difficulty to lead activities related to the support of LGBTI asylum seekers (66 respondents)

As visible here, a vast majority of associations considered its activities to be "difficult to lead" in their country. Almost three-quarters of the surveyed organizations reported having significant difficulties to conduct their activities related to LGBTI asylum seekers, and no organization reported not having any difficulties at all. A second question was then asked to push them to diagnose whether this difficulty came from the European context on migration, or from the persistence of heterosexism in European societies. The answer "both" was not offered, in order to push associations to position themselves clearly, though they could use the option "other" to specify their positioning. The following graph represents their answers:

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If your answer was above 5: is your feeling that these difficulties are more related to the fact that LGBTI issues are considered controversial; or more to the tensions around migration?
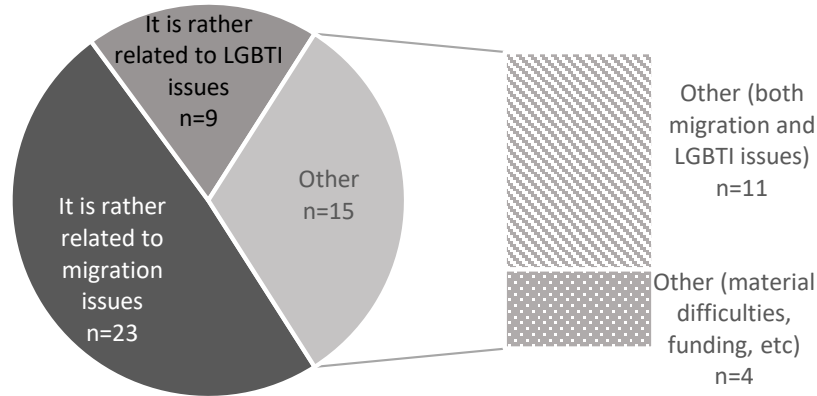
Figure 13. Cause of the difficulty to lead activities related to the support of LGBTI asylum seekers (47 respondents)

Interestingly so, when asked to specify whether they thought these difficulties came from the "LGBTI" or the "migration" side, only a minority of associations reported that they thought it was principally related to the controversiality of LGBTI rights. Most associations reported that, for them, it was related to the tensions existing around migration, and a significant portion of respondents used the response "Other" to explain that, in their opinion, it was the intersection of both that made it particularly difficult. These two graphs thus clearly show that the representation local associations have of LGBTI asylum is different from the one of European actors. While, as analyzed in the previous chapters, European actors tend to perceive LGBTI asylum seekers mostly through the prism of their (sexual or gendered) difference, local associations rather considered their difficulties, in majority, as an extension of the struggle of migrants' rights movements. This is perceptible both in the answers of those reporting that it was a migration issue, and in the answers of those answering "both". In both cases, associations did not understand LGBTI asylum as separate from the broader movement for migrants' rights, but as an extension of this fight. This is even more interesting if one remembers that these associations were, in majority, LGBTI ones. By adopting this standpoint, they inscribed themselves in an alternative form of solidarity with migrants (Cantat and Feischmidt 2019). LGBTI asylum was, somehow, their entry point into a broader activism in favor of migrants' rights. This is very different from what is happening within European lobbies.

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In order to analyze whether this alternative articulation of LGBTI rights and migrants' rights merely was context-specific—after all, it is true that the 2015 crisis has created a context particularly unfavorable to migrants' rights—or whether it participated in a broader reconfiguration of the figure of the "LGBTI asylum seeker", I then asked local associations to report the type of barriers met by asylum seekers during the asylum procedure. This question was designed as a way to put in practice Matsuda's call to "ask the other question" (1991) when researching crosscutting issues. In the literature, indeed, researchers often interpret LGBTI asylum whether in terms of LGBTphobias, whether in terms of racism and xenophobia. My objective was to broaden this debate by asking explicitly about obstacles that are less often evoked in relation to LGBTI asylum seekers. The two following graphs present my results:

Experiences of discrimination
In your experience, how often do the asylum-seekers you support tend to encounter the following issues <u>during</u> the asylum procedure?

■ Not relevant   ■ Never to rarely   ■ Sometimes
■ Regularly to often   ■ Very often to always

Broader structural barriers
In your experience, how often do the asylum-seekers you support tend to encounter the following issues <u>during</u> the asylum procedure?

■ Not relevant   ■ Never to rarely   ■ Sometimes
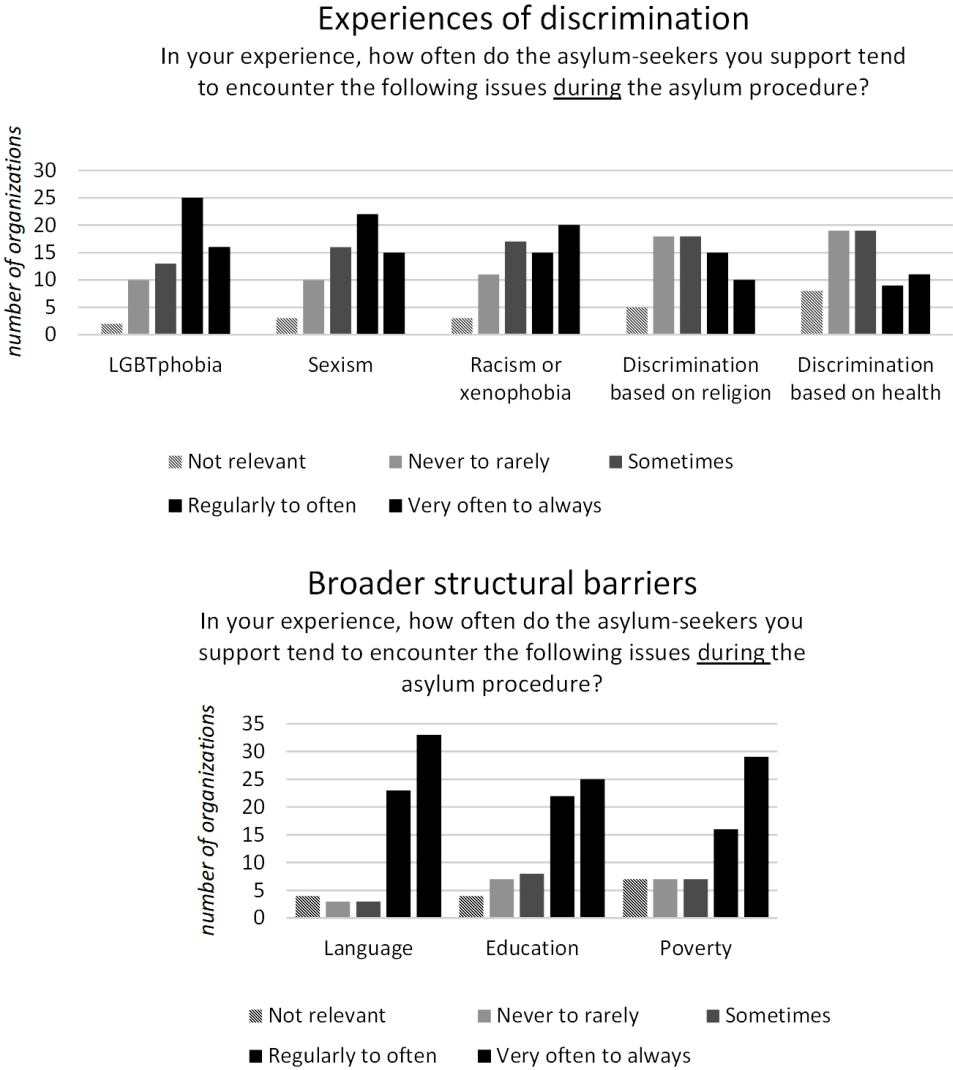■ Regularly to often   ■ Very often to always

Figure 14. Issues met by LGBTI asylum seekers during the procedure according to support organizations (66 answers)

What is remarkable when looking at these graphs is that no criteria is ever reported as "never to rarely" encountered by a majority of organizations. Even discrimination based on religion or on health and disability, which could appear as not always structurally relevant to LGBTI asylum seekers at first sight, are marked as happening "sometimes" to "always" by a majority of organizations (43 organizations out of 66 for religion, 39 organizations out of 66 for heath). When it comes to discriminations met "regularly to often" or "very often to always", racism and xenophobia are the experiences of discrimination most often depicted as happening "very often to always". It is followed very closely by LGBTphobias, and, more surprisingly, sexism. When looking at the category "regularly to often", it is LGBTphobias that are the most reported, here again followed closely by sexism. And, if one sums up the results for "regularly to often" and "very often to always", LGBTphobias, sexism, and racism or xenophobia are almost equal. LGBTphobias brings together 41 answers, sexism 37, and racism and xenophobia 35. What this first graph teaches us is that in the eyes of their supporters, LGBTI asylum seekers are, after all, foreigners almost like any others. The discriminations they face were not perceived as exclusively related to them being LGBTI. Multiple other factors came into play, including some not often mobilized in the analysis of LGBTI claims. That so many organizations reported sexism ought to be explored in the future, because LGBTI claimants are often represented as gay men.

This understanding of the discrimination faced by LGBTI asylum seekers as a crosscutting and intersectional phenomenon was often associated, in interviews, with alternative ways of framing LGBTI asylum seekers that very much differed from the passive representations of European institutions. For example, Maria Kortenbach, contact-person for LGBT Asylum, a Danish organization, explained to me that:

> *"In our organization, we don't call people 'asylum seekers', we call them 'asylum activists'; because it's... we are not the system and we believe that they are activists. That's the terminology we use in our messages."*
>
> (Maria Kortenbach, personal communication, 22/11/2019)

Also promoting an alternative narrative, Aderonke Apata, Nigerian lesbian activist and refugee and now founder of the British LGBTI asylum charity African Rainbow Family, asked me to stop using the word "asylum seeker" in my research, explaining that:

> *"At African Rainbow Family, we say… we're humans. And we want to change the narrative, from calling us 'asylum seekers', to 'people seeking asylum'. Because if you say 'asylum seeker', it looks like you're talking about people who after or are grabbing somebody else's fortune. So, this creates fear in the people, in the environment we are*

going to stay in. But when we use 'people seeking asylum', the human part of us, you bring it out first. We are seeking safety; we are seeking sanctuary."

<div align="right">(Aderonke Apata, personal communication, 10/09/2020)</div>

In these two extracts, interviewees explicitly challenged established European frames surrounding forced migration, emphasizing the agency and humanity of the people they support. While this reframing could appear trivial at first sight, it is not, as researchers have underlined how, when it comes to migration, "frames also include a relational pattern, which predetermines or expresses the scope and the type of social relations implied" (Karakayali 2019, 227). Framing people as asylum seekers, activists, people seeking asylum, as refugees, as migrants, does play a role in engendering specific ethos of relationship to foreigners (Millner 2011; Rosenberger and Winkler 2014). In this case, it is also revealing of a more active, and less de-personalized vision of LGBTI asylum seekers. In the graphs and in the extracts presented above, their complexity as human individuals reemerges.

Interestingly, though, this emphasis on complex individual experiences does not lead associations to neglect the structural aspects of suffering, defined here, as Farmer (1996, 263) coined it, as the "mechanism through which large-scale social forces crystallize into the sharp, hard surfaces of individual suffering". Indeed, what is striking when looking at Fig. 15 is that it is on the presence of structural barriers—and not on experiences of discrimination—that organizations agreed on the most. Only a very small proportion of the organizations surveyed answered that language, education, and poverty were "never to rarely" or even "sometimes" met (less than five for language, less than 10 for education and poverty). The vast majority answered that these issues were met "regularly to often" or "very often to always" (56 out of 66 for language, 47 for education, 45 for poverty). It is very clear that the structural barriers met by asylum seekers due to their status as foreigners are the main concern for their support associations. This was confirmed in interviews, where discrimination was sometimes even framed as a secondary issue. This was particularly clear in the contribution of Aude Le Moullec-Rieu, president of the French association supporting LGBTI foreigners the ARDHIS:

> *"It's always difficult, because there is always the risk that our demands will be instrumentalized to legitimize inhuman policies, by saying 'yes, of course, we are harsh on asylum seekers in general, but as you can see, we are making a lot of efforts on LGBTI asylum seekers'. While in fact, the reality is that when you are harsh on asylum seekers, you are harsh on LGBTI asylum seekers too. There is no triage when policies are tightening.*
>
> **I suppose this is not always clear for deputies.**
>
> *Yes, of course, and that's something we always have to remind them. Because the reality of the people we support today, it's that they don't have accommodation, they are refused*

material reception conditions, they sleep on the street; that's their reality. Then of course, the question of the instruction of their asylum claim, that's something else. But my feeling is that when we are talking about the transposition of the Reception, Qualification, and Procedures Directive, well… Even at the basic level of Reception, we're far from doing good."

<div align="right">(Aude Le Moullec-Rieu, personal communication, 27/11/2019)</div>

Le Moullec-Rieu's contribution is particularly interesting for the way she framed structural barriers as her major concern, mentioning discrimination ("the instruction of their asylum claims") only as a second step. What is further valuable in her interview is her reflection on the specificity of LGBTI asylum claims. She does not say that there is no specificity at all, but she insists that LGBTI asylum seekers *are* asylum seekers and that their struggles are often related to their condition as foreigners. By doing so, she rejected the idea that it would be possible to develop LGBTI-sensitive policies in times of general tightening of migration policies. For her, this is a contradiction in terms. This illustrates how LGBTI asylum can operate as a "window on xenophobia" for these LGBTI activists; and can even result in a turnaround in these activists' priorities. This was perceivable in the interview of Elias, from a Maltese LGBTI organization. The organization was a "generalist" one, in the sense that it was concerned primarily with LGBTI rights and was only starting to welcome migrants. Yet, in the words of Elias:

"Migration is one of the most difficult issues in Malta. There is a lot of racism, including institutionalized racism. For example, at the refugee commission, they get training about LGBT issues, how to use the exact words, but for us it's sugarcoating, you know. I mean, how many non-binary people are coming by boat? So, on papier we look like this liberal country with good wording about non-binarity, etc, but then, we are putting people in detention, and in detention there are LGBT people. I suppose that working on wording is a sort of easy change for them, you know, but we don't want sugarcoating, we want a safe place, for all, not only for LGBT people, even though we specialize in LGBT issues. (…) For sure we know that a person can be given asylum on the basis of gender identity and sexual orientation in Malta. But if are sending back these people to Libya, they will never have access to the right to claim asylum on the basis of gender identity and sexual orientation. On paper you would say wow Malta, they give asylum to LGBT people, but no, Malta is sending back people to Libya."

<div align="right">(Elias, personal communication, 21/04/2020)</div>

Elias went as far as to describe some LGBTI-specific policies as "sugarcoating", which is a very interesting statement coming from an organization which primarily focus is, normally, on LGBTI rights. What he means is not that nothing should be done for LGBTI asylum seekers. It rather is that as long as Malta sends back migrants to Libya, "good wording" will be a privilege reserved to the few—Maltese and European citizens, and the foreigners considered as deserving enough to remain on the territory. For him as for Le Moullec-Rieu, the struggles of LGBTI claimants could not be untied from the global migration policy regime.

It is worth underlining here that both Elias and Aude Le Moullec-Rieu were aware of the potential instrumentalization of LGBTI asylum for anti-migration purposes and opposed it. While many studies published recently have argued that organizations supporting LGBTI asylum seekers may reiterate homonationalist logics (Murray 2014; Raboin 2017), most of the associations interviewed were, in fact, very concerned about this potential instrumentalization. It does not mean that their everyday practices cannot be enmeshed into homonationalism—the data I am building on is not fit to evaluate this—but it ought to be mentioned that they were reflexive about it. Associations with no reflection on this issue were rare, though they did exist in interviews. As a consequence, it is important to avoid thinking LGBTI rights and migration as issues that are necessarily competing with each other. Of course, they may. But they can also be complementary (Chávez 2010; 2017). This is the case when LGBTI organizations use their "LGBTI card" as a way to advocate for better policies for all, therefore refusing to articulate their demands in exclusionary terms.

To summarize, although it is crucial to underline that the field of organizations supporting LGBTI asylum seekers is not a homogeneous one, it is still remarkable for the widespread presence of an alternative representation of LGBTI asylum seekers portraying them as foreigners facing complex issues. This representation is not limited to "radical" associations. Indeed, the different graphs and interviews analyzed above show that most of these organizations consider LGBTI asylum as an inherently intersectional issue. Discrimination, in this context, is considered to be an important challenge met by claimants, but it is understood as multiple and crosscutting. It is also, for many organizations, far from being the only nor the most important challenge met by the claimants they support. In other words, these organizations frame LGBTI asylum in more politicized terms, as a question of structural inequalities and tightening migration regimes, not just of better respect for individual identities. They also tend put the emphasis on the complexity of the life experiences of these claimants, thereby refusing interpretations focused "solely" on gender and sexuality. These narratives and representations are in sharp contrast with those circulating at the European level. For these organizations, LGBTI asylum is not a watertight sub-category of LGBTI rights—which is the way in which it is often approached by European actors—but rather a point of crossing of several structural hierarchies. By framing LGBTI asylum this way, they contribute to the broader rethinking of solidarity that has marked civil society in many Member States after the 2015 crisis (Cantat and Feischmidt 2019).

2.2. Contesting European frameworks: discourse and praxis

That local associations have a perception of LGBTI asylum different from the way European-level actors perceive this issue, however, does not mean a lot in and of itself. After all, as explored earlier, European lobbies have no obligation to abide by what their members are suggesting, and they have little incentives to adopt frames that do not match with existing European ways of doing. As a consequence, the alternative visions and solidarities developed by national organizations, if they are not articulated with a critique of European frameworks, could very well be effectless on the re-politicization of the debate on LGBTI asylum. This second subsection therefore examines the emergence of a growing phenomenon of contention of European frameworks within national and local organizations. This contention does not mean that these organizations perceive the European Union negatively overall, but rather that they may oppose some aspects of the Common European Asylum System. Still, even if selective, their opposition is important because it marks an "entry into the political" for many organizations. It could have an empowering effect, by pushing them to organize collectively, or inciting them to be less compliant to European lobbies. Beyond that, the development of a culture of critique could also lead them to play a key role in the transposition of European policies, as they contest some of their aspects, while supporting others. In short, it could make them quasi-autonomous actors of Europeanization, whether on a top-down or a bottom-up basis.

The third chapter of this dissertation has shown how the 2015 "migration crisis" has resulted in the increased politicization of the debate over LGBTI asylum at the European Parliament. In a similar way, this moment has been a turning point for many organizations supporting LGBTI asylum seekers at the national level. However, where in European-level politics this re-politicization has been combined with the simultaneous temptation to circumvent it, nothing of that sort has happened among local associations. On the contrary, and consistently with what other authors have documented on migrants' rights in general (Castelli Gattinara and Zamponi 2020), the 2015 crisis has resulted in a growing and more overtly political critique of European migration frameworks among LGBTI asylum activists, independently of their Europhilia. This re-politicization has emerged at the intersection of two main dynamics. The first is quantitative: there seems to have been, since the 2015 crisis, an expansion of the actors involved in supporting LGBTI asylum seekers. The other is qualitative: this expansion of actors has been associated with discourses that are critical of the Common European Asylum System and in particular of the Dublin III regulation. Even though it would be difficult to argue that this criticism is new—after all, opposition to Dublin is traditional among many historical

organizations—what is sure is that the crisis has made the issues created by the Common European Asylum System more visible for many organizations.

The years that followed the "migration crisis" were marked by the increased visibility of LGBTI asylum in many Member States. While this might sound surprising—after all, the refugees who arrived in 2015-2016 were often depicted as young straight men and families fleeing war-torn zones—it is not entirely illogical either. As numbers of newcomers increased overall, there is no reason for the absolute numbers of LGBTI asylum claims not to rise too. Some interviewees even argued that this context was favorable to LGBTI claimants, as people moved more easily than if they had to undertake the journey all alone. While this claim can hardly be substantiated due to the lack of data on LGBTI asylum claims in Member States, what is sure is that the 2015 crisis has resulted in the development of new structures dedicated to LGBTI asylum in Member States. An important number of the organizations who filled the survey, in fact, were founded between 2015 and 2017, as illustrated by the following graph:

When did you start working on LGBTI asylum?
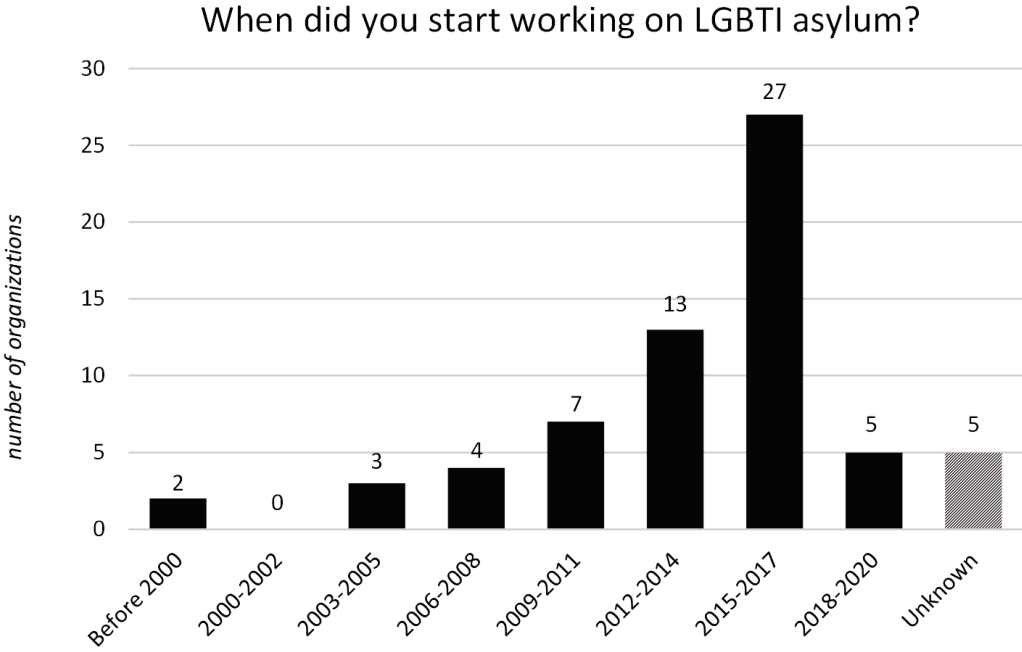
Figure 15. Year in which surveyed organizations started working on LGBTI asylum (66 answers)

This graph shows that out of the sixty-six organizations who filled the survey, almost half (27) started working on LGBTI asylum between 2015 and 2017. The number of organizations interested in this issue had already started to grow between 2012 and 2014, with 13 new organizations starting to work on this matter, but the 2015–2017 period more than doubles this number. The enthusiasm seems to have decreased starting from 2018, although it is difficult to

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peremptorily affirm it is the case, because very recent organizations may have a lesser online presence and may therefore not have been contacted. The majority of respondents to the survey were small organizations, with less than 10 or 10 to 30 members. They generally supported less than a hundred asylum seekers per year in the last five years. These elements confirm the argument that the 2015 crisis has partly reshuffled the cards of asylum support in Europe, by favoring the emergence of small groups of "new" activists. The predominance of "big traditional humanitarian players" cannot be taken for granted anymore (Karakayali 2019; Cantat and Feischmidt 2019).

The role of the 2015 "crisis" in the increased visibility of LGBTI asylum was also confirmed in a survey open-ended question. Respondents were asked to explain whether, and if so, in which way they thought the crisis had "changed" something for LGBTI asylum seekers. While many underlined the negative consequences of the crisis in terms of policy restrictions and lack of material support, others also underlined that it operated as a structure of opportunity for actors of LGBTI asylum, as shown by the following extracts (some general information about the respondents can be found in the annexes):

> **Respondent 11:** "In the beginning of the so-called crisis, we had a phase of general efforts to get it done. So, a window of opportunity opened to build up the organization, get a lot of LGBTIQ refugees transferred to safer housing conditions, etc. These possibilities declined later on."

> **Respondent 26:** "It created public awareness, led to a rather split society – more violence but also, for example, the founding of our group."

> **Respondent 66:** "I think that in [my country] the reality is the crisis it impacts in a positive way, especially in recent years, that is, now there is more attention on LGBTIAQ asylum seekers."

The three respondents quoted above frame the impact of the crisis in slightly different ways. For the first one (respondent 11), the crisis context was initially positive for the development of strategies aimed at LGBTI asylum seekers, but it did not last long. The second, respondent 26, considers the crisis as simultaneously positive and negative. The third, respondent 66, goes as far as to argue that the crisis had an overall positive impact on LGBTI asylum seekers. This last position was more an exception than a rule, but it still echoes the assessments of the two first respondents. Overall, the 2015 "crisis" has been a catalyzer for LGBTI asylum. It has resulted in the flourishing of new projects and in the growth of funding opportunities and research. In a similar way to what happened in the European Parliament, the "crisis" resulted in the increased visibility, mediatization, and politicization of LGBTI asylum within associations operating at the local level. And, importantly, these associations have not solely

granted more attention to this issue: they have also started to look at it in a qualitatively different way. This is particularly true when it comes to European frameworks. As shown in the following few paragraphs, they perceive the impact of these frameworks on their everyday action in a clear way. Europe, in sum, is becoming less and less distant to them.

The Dublin III Regulation was recurringly denounced during interviews, including by organizations that had a positive to very positive relation to the European Union. This was visible in the following interview extract, from the contribution of David Nannen, from the organization HAKI, based in Germany. During the interview, Nannen related very positively to the European Union, and was favorable to the increased harmonization of national asylum systems. However, simultaneously, when asked whether the European Union was something important to his organization, he answered:

> *"I think the European Union is important because of the Dublin system. We really have to make sure that people do not get cheated in the Dublin system, that they are doing the right thing in the right time, otherwise it generates homemade problems. I think that Dublin in principle it's a nice system... from the idea. But if you get into practical details, then it's really getting very difficult. Because, for example, different countries who are part of this Dublin process have different definitions have different definitions of safe countries of origin. (...) And the second problem is that at the moment authorities are lazy, and it's easier to reject someone and say 'ok, the other country of the first registration is responsible for this person', instead of saying 'ok, I will take the law and I will take my right to step in and decide on my own', which is article 17 if I remember well. It's a ping pong."*

(David Nannen, personal communication, 29/11/2019)

What is remarkable in Nannen's contribution is the way he starts his answer by stating that the European Union is important *because* of the Dublin Regulation. Dublin, in his contribution, became a synecdoche for Europe. His denunciation of the system set by the regulation was ambivalent, as he stated that "*it's a nice system from the idea*". Still, his diagnosis of the action of the European Union and Member States was severe, as he compared the way they deal with the lives of asylum seekers to a game ("*a ping pong*") and emphasized the need for people "*not to get cheated in*". Nannen, in fact, was far from being the only one for whom Europe equated to Dublin. In the survey, when respondents were asked what aspects of European frameworks were relevant to their work, the Dublin Regulation is the one that came back most often. It was sometimes the only element of European frameworks cited by organizations. Their criticism of the Dublin system was quite harsh, as illustrated in the following extracts from the survey:

Respondent 32: "[Because of] Dublin people have to live in homo-transphobic nations"

Respondent 41: "We have asylum seekers who are in [my country] for years now with no income and no possibilities to enter normal process because of the DUBLIN rules..."

Respondent 52: "The most frequent application of EU law (in contrast to international treaties on asylum matters) is when the Dublin Regulations are applied as a means of deportation back to the country of original arrival within the EU."

Respondent 63: "I'm not a lawyer and I don't know but the Dublin agreements should be changed"

These respondents were located in four different countries—in no particular order, Belgium, Germany, Italy, and France. Nonetheless, they all shared a similar diagnostic when it comes to Dublin, and their indignation is perceptible in their contributions, when respondent 41 capitalized "Dublin", or when respondent 52 used the term "*deportation*" rather than "*return*". During interviews, organizations were very vocal about their opposition to the Dublin III regulation, and the 2015 crisis seems to have strengthened their reject of this system. While this was latent in the contributions quoted above, nowhere is it clearer than in the contribution of Marta Ramos, executive director of Associação ILGA Portugal. She explained:

> *"So, of course, Portugal is applying Dublin too, like all Member States. Now with the crisis everyone is applying Dublin, so they don't have to deal with the cases. When we do get requests for help from people who are still in their country of origin and want to reach Portugal, one of the first thing we tell them about is Dublin. (…) We have had one case where a person was sent back to Poland; well, actually the person was not sent back because we intervened as an organization, but they were supposed to be sent back there because it was their entry point."*

> (Marta Ramos, ILGA-Portugal, personal communication, 12/11/2019)

Ramos' contribution established a direct link between the 2015 "crisis", the application of the Dublin regulation, and an increase in the obstacles met by LGBTI people seeking asylum in Europe. It is important to underline here that her organization is still very well inserted in European networks and does believe in the European project. But still, as shown by the first two sentences of her contribution, she was very critical of the current system of management of asylum claims. Similarly to David Nannen (quoted above), she interpreted the current application of the Dublin system through the lens of political unwillingness. She also considered that by doing so, European Member States were endangering LGBTI asylum seekers.

Ramos' contribution is an interesting on a second level: that of (micro-)practices. Her contestation of the Dublin Regulation, indeed, was not solely discursive. Nor was it only a question of protests, such as the "Stop Dublin" campaign analyzed in the introduction of this chapter. Contention can also take an administrative form, when ILGA-Portugal intervenes to ask that an asylum seeker should not be sent back to their country of entrance if they have little to no chances to have their claims heard. Other organizations, such as the ARDHIS (France) and Queer Base (Austria) reported having adopted similar practices of administrative

contention. For the ARDHIS, the country of entrance of these asylum seekers were Italy, Greece, and Germany. For Austria, it was Hungary. Both organizations highlighted that on a legal level, their requests were systematically dismissed. However, they reported being more successful on an administrative level: the transfer procedure of asylum seekers was sometimes suspended, although no official justification was given for that. In a similar way, I have shown elsewhere how organizations had re-appropriated themselves the notion of "safety" present in European legislation to develop strategies and discourses presenting not solely third countries, but also European Member States as "unsafe" for LGBTI asylum seekers—therefore formulating alternatives geographies of safety that questioned the divide between the "safe Europe" and the "unsafe third countries" (Le Bellec 2021).

The strategies of political and administrative contestation of policies developed by these local and national organizations are not without consequence on European legislation. It redraws the lines of cases that would have known a very different ending had it not been for the intervention of activists. Simultaneously to their contestation of Dublin and "safe country" practices, organizations endorsed other elements of the European framework and used them to constrain the action of their Member States. They were particularly adaptive on this matter. In the survey, organizations reported relying a lot on directives and European Court of Justice judgements—which is not extremely surprising since these are the most "tangible" documents produced by the European Union. But more surprisingly, they also reported utilizing, along with directives and jurisprudence, reports from the Fundamental Rights Agency, European Parliament Resolutions, and even, for one organization, the Equality Strategy published by Commissioner Helena Dalli. None of these elements are legally binding, and in fact, they are often depicted as mere gestures of goodwill. But, because they used it, these organizations granted them an operational value, and imbued them with meaning for their Member States.

This shows that organizations may very well develop creative usages (Jacquot and Woll 2004) of European action. While the narrative of European institutions is that local associations are important among other because they facilitate the accurate transposition of policies, my findings suggest that these actors are much more than mere "transmission belts" between European institutions and local communities. This is an argument that has also been made in relationship to the funding of non-profit organizations based in accession countries by European institutions. Ketola (2011), in particular, had shown that these organizations did not necessarily behave in the way they were expected to by their grant-makers, and that their funding thus had unintended effects. In sum, local and national organizations, be they based in Europe or outside,

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"can 'choose' and 'learn' outside of institutional pressure", and therefore "it is crucial to account for the true political work they realize within the European integration process" (Jacquot and Woll 2004, 7). Their role is not one of transmission, but of intercession. This means that they can partially re-orient the frameworks they mediate, by contesting some, and endorsing others—sometimes appropriating some of them in an unexpected way.

The elements presented in these two sub-sections show that local associations supporting LGBTI asylum seekers are not as naïve about European frameworks as one might have thought. These organizations do relate positively to the European Union in general. However, this does not mean that they are unable to question the frameworks and narratives produced by European actors. Their activism on LGBTI asylum has been, for many of these associations, an entry point into the broader questioning of the idea that the European Union inherently is an actor of human rights. Through the situation of LGBTI claimants, they came to realize that the European action on equality and inclusion often is much ambivalent than what they thought it to be as LGBTI actors. There is a real misfit between what these associations perceive to be needed to protect LGBTI asylum seekers, and what they perceive the European Union to be doing. This being said, the associations interviewed did not limit themselves to denounce European policies. They politicized as much the negative aspects of these frameworks as their positive ones. By doing so, they operated a work of strategic politicization of European policies at the national level that is probably here to last. Nevertheless, it must be underlined that if European migration policies keep tightening, it is probable that the divide between the expectations of these organizations and the action of the European Union will widen. In that case, their general relationship to the European Union could very well change. What is sure is that the 2015 "crisis" has made them more aware of European frameworks and more critical about it, and that this critical awareness will be difficult to unlearn. It does not mean, however, that it will necessarily be successfully converted in a discourse audible by supra-national actors.

3. Europeanizing without Europe?

Indeed, reflecting on the notion of "usage" of Europe, Jacquot and Woll warned their readers: it is not because actors "use" the European Union in their advocacy that they will necessarily be successful in achieving change: "failure will always remain a possibility that must be considered (…) That actors develop usages of Europe is a necessary but insufficient condition of European transformation, due to potential blockages and failures" (Jacquot and Woll 2004,

17). Based on this observation, the last section of this chapter examines the extent to which the shared critique of European frameworks developed by local associations could result in collective action and whether this could have an impact on European debates. The core question here is whether they will be able to unite around a common cause, and what form could this union take. Transnational mobilization has indeed often been analyzed in the existing literature through the lens of protest and public demonstrations (della Porta and Caiani 2007). Sanchez Salgado (2014) has shown, since then, that the way associations appropriate themselves the European Union. While some groups may develop activities targeted at European institutions, others will merely consider Europe as a potential donor. Overall, however, these different bodies of literature still rely on the presumption that organizations have two main pathways to Europeanization, understood here as a process of mediation through which frames, policies, instruments, and actors mutate as they traverse—and are traversed by—European politics. These two pathways are transnational protest, and European lobbying.

Therefore, the goal of the next two subsections is to examine the relevance of this analytical framework for the local associations studied. It first shows that these organizations have not managed to transform the existence of common concerns among them into collective European action such as transnational protests or organized lobbying. The network they form is loosely bound rather than tightly structured, and it often lacks common objectives—although, paradoxically, it does not lack common issues. This, however, does not mean that these organizations are not involved in processes of transnational politicization. They Europeanize, but from "below to below", simultaneously neglecting and bypassing European institutions. While this mean that they are unlikely to be influential on the short run, it also entails that they can keep a freedom of frames and claims that could be useful in the future, if they unite.

3.1. From common concerns to the absence of collective action

What I observed during fieldwork was that associations supporting LGBTI asylum seekers in Member States were increasingly structured into a transnational, pan-European network. This network is characterized by its specific "meeting arenas", which constitute the underlying infrastructure uniting them (Haug 2015). These meeting arenas are both physical and non-physical. There are, of course, meetings organized by major organizations operating at the supra-national level. ILGA-Europe, for example, always includes workshops on asylum during its annual conferences. During the 2017 conference, to which I assisted, these workshops were important forums of discussion for organizations working with asylum seekers. Next to the

initiatives of supra-national organizations also are research projects, such as Fleeing Homophobia or SOGICA. Both projects, through their field inquiries, have brought together activists in focus groups and in conferences. However, probably even more important than these occasional events are the bilateral or multilateral exchanges that associations often have together. These are very difficult to document, but many interviewees reported regularly exchanging emails with other associations; and these interactions can partly be observed in ILGA-Europe's mailing list Sexual Orientation, Gender Identity and Expression and Sex Characteristics in Asylum (SOGIESC). Set up in 2019, this mailing list brings together associations, legal practitioners, and researchers. The content of emails is not moderated by ILGA-Europe. Overall, the vast majority of exchanges taking place via this mailing list involves associations operating at the local level, questioning and answering each other.

Due to these transnational interactions and the presence of shared diagnostics on LGBTI asylum within associations, one could therefore hypothesize that the conditions are in place for these actors to collectively problematize LGBTI asylum at the European level. The process of problematization, in this context, is understood as involving first a shared experience, preconditioning the emergence of a collective indignation, which is then turned into a public mobilization (Cefaï 2016). For Cefaï, "the mediatization of a collective experience is crucial for some trouble to become problematized and publicized so that people know what they are dealing with, and what to do with it. (…) This means that people have to convert the trouble into an *issue* about which they have information, about which they can agree or disagree, and about which they have some entry points for action. To state it in a slightly different way, they engender a collective field of experience with specific ways of seeing, talking, and making sense, articulated by a network of numbers, categories, stories, and arguments that will allow them to frame the situation as an identifiable and recognizable issue" (Cefaï 2016, 30). Associations supporting LGBTI asylum seekers do encounter some similar "troubles" in their work. However, despite shared frames and shared troubles—especially for what concerns Dublin III—they have not managed to turn their individual indignation into collective action.

There are several reasons for this failure. The first is related to the prevalence of the national documented earlier on in this chapter. While associations surveyed were all inserted in a dense cooperation network at the domestic level, their transnational ties were more loosely bound. Out of the 66 associations that filled the survey, only one reported not cooperating at all with associations at the national level. All 65 others were connected, in order of importance, to associations dealing with broader issues (55), to other associations supporting LGBTI asylum

seekers specifically (50), and to associations belonging to their umbrella-group (44). However, when asked about their cooperation with structures outside their own country, the number of respondents stating that they did not cooperate with any association whatsoever raised to 20—almost one third of all respondents. Slightly less than two-thirds of organizations (37) reported cooperating with European-level organizations, and approximately half (34) said they were connected to associations operating in other Member States. Finally, 26 stated they cooperated with associations located outside the European Union. These numbers simultaneously show the importance of Europe as a key space for transnational cooperation—intra-European ties are still important—and the secondary nature of this arena compared to the domestic one.

Nonetheless, if organizations have failed at collectively mobilizing, it is not solely because of the loose structure of their network. The nature of their transnational activities also plays a role in explaining this absence of collective action. The following graph presents the type of transnational activities reported by organizations (optional question – 37 answers):

Transnational activities reported
(optional open question - filled by 37 organizations)

Number of organizations mentioning this activity
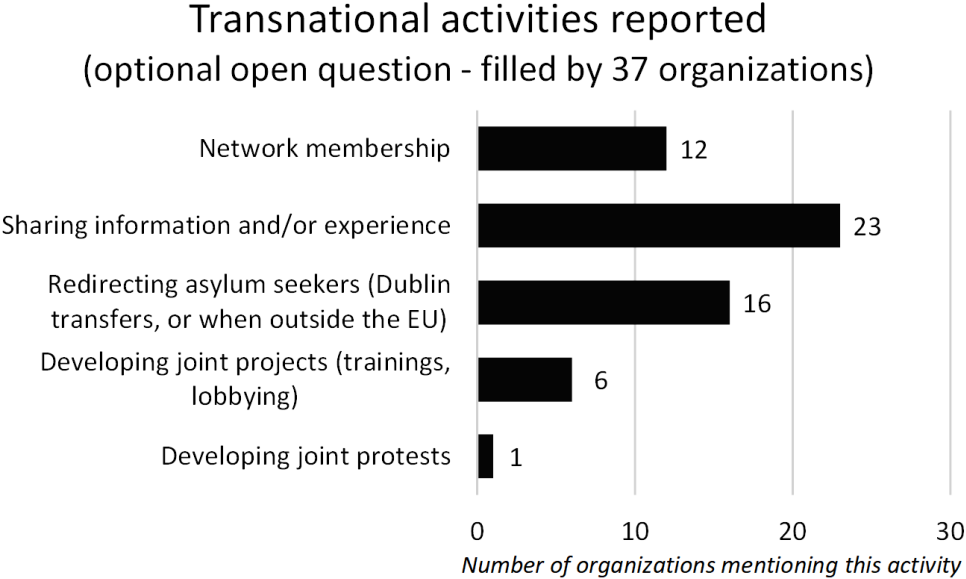
Figure 16. Transnational activities reported by organizations (37 answers)

Given that this question was optional, it is important to keep in mind that some activities may have been under-declared, in particular if organizations did not perceive them as important or considered that their answer to previous questions was self-explanatory. This may be the case, for example, of belonging to transnational or supra-national networks. This being acknowledged, what this graph still illustrates is the dominance of non-demanding forms of transnational activities. Associations mostly reported sharing information with other, giving feedback on their experiences, or referring asylum seekers to each other. These activities do not

necessitate coordinated action—in fact, they do not even require associations to have ideas or objectives in common. On the opposite, activities requiring the active involvement of participants, such as protests or trainings, were uncommon. If Europeanized politicization is defined as the contentious building of a transnational "imagined community" (della Porta and Caiani 2007), this is not what is happening here. Local associations supporting LGBTI asylum seekers do connect on a transnational level, but their cooperation is often sporadic and result-oriented. The contribution of Sabine Jansen, one of the lead researchers of the project "Fleeing Homophobia", illustrates this argument. When asked whether she thought the project created a network of activists, she answered:

> *"Well, it's not really like we have contact regularly, but for instance, the expert from Slovakia recently sent me a mail, so there are still some contacts. But the main contact now I would say is from ILGA-Europe. They have an internet network of all these people, who ask questions, etc."*
>
> (Sabine Jansen, personal communication, 03/04/2020)

Jansen's contribution illustrates the *ad hoc* character of the transnational collaboration of LGBTI asylum organizations. Even the most "Europeanized" of them—those that participated into European research projects—have difficulties maintaining their network active. They might request or send information on ILGA-Europe's mailing list or even come together for the purpose of a research project, but once they consider that their mission has been accomplished and that they have provided the information requested, they go back to their national reality.

The reasons of this sporadicity are several. Among them is the importance of the work pressure organizations face. This aspect was latent during interviews, with interlocutors explaining that because they were chronically understaffed, they had no choice than to focus on short term objectives to the detriment of long-term political strategies. Of course, this is not a novelty. Still, the 2015 crisis and the governmental outsourcing of asylum to civil society organizations might have accentuated it (Habraken et al. 2013; Pette 2014; Brusadin 2020). But, beyond this, interviews also showed that organizations had a lot of difficulties to imagine themselves as a collective. This was striking in the interview of Aude Le Moullec-Rieu, president of the French association ARDHIS. She explained:

> *"The issue, you know, is that for an organization like ours, starting this kind of supra-national coordination is very costly, and there is no… What purpose will it serve? For us, transnational networking is useful when people are sent back to other countries. Philippe works a lot on Dublin cases and he is in relation with people from other countries, but somehow, you know, knowing people in Spain and Italy would be sufficient for this purpose. Florent also created a map of organizations supporting LGBTI asylum seekers in Europe and it's really great, it's useful to us, but beyond that, what could we do with these organizations? Is it really useful for organizations in some countries to know that in*

another country LGBT people are considered to be a social group? I don't know. (...) And in the end, the real question is, what would a common advocacy look like, for organizations operating in such a huge diversity of language and administrative context? It's very complex, and we always risk to fall back on things that are very... (pauses) I don't know. On "safe countries" we could mobilize, yes, that's a European question. Probably we could mobilize. But you know, you never have the same deadlines, the same calendars, so it's really complicated. (...) And I don't know what you can really get from very supra-national actors, except their support on very broad and general principles, which are, in reality, quite far away from what we need."

(Aude Le Moullec-Rieu, personal communication, 27/11/2019)

What Le Moullec-Rieu's contribution demonstrates is the importance of understanding "troubles" and "issues" not just as subjective or discursive devices, but as objects that must be "seized in their 'experiential habitat'" (Cefaï 2016, 29). That organizations share frames is not enough to create collective action if they feel that their everyday realities are too remote from each other, or if the implicit "fundamental laws" of the (regional, national, local, organizational, etc) universes they evolve in are too different (Chesters and Welsh 2005). In the case of Le Moullec-Rieu, what appears clearly is the difficulty to imagine the presence of shared goals and shared issues across borders—although, paradoxically, she simultaneously acknowledged that these shared goals and issues do very much exist. In sum, while associations supporting LGBTI asylum seekers at the local and national level are indeed increasingly structured in a European transnational network, this has not resulted in collective concerted action targeting European institutions. There is probably, in the literature, an over-emphasis on the emergence of a European transnational public sphere (Eriksen 2005; Koopmans and Statham 2010).

Authors have argued that actors pertaining to extremely specialized sub-fields—such as LGBTI asylum—would probably be more prone to construct meaningful networks (Schnyder 2015). Yet, what has appeared in this research is that there is no "natural" collective experience for organizations supporting LGBTI asylum seekers in the European Union. These associations are not against the idea of developing collective action, but they do not possess the material conditions necessary to their mobilization. New technologies such as mailing lists may have enhanced transnational communications, but they have not engendered feelings of collective experience, nor has it allowed actors to identify new potential paths of European influence.

It would be easy to stop at this account of local associations as responsible for their own failure because they are overburdened or uninterested by Europe. They may well be, but, as already underlined in the first part of this chapter, it must also be acknowledged that this failure participates in a broader system of differentiated Europeanization. As shown by Sicakkan (2013), while national boundaries are indeed weakening in Europe, this has above all resulted

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in the convergence of elites. Associations that are less endowed at the national level are unlikely to be advantaged by this Europeanization. For these actors, Europeanization often merely means being asked for their participation by bigger actors with still no guarantee that their disagreements will be heard (for an example, see Holzhacker 2009). Against this background, it is not so surprising that local associations have not sought to overcome their differences to act collectively. Under the paradigm of vertical Europeanization, they might have more freedom and energy to lose—in a context of scarcity of time and resources—than influence to gain.

Therefore, if Europeanization is defined as the contentious building of a new "imagined community", this is clearly not what is happening to these local associations right now. They lack a common imagery and have not managed to envision themselves as a collective force. They perceive themselves as distant acquaintances who probably share similar concerns, but not as possible friends and allies, and even less as a community that could act together. Contention is, furthermore, marginal—not to say exceptional—to their collaboration.

3.2. Horizontal Europeanization: bypassing and neglecting European institutions

Nevertheless, the idea that Europeanization necessarily entails a drastic, easily observable change in the behavior of the actors it affects has been much questioned in the past decade, especially in relationship to civil society organizations operating at the domestic level (James Wesley Scott and Liikanen 2010; Kröger 2018). Sanchez Salgado (2014), for example, has sought to define the "cheap" forms of Europeanization characteristic of associations facing weak adaptative pressure to the European Union. For her, these soft Europeanization processes mostly take two forms: transnationalization, and internalization. She defines transnationalization as the choice to join peak European organizations. In the case of asylum organizations, authors have shown that it can also entail establishing or participating in new networks (Monforte 2009). Internalization, in Sanchez Salgado's research, is defined as the integration of European topics in local associations. In the case of European LGBTI activism, this definition has been broadened to transnational processes of "diffusion of ideas and action repertoires" (Holzhacker 2009, 221; see also Paternotte 2011).

The main analytical interest of these two "soft processes" is that they allow us to develop an account of Europeanization that goes beyond intentionality. Organizations might be caught in these processes without deliberately seeking to give a European turn to their activities, but also without having the intention to reach European institutions. This is probably what characterizes

best local associations supporting LGBTI asylum seekers in Europe. Although these organizations have not developed European-level collective action, their understanding of LGBTI asylum is not anymore a purely national one. They are fed, often on a weekly basis, by information and requests coming from all over Europe. Moreover, because of the Dublin III Regulation, developments taking place thousands of kilometers away may become suddenly relevant to them, as they receive asylum seekers in transit or who face return. Due to this context, associations are undergoing a form of Europeanization, but one that simultaneously bypasses and neglects European-level actors. This is paradoxical because the European Union is, ultimately, the underlying structure that made—through funding, policies, and channels of communication—the emergence of this transnational network possible.

The circumvention of European actors operated by local associations does not necessarily destabilize the division of activist labor analyzed earlier. For example, when associations go to ILGA-Europe conferences not so much to hear from ILGA-Europe but to meet other activists, the *status quo* of European activism is little disturbed. However, this transnationalization, even when it is not aimed at questioning existing hierarchies and practices, can still favor a circulation of ideas that does not necessarily has to go through the mediation normally operated by European institutions. For example, on the practice of psychological certificates proving LGBTI asylum seekers' identities, Sabine Jansen, one of the lead researchers of the Fleeing Homophobia project, reported:

> *"When the national and other experts of the Fleeing Homophobia project were in Amsterdam, we had discussions, for instance on asking psychologists to help in the assessment of credibility in sexual orientation cases. Because some, in Austria back then, and in Germany, had psychologists to help in this assessment and other people like myself would be very much against it. And we had this discussion here. And some time after this, in the Netherlands, it sometimes popped up. A few years ago, someone came and said 'I'm a psychologist and I can help, I can do a report saying that yes, this person is gay'. And... I'm still very much against it. And I remember that discussion we had with these twenty-five Fleeing Homophobia experts, and the outcome was that we don't like it."*
>
> (Sabine Jansen, personal communication, 03/04/2020)

As explained in the fourth chapter of this dissertation, psychological tests were ruled out by the Court of Justice of the European Union in 2017. What Jansen's statement shows is that almost a decade before this decision, activists had already discussed this practice within the Fleeing Homophobia project, arriving to the collective conclusion that they "*didn't like it*". Of course, that activists were opposed to this practice did not have any legal consequence, nor did it bind governments to act. In that sense, it is very different from more official statements. But still, it informed the practices of associations—and the results of the research project, now

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considered as a classical source of knowledge over LGBTI asylum. This shows how the transnationalization of associations supporting LGBTI asylum seekers in Europe can enable circulations of ideas that do not follow the top-down or bottom-up logic often described in the literature, but that rather takes place *around* European institutions, in a circular manner.

Nowhere is this Europeanization-without-Europe more visible than in the use associations make of ILGA-Europe's SOGIESC Asylum mailing list. In the first chapter of this dissertation, I have shown that alternative ways of framing LGBTI asylum were present among early member-organizations of the IGA/ILGA. These alternative frames progressively disappeared from ILGA-Europe's newsletters as the organization adapted its advocacy to maximize its chances of success in the first negotiations of the Common European Asylum System. Anti-discrimination, a frame that had proved successful in other domains, was privileged over ideals of global solidarity. LGBTI asylum progressively became something developed in Europe, for non-Europeans, and not a way of expressing one's political solidarity across and within European boundaries. These alternative frames were progressively smoothened out as demands were channeled through ILGA-Europe, which was in charge of making them official and audible. But today, if ILGA-Europe provides the platform through which organizations can exchange—the SOGIESC mailing list—it does not mediate its content anymore. Frames and information do not circulate solely through the European lobby but also and as much around it. In this context, we can observe the reappearance of historical alternative frames. In mail exchanges, organizations sought advice for lesbian couples living in Middle Eastern countries and for trans refugees located in neighboring countries, or exchanged information about political changes abroad. Although aimed originally at European groups, non-European organizations have become increasingly present on the list. Past ideals of global solidarity therefore seem to be slowly re-emerging.

This is not to say that this alternative forum of discussion exists outside power relations. No network, as informal as it might be, exist in a vacuum. Nevertheless, its presence is interesting for the conception of Europe it allows to emerge. Massey (2005) is famous for having theorized space as relational. For her, the spatial units that make sense to people—regions, states, cities, neighborhoods, etc—do not simply preexist out there (Allen et al. 1998; Massey 2005). They are constructed in everyday interrelations. Therefore, space is always heterogeneous—due to the multiplicity of these interactions—and perpetually in the process of becoming. It is, in other words, relational and processual. Massey's framework has been used by researchers seeking to theorize the spatiality of Europeanization. Some have argued that due to European integration,

the meanings of "space" and "territory" in Europe have fundamentally shifted, and that Europe itself has become a "soft space" with fuzzy boundaries (Faludi 2010; Walsh et al. 2012). "Soft" refers to the idea that this space emerges out processes that are predominantly non-codified or informal, in opposition to "hard spaces", which are characterized by their institutionalization (Jacob 2018). Other researchers have nuanced this affirmation, arguing that although soft spaces are a central aspect of European integration—which, as a process, modifies existing boundaries and multiplies potential loci of power—it does not mean that hard and soft spaces cannot coexist together, nor that soft spaces cannot solidify (Allmendinger, Chilla, and Sielker 2014).

If we move the focus from the idea of "being" into that of "becoming", the everyday transnational interactions developed by organizations across Europe are not meaningless. It allows them to create an alternative European soft space of LGBTI asylum, one that is not marked by logics of geographical or cultural proximity, but is rather organized around activist interests. Becoming, in this context, "indicates a process of symbiosis, the connection of heterogeneous elements into new assemblages with emergent properties" (Chesters and Welsh 2005, 188). Whether this process of becoming will enable them to organize as a movement and to politicize European LGBTI asylum policies is hard to foresee, as for the moment, the network they form is in a period of latency. Latency periods are common among social movements, and their importance for identity work should not be underestimated (Melucci 1996; Chesters and Welsh 2005). Crepaz (2020), writing about migrants' rights movements in Northern Italy, has shown how "passive actors"—network members who simply read messages but do not actively participate in the activities of the movement—still integrated ideas, vocabulary, and data that challenged dominant framing of migration, and upon which they could build for future action.

The true question, in the end, is to know if and how this latent movement will be activated, (Beyers, Eising, and Maloney 2008; Adamson 2008). This question is very much different from asking why some movements Europeanize while others fail at doing so, because Europeanization does not necessarily entail politicization—quite the contrary, it can very well result in institutionalization—while network activation is about collective contention. A preliminary answer to the question of network activation can be found in the work of researchers working on another type of latent network: transnational diasporas. Of course, solidarity does not emerge from the same mechanisms in diasporas as in local associations. But in both cases, the underlying puzzle is to know how do fragmented segments may be transformed into an active transnational constituency (Adamson 2008). While early studies tended to put the accent

on attachment to homeland, recent research has underlined that an important cause of network activation, in diasporas, lied in the unfolding of adverse events in the host country (Baser 2014).

In the case of associations supporting LGBTI asylum seekers, we can observe that this has already proven true: the 2015 crisis partially activated this network. This crisis, however, not been enough to push organizations to concerted collective action. Will the New Pact on Migration and Asylum, with its emphasis on returns and accelerated procedures, be the tipping point for LGBTI asylum organizations? Part of the answer to the depoliticization of LGBTI asylum in European politics lies in there. But for this to happen, whether associations will need to find to strength to build one of Monforte's (2009) alternative coalitions, whether ILGA-Europe will need to question one of the central premises of its advocacy—that "more Europe" is always good, and that its members can only be unconditionally favorable to harmonization. Neither of these two options will be effortless.

Conclusion

The role that local associations may play in European politics is often understated in the European studies literature. The relationship of these associations to the European Union has long been framed in terms of adaptative pressure. Scholars have historically wondered what would be the impact of European integration on the activities of these actors. Later on, as the Commission put the emphasis on ideals of democratic representation, the idea emerged that perhaps these organizations were not doomed to be *subjected to* Europeanization, but that they could also be active *subjects of* it. However, even in this context, the focus has mostly been on organizations with a capacity to target European institutions: national organizations with important material means, European-level lobbies, and contentious social movements. To a few exceptions, small structures with strong local roots kept being approached through the prism of their relation to their better-endowed peers, in particular European-level lobbies.

Previous chapters of this dissertation have shown that the driving force behind the constitution of a common European LGBTI asylum policy was not so much nationalist instrumentalization, but rather processes of strategic circumvention of the political debate. Despite a brief impulse of politicization in the 2015-2016 period, what has prevailed in the European debate is the depiction of LGBTI asylum as an issue that is not politically contentious, either because there is already an ideological consensus on the matter, or because it is viewed as something that should be better removed from the political arena and dealt with through the

sharing of "best practices". The predominance of these dynamics of depoliticization is not without consequences for LGBTI asylum seekers. Minimizing normative disagreements by depicting them as merely technical issues allows to seize LGBTI asylum in isolation from broader migration frameworks. It helps maintaining the myth that one could always marginally "fix" some issues—achieving LGBTI equality in migration policies—even in times of general human rights setbacks. Yet, as we have seen, no policy that constructs foreigners as structurally inferior to citizens can be overwhelmingly beneficial to a sub-category of this population. Not only are narratives of deservingness and selective protection problematic from an ethical viewpoint, but they are also stalemates for the protection of LGBTI claimants.

Against this background, the objective of this last chapter was to examine whether the mobilization of organizations acting at the national and local level could disrupt the pattern of treatment of LGBTI asylum by European institutions. One could indeed hypothesize that due to their everyday activities, these organizations would be more conscious of difficulties faced by LGBTI asylum seekers, and that they would be more likely to understand these struggles as deriving from migration policies. The question also was whether, due to their everyday experiences, they would understand the articulation between LGBTI equality and migrants' rights in a different way from their European counterparts. Both aspects proved true. The organizations surveyed, although they were mostly composed of LGBTI activists, refused to consider LGBTI asylum as a purely "LGBTI matter". This is quite different from what is happening at the European level. Indeed, for these local associations, often composed of LGBTI activists, the question of LGBTI asylum has operated as a juncture between LGBTI rights and migrants' rights—and not in the siloization of these issues in a desperate attempt to save one's gains in a context detrimental to all. The 2015 crisis has further accentuated the political engagement of associations operating at the local level. New organizations have emerged; and, together with pre-existing organizations, these structures have become increasingly critical of some aspects of European migration policies. Elements that are characteristic of more radical LGBTI and migrants' rights activism—such as distrust toward public authorities, and indignation toward state-organized vulnerability—can be found in the discourses of these organizations, who are entering a period of politicization of their support activities.

Nevertheless, if emerging out of the LGBTI movement may be an advantage to these organizations, who benefit from prior structures, activist traditions, frames, and concepts, it can also be a hindrance when it comes to approaching the European Union. European LGBTI activists have long considered the European Union as an ally standing between them and their

governments. The organizations studied for this chapter had difficulties to conceptualize Europe not just as a friend, but also as a master, and a potential enemy. As a consequence, while they rely on the tools produced by European actors, they have not (yet) felt the need to try to shape them. Their enthusiasm in seizing these tools, interestingly, had positive consequences. It has allowed them to act as "mediators" of Europe, as they rejected some policy aspects while endorsing others when addressing their own states. But their trust in Europe also meant that they were particularly vulnerable to being selectively coopted by institutionalized actors, who might use their demands for legitimizing purposes, but without listening to the critique of European action they formulate. In other terms, the participation of national organizations in pre-existing European structures has not disrupted hierarchical relations and depoliticized ways of doing. The main risk for European lobbies is that the permissive posture adopted by their members will erode and be replaced by distrust or resentment if they do not feel listened to.

This conclusion is not as final as it may sound, because local associations supporting LGBTI asylum seekers have not spoken yet their last word on Europe. They are part of an increasingly structured online transnational network, and, contrarily to what happened more than two decades ago now, their exchanges are not anymore channeled by European actors and institutions, but rather circulate around them. This is both a strength and a weakness. It is a strength because by sharing their concerns and noticing that they it echoes the situation met by others, these organizations are increasingly questioning and politicizing European LGBTI asylum policies. It is a weakness because the loose structure of their network has not enabled them to transform individual indignations into collective action. They have not managed, so far, to envision themselves as a potential autonomous political force that could formulate claims relevant to European actors. Nevertheless, even if this circumvention—and sometimes short-circuiting—of European-level actors has a cost in terms of immediate efficacy, it should not be dismissed too quickly as a long-term political strategy. It has enabled old frames to re-emerge, and new ideas to develop. The question is whether associations can turn words into action, or, alternatively, if European actors will perceive the murmurs of discontent growing in some corners of their constituency.

CONCLUSION

LGBTI rights, migrants' rights, and the question of collective emancipation

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LGBTI and migration issues count among the most controversial subjects in European politics today. They were at the heart of major controversies recently, for example when some Polish municipalities signed a charter to declare themselves symbolically "free of LGBT ideology", or when the Hungarian government issued a series of conspirationist-looking ads warning its population about the will of Brussels to "incentivize migration". Interestingly, the actors of these debates often are the same. The Hungarian government of Viktor Orbán is an excellent example of that. Orbán has indeed developed a rhetoric that intertwines external danger to internal treachery, describing the "European civilization" as being threatened by the "erosion of nuclear Christian family" promoted by the LGBTI lobby and its replacement by a "Muslim invasion". [71] Of course, gender and migration are not the sole challenges the European Union is facing right now. Climate change, the Covid-19 pandemic, and the Russian war on Ukraine have all durably upset European politics. However, the value-based Euroscepticism (Leconte 2008; 2014) upon which oppositions to LGBTI rights and to asylum rely has magnified some of the fractures internal to the European community. By doing so, it has exacerbated the imaginary of a crisis of the European project, thus contributing to its destabilization.

By analyzing the debate over European LGBTI asylum policies, this research has focused on the intersection of these two controversies. In doing so, its ambitions were double. It sought, on one hand, to document and analyze the way the protection of LGBTI asylum seekers has been constructed in European legislation. This question has been neglected in the literature on the subject. This is an important gap, because European directives are not mere contextual variables to be considered when working on national case studies. The Common European

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[71] Sources : https://www.dw.com/en/hungary-leaders-slam-migration-lgbtq-at-family-values-summit/a-59283286 ; https://www.politico.eu/article/viktor-orban-hungary-doesnt-want-muslim-invaders/ (last consulted 27/06/2022)

Asylum System still is, today, one of the most important regional regimes of international protection worldwide. It influences the processing of asylum claims both inside and outside European borders. It has also affirmed the protection of LGBTI asylum seekers long before many Member States did so. Understanding the Common European Asylum System *per se*— and not just its national applications—is therefore essential to understand asylum in Europe. The second objective of this research, on the other hand, was to take LGBTI asylum out of its niche, and to investigate it as an object revealing of broader political dynamics. This, I believe, is one of the contributions of this research to a field that has often focused on micro-level practices. My objective is of course not to dismiss these studies—good research on the micro-level politics of LGBTI asylum is still vitally needed—but rather to offer a perspective on the subject that complements their findings, for nowhere as much as in asylum do high-level politics and the everyday life of the *guichet* intertwine so intimately.

The research question that guided my reflection throughout this research illustrated this willingness to broaden the debate. Putting the emphasis on the political dimension of LGBTI asylum policymaking through a qualitative inquiry, I asked: what does the LGBTI asylum debate demonstrate about the role played by politicization in shaping the meaning and form of equality in European policies? This focus on politicization—and its twin, depoliticization—was originally thought as a strategy to open the analysis beyond the paradigm of homonationalism without dismissing it too quickly. However, as a theoretical framework, it quickly proved meaningful beyond expectations, for LGBTI asylum is a deeply normative matter, one that cannot be reduced to a succession of technical policymaking phases, but which must be reinserted into the broader political debate it pertains to. Indeed, what this dissertation has shown is that LGBTI asylum has never just been about LGBTI asylum. At its heart were fought battles that largely outgrew the granting of the status of refugee to some foreigners in Europe. It was the stage upon which LGBTI equality was debated and redefined, as illustrated by the first two chapters of this manuscript. It has also come to symbolize the European project itself, as shown by the third chapter, thus crystallizing fights about the future of Europe. And, finally, as exemplified by the last two chapters, it must be read in conjunction to the analysis of bordering processes and the dead angles of equality they reveal—their mechanisms, but also the subversions they may engender as a reaction. LGBTI asylum is, in the end, a much more contentious issue than what policymakers and asylum officials would like to admit.

In the remaining part of this conclusion, I will seek not so much to offer a chapter-by-chapter summary of my findings, but rather to pull together several threads that traversed the different

sections of this thesis. Looking at a PhD from above and seeking to rearticulate its argument beyond what has already been done is always a perilous exercise. However, by doing so, I hope that the main takeaways of this research—which were sometimes spread throughout different chapters—will appear even more clearly to the reader.

Forms and actors of politicization: a multi-headed phenomenon and a structural system

Renouncing to the fictional account of LGBTI asylum as a consensual category of public action allows to explore the role that politicization may play in shaping equality in today's public action. One of the main takeaways of this research is that politicization is an ambivalent yet necessary condition to the extension of equality in European policies. It is ambivalent because politicization is more complex and multiple than it is often perceived to be, yet it is necessary because it is crucial to the problematization of the established order—and thus to its challenging to include new groups in the polity. Moving away from the ideal of a clear-cut dichotomy distinguishing politicization from depoliticization, this dissertation has explored politicization as intertwining street-level mobilizations and hushed corridor lobbying, strategic circumventions and vocal statements of opposition, discrete or peripheral subversions and tactical renegotiations of one's own margins of action.

Bringing together the input of all chapters, three main usages of politicization may be identified. The first is that of politicization as a militant strategy to "make the impossible happen" (Scott 2002). Politicization, in this context, is used to invent new rights and institutional responsibilities, and to question the *status quo* of inclusion and justice. This was especially visible in the first and last chapters of this dissertation, when analyzing the action of LGBTI activists on asylum. Politicization, here, takes a rather classical form—that of social movements and activists trying to catch the attention of decision-makers in order to make things change. It can take the form, for example, of protests, advocacy, or campaigning. These different types of action were all present—to different extent—in the early mobilizations of ILGA-Europe on LGBTI asylum and in today's activism of local associations.

The second form of politicization identified is that of politicization as the strategic performance of political identities. This performance is not necessarily conflictual, though it may be. It involves processes of sub- and sur-politicization depending on its aims (Lascoumes 2009). For example, in the second chapter, sub-politicization helped European lobbies to circumvent their disagreements, therefore enabling them to increase their influence over

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negotiations. This very same sub-politicization allowed ILGA-Europe to pass the recognition of trans people into the Common European Asylum System, thus making it a precursor of LGBTI equality in the European juridical order. On a different note, in the third chapter, sub- and sur-politicization intertwined at the European Parliament, as deputies navigated between the staging of shared values and the reclaiming of their specific identities as political groups. In all these cases, it is the intertwinement of sub- and sur-politicization that allowed the meaning of equality to be extended. Indeed, while the circumvention of the conflict inherent to sub-politicization enabled a "return of the political" that ultimately allowed the improved recognition of LGBTI asylum seekers, it also possessed important limitations because it negated its own transformative ambitions, depicting them as "common sense" or shared values"—and therefore limiting the scope of its demands. Inversely, sur-politicization, by clarifying partisan alternatives, allowed the re-politicization of the support for LGBTI equality in general. Considering both altogether is therefore necessary in order to fully comprehend the influence of politicization in shaping the meaning and form taken by LGBTI equality in Europe.

Finally, the third type of usage of politicization identified in this dissertation is that of politicization as a foil—a paradoxical phenomenon some authors have described as "politification" (Kauppi, Palonen, and Wiesner 2016), but to which I referred to as a form of "depoliticizing politicization". Over the past few years, indeed, the tendency has been to the production of a depoliticized body of knowledge on LGBTI asylum—bringing together lists of good practices, reports, recommendations, interview models, etc. The fourth chapter was dedicated to this specific usage of politicization by European administrations, though it was subjacent in all other chapters too, because this is a structural dynamic in European and international politics. Interestingly, this corpus of knowledge does not negate the political legitimacy of LGBTI asylum as a category of public action. Quite the contrary: it insists on the role European institutions must play in this protection through the diffusion of knowledge and good practices. In that sense, it constitutes a paradoxical form of politicization that negates its own nature—hence the term of "depoliticizing politicization".

These three types of usages and forms of politicization must be considered together, in terms of overlapping and superposition, not in terms of linear succession. Each contains, in germ, the potentiality of the two others. For example, the vocal staging of political difference at the European Parliament has created a context favorable to the legitimization of the Commission's emphasis on good practices, which appeared as an escape route allowing to circumvent political blockages. And, inversely, this privatization of the debate has sustained the emergence of local

and alternative forms of solidarity that question the premises of established policies. This is the ambivalence of politicization I was referring to earlier on. Indeed, politicization, in this context, can operate as a crucial tool of renegotiation of the frontiers of the political community; but it can as well operate as an act of closure when it results in the division of causes and actors around clear-cut and watertight identities. As simple as it may sound, what matters also are the purposes of the actors who use it. However, what I have sought to demonstrate in the penultimate chapter of this dissertation is that there is still a crucial difference between the first two usages of politicization identified above—politicization as invention and politicization as performance—and the third one, that of politicization as a foil.

Migration governance and the depoliticization of LGBTI inclusion

The reason for this differentiation is to be found in what these forms of politicization *do* to the debate over equality. When politicization is used as a militant strategy or as a tool to stage one's identity, indeed, the political contingency of the propositions made by actors clearly appears. When politicization is used as a foil, on the contrary, the policies produced under this paradigm are framed as a form of "management of the possible". And the realm of this possible is, itself, restricted: it is simply *not possible* to govern borders in another way and even less so to open them, *not possible* to abandon hotspots and camps, *not possible* to simply believe the asylum seekers who say they are LGBTI, *not possible* to give good living conditions to everyone—for if we do so, who knows what might happen next?

To state it differently, the first two types of politicization identified above take a dialogic form, in the sense that politicization, here, is part of an ongoing discussion—about what equality is or should be, about one's identity versus that of the others, about the past, present, and future of Europe. These forms of politicization do not seek the closure of the debate but rather constitute one of its essential components. This is much different from what happens when politicization becomes a foil. In this last case scenario, the aim is to put an end to debate through the promotion of "rational" solutions that are "fact-based" and not "ideology-loaded". This negates the nature of democratic politics as the channeled staging of conflict between incommensurable and well-distinguishable political projects. In the first two cases, change may—though it does it always—happen, in the sense that the meaning of equality and the frontiers of the polity are open to discussion. In the last one, equality and nondiscrimination must be implemented, not discussed. Their achievement is thus reduced to a succession of

technical steps (mainstreaming nondiscrimination clauses, providing special guarantees, disseminating good practices, training officers, etc), and the meaning of equality is privatized, in the sense that its scope and content are fixed by institutions and are not up to debate.

The policies produced under the regime of depoliticizing politicization are difficult to question for two main reasons. The first is their technical appearance, which naturalizes their propositions by presenting them as the fruit of facts, reason, and logics. Installing hotspots and criminalizing European citizens who welcome asylum seekers is no less political than providing decent accommodation and temporary protection to all newcomers. Yet, this second option is portrayed as ideological and unfeasible, while the first one is framed as the logical way to go. The second element that renders these policies hard to oppose is their framing as a key condition to the survival of the European project—which is portrayed as threatened not so much by hordes of barbarians, as hypothesized by homonationalism, than by our own European turpitudes, in particular the rise of the radical right. Closing borders, in this context, is needed to protect European people against themselves, and it therefore becomes the paradoxical condition for the full realization of European ideals of equality, justice, democracy, and human rights.

This observation is crucial to the formulation of another main takeaway from this research: that it is not so much homonationalist instrumentalization but rather the depoliticizing paradigm of "migration governance" that best explains the selective inclusion of LGBTI asylum seekers under European asylum law. Strictly speaking homonationalist arguments in favor of LGBTI protection were indeed marginal in the corpus of data I exploited for this research. This does not mean that they did not exist at all: one may remember, for example, how the portfolio of Commissioner Margaritis Schinas, in charge of migration and home affairs, was initially entitled "Protecting our European Way of Life"—before being renamed "Promoting our European Way of Life". What I mean, though, is that homonationalism does not suffice on its own to explain the development of LGBTI asylum policies. It can be a mode of justification of asylum policies—when European politicians argue that European values, including LGBTI rights, must be protected against foreigners' lifestyles—but it is not necessarily the root cause that explains LGBTI asylum policymaking. Indeed, it would be unfair to argue that the European LGBTI movement and their allies simply did not care about foreigners' rights and played on xenophobia to achieve LGBTI protection. On the contrary, the deputies who upheld LGBTI asylum often opposed the tightening of asylum policies; and ILGA-Europe has worked in coalition with migrants' rights organizations. However, their activism and oppositions took

place in a context where the notion of "migration governance" remained the unquestioned core premise of the asylum debate.

It is precisely this ideal of governance that underpins the selective inclusion of LGBTI asylum seekers. Governance, indeed, promotes not so much strict exclusions justified in nationalist terms, but rather mechanisms of triage enabling the control of populations through their differentiated management (Green 2002). The depoliticized body of knowledge on LGBTI asylum evoked above participates into that system of classification. Its objective is not to question the structures that produce the exclusion of LGBTI asylum seekers, but to provide administrations with instruments to better (both in the sense of "more humanly" and in that of "more efficiently") distinguish the "true LGBTI" from the "fake migrant". In that regard, researchers and activists should not allow themselves to be fooled by its progressive appearances. This body of knowledge aims less at consolidating LGBTI emancipation than at adapting border management to the challenge represented by these claims—which possess an element of immateriality difficult to assess. This dynamic insert itself, more broadly, into the trajectory of European action on equality. Indeed, it echoes what Jacquot (2014) has argued about the way equality and recognition have progressively been converted into issues that are not considered *per se,* but for the way they are profitable to the European market system. Similarly, we can notice here how the category of "vulnerable groups" promotes the recognition of individual needs not just in and for itself, but for purposes of improved border management.

This depoliticizing politicization of LGBTI asylum also operates on an individualizing basis, promoting the "extraction" of some asylum seekers from the "mass" of migrants to process their claims in a more adequate way. This extraction produces the fiction that it is possible to securitize border and *at the same time* to care for vulnerable individuals—thus participating in the imbrication of border closure and promotion of human rights ideals identified earlier on. The protection of these people is justified through the prism of their difference, which constitutes them not as migrants but as individuals with their own specificities, and therefore in need to have their specific situation considered. This individualistic approach to protection is not specific to LGBTI recognition: the same logic of individualizing depoliticization applies to all the people who are described as belonging to the category of "vulnerable groups". However, it is even more evident in their case, because of the way gender and sexuality are increasingly understood, by European institutions, as individual characteristics that untie their holders from their communities of origin (Kovats 2022). There is a compatibility, in other words, between the way gender and sexuality are perceived as inherent and original identities, and the logic of

extraction for purposes of triage that is underlying in European asylum systems. Under this paradigm, LGBTI asylum loses much of its disruptive potential. Instead of allowing a reflection on the articulation between different types of exclusions and on the impossibility to know the "absolute truth" of a claimant, it becomes a tool of management like any other. It offers the promises of an inclusion that does not disrupt the system, but rather perpetuates it by allowing its marginal adjustment to the demands of the actors of nondiscrimination. This selective inclusion fragments the concept of equality and supports its differentiated application to different populations. Equality, in sum, becomes something that can only happen to those who are recognized as deserving individuals; not to groups, and even less so to the mass of migrants—whose eligibility to justice and respect is seldom considered.

Toward equality as a collective horizon: transformation in spite of everything?

The observation of this division of populations and causes, which has been underlying throughout this dissertation, poses with a particular acuity the question of collective emancipation. This is important because, when one listens to local activists or reads the work of researchers studying LGBTI asylum at the national level, it clearly appears that the promise to treat LGBTI asylum seekers as individuals and not as part of the mass of migrants is a hollow one. These claimants face the exact same structural barriers as their straight counterparts, and policies that seek to provide them with some extra "special guarantees" often do not change their situation—when they do not, in fact, deteriorate it, as I have shown elsewhere (Le Bellec 2021). Yet, European actors, and especially European lobbies, are maintained in the illusion that it is possible to have clauses improving the protection of gender and sexual minorities within policies that are largely detrimental to migrants. This misperception is, I believe, one of the root causes of the European failure to construct policies that are truly humane and inclusive, both because it does not problematize the pervasive culture of suspicion that exist in Europe; and because, by fragmenting inclusion and equality, it forecloses the development of transversal alliances based on shared ideals of justice and a sense of collective emancipation.

Yet, this transversal reflection on exclusion and emancipation is exactly what is needed to build a Common European Asylum System that does not reduce LGBTI asylum to a category of governance or to an identity question. What is at stake, ultimately, is the unconditional recognition of (LGBTI) asylum seekers as our peers, not as symbols nor as tokens. I do not believe that governance has foreclose this possibility forever. This is one of the key arguments

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I have sought to develop throughout this research, and especially in its third and last chapter. There are many elements that seem to demonstrate that the political is a space that can never be closed entirely, even when depoliticizing discourses seek to turn off the debate. Among these elements are the mobilizations of local associations, to which I will come back later, but also the vocal oppositions of the radical right to LGBTI protection. Paradoxically, these deputies seem to have understood better than progressive actors the transformative potential of LGBTI asylum recognition. After all, indeed, what European LGBTI asylum policies do is nothing less than to affirm the value of LGBTI lives beyond borders—and the competence of the European Union to interpose itself between a state and its citizens. This affirmation opens the door to future developments in favor of LGBTI protection, but, even more importantly, it also questions the very meaning of the European polity itself. And, while the transformative potential of LGBTI asylum has often been hidden in debates under the discourse of "shared values" and "compromise", radical rights parties have very well identified it, hence their loud opposition.

The question therefore is: how do we extract, not LGBTI asylum seekers from other migrants, but LGBTI asylum from the regime of migration governance and triage? This is the fundamental question progressive actors should be asking themselves today if they wish to enhance the protection of LGBTI asylum seekers in Europe. The answer to this interrogation is probably to be found in solidarity and in collective action. Adopting a collective approach to emancipation does not mean that LGBTI activists must abandon their demands related to gender and sexuality in European asylum systems. There is a difference between universalist and collective action, for if universalism has often been accused of negating differences and reiterating hierarchies, collective action can be thought in the plural (Brown 2000; Sénac 2021). In this context, the emancipation of some increases with the emancipation of all. This statement has been fashionable lately; but I believe it still is powerful in relation to LGBTI asylum.

The issue at stake here, in the end, is whether we will take seriously the idea that injustices often are interconnected, or whether we will keep envisioning respect for LGBTI and migrants' lives separately. LGBTI asylum shows that this second option should be abandoned. Indeed, if we take seriously the idea that the right to seek asylum is a core facet of LGBTI rights because it embodies an ideal of justice beyond borders, then recognizing migrants as deserving of respect is essential to the full realization of LGBTI equality, in Europe and abroad. The inverse is also true: gender and sexuality, if they are considered not as immutable identities but as unstable and complex human experiences, are key elements to consider in order to question the narratives of truth and the binary triage underpinning modern asylum systems. In sum, there is

much to gain, for the future of equality in Europe, from refusing to untie migrants' rights from LGBTI rights. LGBTI activists must cease to consider migrants' rights as contextual to LGBTI asylum, and migrants' rights organizations to consider LGBTI rights as peripheral to their work. This is one of the conditions for the triage of human lives to cease.

Reinvesting the European Union for and beyond LGBTI asylum

I wish to conclude this dissertation by making one final observation, which, I believe, is important for the future of LGBTI asylum in Europe. This observation is that of the disinterest of many relevant actors of LGBTI asylum for the European Union. This disinterest is pervasive in activism: as shown in my last chapter, many of the local activists I interviewed consider had a distant relation to the European Union. It was something which existed, which sometimes could even be important, but very rarely did they really invest it with their time, attention, and energy. The ones who were the most interested by the European Union were, in the end, those who work in the "EU bubble". This disinvestment of the European Union is not exclusive to activists though. It is also important in research on LGBTI asylum. Here again, the European Union is something that exists out there, but to a few recent exceptions (Ricci 2017; Ferreira 2018; Ferreira et al. 2018), it is very rarely granted a central space in researchers' analysis. Directives are mentioned but their content—and the process through which they were constructed—is seldom analyzed. LGBTI asylum is an increasingly well-chartered territory, and I have to admit that, after three years of doctoral research, I am still amazed by the limited amount of research published on the Common European Asylum System and LGBTI rights.

There are, of course, logical explanations to this lack of interest. At the level of research, the combination of the aridity of the literature in European studies to the persistence of methodological nationalism probably explains this gap. At the level of the actors of LGBTI asylum, researchers have underlined how European politicians and policymakers benefit from the disinterest of the public for European politics (Rozenberg 2009). They also often fear that critiques targeting European policies will feed criticism toward the European project itself (Robert 2021b). They thus have limited incentives to support the increased involvement of local actors in European politics if these actors are not to be overwhelmingly enthusiastic about European action. And, as local activists generally have a limited understanding of European policymaking, they often tend themselves to consider that they do not have their place in the European debate, thus navigating between indifference, permissiveness, and distrust.

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I therefore hope that this research will be received, by my academic and non-academic readers alike, as a call to reinvest the European Union as a relevant scale of analysis and action. There is still a lot of fascinating and important research to do on European asylum policies. One of these, for example, could be a critical ethnography of the everyday work of the European Union Asylum Agency; analyzing how the agency articulates its progressive identity with its increasingly important role in contributing to the governance of European borders. Another great research project would be to follow the national asylum officers trained by the European Union, and thus to study the circulations of knowledge on some types of asylum claims throughout Member States. Finally, the analysis I have developed on LGBTI asylum policymaking processes could be extended to other groups seeking protection, for example in relation to climate change. Of course, the recognition of LGBTI refugees and that of climate exiles is very different, for jurisprudence has tended to consider that climate-related displacement is not covered by international refugee law (Draper 2018). However, it is interesting to note that although European institutions have commissioned reports on climate-induced displacement, the 2020 proposals for a New Pact on Asylum and Migration barely mention this issue. Contrarily to gender and sexuality, climate has not penetrated the sphere of migration policymaking (Youngs 2014). This raises the important question of who may become a legitimate subject of protection policies—an interrogation that is even more important given that, today, categories of protection tend to multiply, when not to compete.

Finally, I wish to conclude this dissertation on a slightly more normative note, momentarily abandoning academic debates for a broader reflection on Europe as a polity and as an ideal. Contrarily to what policymakers often seem to believe, not all critiques of European policies are founded upon Euroscepticism. Quite the contrary: some of these critical takes are essential to the construction of a healthy and democratic European polity (Schmidt 2019). Even though throughout my research I was led to become increasingly critical of European action, I am still convinced that a return to the national is far from being desirable. The rapid and drastic deterioration of British migration policies after Brexit is a clear signal of alarm on that side. The question rather is that of making the European Union hold its promises, both as a post-national project and as a polity that claims that human rights are at its core. Based on the analysis I have developed in this dissertation, I believe that local activists probably possess part of the response to this question. Their reinvestment of the European level is therefore more needed than ever in order to construct the protection of LGBTI and non-LGBTI asylum seekers alike.

Bibliography

Aas, Katja Franko. 2011. "'Crimmigrant' Bodies and Bona Fide Travelers: Surveillance, Citizenship and Global Governance." *Theoretical Criminology* 15 (3): 331–46.

Abu-Lughod, Lila. 2013. *Do Muslim Women Need Saving?* London: Harvard University Press.

Adamson, Fiona B. 2008. "Constructing the Diaspora: Diaspora Identity Politics and Transnational Social Movements." San Francisco.

Affolter, Laura. 2021. "Trained to Disbelieve: The Normalisation of Suspicion in a Swiss Asylum Administration Office." *Geopolitics* 0 (0): 1–24.

Agamben, Giorgio. 1998. *Homo Sacer. Le Pouvoir Souverain et La Vie Nue*. Paris: Le Seuil.

Agier, Michel. 2008. *Gérer Les Indésirables. Des Camps de Réfugiés Au Gouvernement Humanitaire*. Bibliothèque Des Savoirs. Paris: Flammarion.

Akin, Deniz. 2017. "Queer Asylum Seekers: Translating Sexuality in Norway." *Journal of Ethnic and Migration Studies* 43 (3): 458–74.

Akkerman, Tjitske. 2012. "Comparing Radical Right Parties in Government: Immigration and Integration Policies in Nine Countries (1996–2010)." *West European Politics* 35 (3): 511–29.

Akkerman, Tjitske, Sarah L. de Lange, and Matthijs Rooduijn, eds. 2016. *Radical RIght-Wing Populist Parties in Western Europe. Into the Mainstream?* United Kingdom: Routledge.

Akoka, Karen. 2011. "L'archétype rêvé du réfugié." *Plein droit* n° 90 (3): 13–16.

———. 2016. "Crise des réfugiés, ou des politiques d'asile ?" *La Vie des idées*.

Allen, John, with Julie Charlesworth, Allan Cochrane, Gill Court, Nick Henry, Doreen Massey, and Phil Sarre. 1998. *Rethinking the Region: Spaces of Neo-Liberalism*. London: Routledge.

Allmendinger, Phil, Tobias Chilla, and Franziska Sielker. 2014. "Europeanizing Territoriality—Towards Soft Spaces?" *Environment and Planning A: Economy and Space* 46 (11): 2703–17.

Alloula, Malek, Barbara Harlow, and Myrna Godzich. 1986. *Colonial Harem*. Minneapolis, United States: University of Minnesota Press.

Almeida, Dimitri. 2010. "Europeanized Eurosceptics? Radical Right Parties and European Integration." *Perspectives on European Politics and Society* 11 (3): 237–53.

Alonso, Sonia, and Sara Claro da Fonseca. 2012. "Immigration, Left and Right." *Party Politics* 18 (6): 865–84.

Ammaturo, Francesca Romana. 2017. *European Sexual Citizenship. Human Rights, Bodies and Identities*. Pivot. London: Palgrave Macmillan.

Anders, Lisa H. 2021. "Dissensus, Deadlock, and Disintegration? Examining the Effects of EU Politicisation." In *Rethinking Politicisation in Politics, Sociology and International Relations*, edited by Claudia Wiesner. Switzerland: Springer International Publishing.

Anderson, Benedict. 1983. *Imagined Communities. Reflections on the Origin and Spread of Nationalism*. London: Verso.

Andrade, Vítor, Carmelo Danisi, Moira Dustin, Nuno Ferreira, and Nina Held. 2020. *Queering Asylum in Europe: A Survey Report*. Sussex.

Andreopoulos, George J. 2018. "Asylum." In *Encyclopedia Britannica*, Encyclopedia Britannica.

Andrijasevic, Rutvica, and William Walters. 2010. "The International Organization for Migration and the International Government of Borders." *Environment and Planning* 28: 977–99.

Ansell, Chris. 2000. "The Networked Polity: Regional Development in Western Europe." *Governance* 13 (2): 279–91.

Arendt, Hannah. 1951. *The Origins of Totalitarianism*. Berlin: Schocken Books.

———. 1970. "Reflections: Civil Disobedience." *The New Yorker*, 1970.

Argenta, Fiona. 2020. "Towards Contextual Intersectionality: An Analysis of the Common European Asylum System." *Trinity College Law Review* 23: 284–311.

Atak, Idil. 2018. "Safe Country of Origin: Constructing the Irregularity of Asylum Seekers in Canada." *International Migration* 56 (6): 176–90.

Aydemir, Murat. 2012. "Dutch Homonationalism and Intersectionality." In *The Postcolonial Low Countries: Literature, Colonialism, and Multiculturalism*, edited by Elleke Boehmer and Sarah de Mul. United Kingdom: Lexington Books.

Ayoub, Phillip M. 2013. "Cooperative Transnationalism in Contemporary Europe: Europeanization and Political Opportunities for LGBT Mobilization in the European Union." *European Political Science Review* 5 (2): 279–310.

———. 2014. "With Arms Wide Shut: Threat Perception, Norm Reception, and Mobilized Resistance to LGBT Rights." *Journal of Human Rights* 13 (3): 337–62.

———. 2015a. "Contested Norms in New-Adopter States: International Determinants of LGBT Rights Legislation." *European Journal of International Relations* 21 (2): 293–322.

———. 2015b. "Contested Norms in New-Adopter States: International Determinants of LGBT Rights Legislation." *European Journal of International Relations* 21 (2): 293–322.

Ayoub, Phillip M., Douglas Page, and Sam Whitt. 2021. "Pride amid Prejudice: The Influence of LGBT+ Rights Activism in a Socially Conservative Society." *American Political Science Review* 115 (2): 467–85.

Ayoub, Phillip, and David Paternotte. 2014. *LGBT Activism and the Making of Europe - A Rainbow Europe?* London: Palgrave Macmillan.

———. 2015. "Challenging Borders, Imagining Europe. Transnational LGBT Activism in a New Europe." In *Border Politics. Social Movements, Collective Identities, and Globalization*, edited by Nancy A. Naples and Jennifer Bickham Mendez. New York: New York University Press.

———. 2016a. "L'International Lesbian and Gay Association (ILGA) et l'expansion du militantisme LGBT dans une Europe unifiée." *Critique internationale* N° 70 (1): 55–70.

———. 2016b. "The International Lesbian and Gay Association (ILGA) and the Expansion of LGBT Activismin a Unified Europe." *Critique Internationale* No 70 (1): 55–70.

Bacchi, Carol. 2012. *Engaging with Carlo Bacchi. Strategic Interventions and Exchanges*. Edited by Angelique Bletsas and Chris Beasley. Adelaide: University of Adelaide Press.

Badali, Joel John. 2019. "Migrants in the Closet: LGBT Migrants, Homonationalism, and the Right to Refuge in Serbia." *Journal of Gay & Lesbian Social Services* 31 (1): 89–119.

Badgett, M. V. Lee. 2015. "Separated and Not Equal: Binational Same-Sex Couples." *Signs: Journal of Women in Culture and Society*.

Baillie Smith, Matt, and Katy Jenkins. 2011. "Disconnections and Exclusions: Professionalization, Cosmopolitanism and (Global?) Civil Society." *Global Networks* 11 (2): 160–79.

Baker, Catherine. 2017. "The 'Gay Olympics'? The Eurovision Song Contest and the Politics of LGBT/European Belonging." *European Journal of International Relations* 23 (1): 97–121.

Balch, Alex. 2018. "The Politics of Intra-European Movement." In *Between Mobility and Migration. The Multi-Level Governance of Intra-European Movement*, edited by Peter Scholten and Mark van Ostaijen, 161–82. United Kingdom: Springer.

Balme, Richard, Didier Chabanet, and Vincent Wright, eds. 2002. *L'action collective en Europe. Collective Action in Europe*. Paris: Presses de Sciences Po.

Balzer, Carsten, and Jan Simon Hutta. 2014. "Trans Networking in the European Vortex: Between Advocacy and Grassroots Politics." In *LGBT Activism and the Making of Europe: A Rainbow Europe?*, edited by Phillip M. Ayoub and David Paternotte, 171–92. Gender and Politics Series. London: Palgrave Macmillan UK.

Baratta, Roberto. 2014. "Complexity of EU Law in the Domestic Implementing Process." *The Theory and Practice of Legislation* 2 (3): 293–308.

Barnett, Michael, and Martha Finnemore. 2004. *Rules for the World*. United States: Cornell University Press.

Bartos, Sebastian E., Chris Fife-Schaw, and Peter Hegarty. 2019. "Is Homonationalism Influencing Public Opinion? Experimental and Survey Evidence from the UK and Romania." *Psychology of Sexualities Review* 10 (1): 20–35.

Baser, Bahar. 2014. "The Awakening of a Latent Diaspora: The Political Mobilization of First and Second Generation Turkish Migrants in Sweden." *Ethnopolitics* 13 (4): 355–76.

Bauer, Michael W., and Jörn Ege. 2012. "Politicization within the European Commission." *Revue Internationale des Sciences Administratives* 78 (3): 429–51.

Bauman, Zygmunt. 1991. *Modernity and Ambivalence*. John Wiley & Sons.

———. 2003. *Wasted Lives: Modernity and Its Outcasts*. United Kingdom: Wiley.

———. 2020. *Etrangers à Nos Portes. Pouvoir et Exploitation de La Panique Morale*. Paris: Premier Parallèle.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

Beaubatie, Emmanuel. 2020. "La multiplicité du genre." *La Vie des idées*.

———. 2021a. *Transfuges de Sexe. Passer Les Frontières Du Genre*. Paris: La Découverte.

———. 2021b. "Trans et féministes : décentrer la controverse." *La Déferlante* (blog). July 30, 2021.

Bécasse, Julien, Sebastiano Cesaro, and Florent Chossière. 2020. "L'Ardhis : lutte d'expert·es en faveur des étrangers et étrangères LGBT ?" *Plein droit* n° 127 (4): 41–44.

Bell, Mark. 2009. "Advancing EU Anti-Discrimination Law: The European Commission's 2008 Proposal for a New Directive." *The Equal Rights Review* 3.

Bélorgey, Jean-Michel, Marie-Françoise Clavel, Nathalie Ferré, André Legouy, Didier Liger, Danièle Lochak, Jean-Claude Monet, and Patrick Mony. 1989. "Discriminer, Est-Ce Bien Légal?" *Plein Droit*, no. 7.

Benford, Robert D., and David A. Snow. 2000. "Framing Processes and Social Movements: An Overview and Assessment." *Annual Review of Sociology* 26: 611–39.

Berger, Susan A. 2009. "Production and Reproduction of Gender and Sexuality in Legal Discourses of Asylum in the United States." *Signs: Journal of Women in Culture and Society* 34 (3): 659–85.

Bergmann, Eirikur. 2020. *Neo-Nationalism: The Rise of Nativist Populism*. Switzerland: Springer International Publishing.

Bernstein, Mary. 2015. "LGBT Identity and the Displacement of Sexual Liberation: New York City (1979-1986)." In *The Ashgate Research Companion to Lesbian and Gay Activism*, edited by Manon Tremblay and David Paternotte. London: Routledge.

Berti, Carlo. 2021. "The Discursive Construction of Migration and Democracy in the European Parliament: A Model of Reciprocal Influence Between Populists and Non-Populists Through Polarization and Fragmentation." In *The Impact of Populism on European Institutions and Civil Society: Discourses, Practices, and Policies*, edited by Carlo Ruzza, Carlo Berti, and Paolo Cossarini, 69–91. Palgrave Studies in European Political Sociology. Switzerland: Springer International Publishing.

Bessis, Sophie. 2019. "La Place Des Femmes Dans Les Rivalités Coloniales et Postcoloniales Entre Les Deux Rives de La Méditerranée." In *Sexualités, Identités et Corps Colonisés*, edited by Gilles Boëtsch, Nicolas Bancel, Pascal Blanchard, Sylvie Chalaye, Fanny Robles, T. Denean Sharpley-Whiting, Jean-François Staszak, Christelle Taraud, Dominic Thomas, and Naïma Yahi, 85–95. CNRS Editions.

Beyers, Jan, Rainer Eising, and William Maloney. 2008. "Researching Interest Group Politics in Europe and Elsewhere: Much We Study, Little We Know?" *West European Politics* 31 (6): 1103–28.

Bhabha, Jacqueline. 1996. "Embodied Rights: Gender Persecution, State Sovereignty and Refugees." *Public Culture* 9: 3–32.

Bigo, Didier. 1998. "L'Europe de La Sécurité Intérieure: Penser Autrement La Sécurité." In *Entre Union et Nations. L'Etat En Europe*, edited by Anne-Marie Le Gloannec. Paris: Presses de Sciences Po.

Bloodgood, Elizabeth, and Joannie Tremblay-Boire. 2017. "Does Government Funding Depoliticize Non-Governmental Organizations? Examining Evidence from Europe." *European Political Science Review* 9 (3): 401–24.

Bloomfield, Alan. 2016. "Norm Antipreneurs and Theorising Resistance to Normative Change." *Review of International Studies* 42 (2): 310–33.

Bohmer, Carol, and Amy Shuman. 2018. *Political Asylum Deceptions. The Culture of Suspicion*. Netherlands: Palgrave Macmillan.

Boiten, Valérie Julie. 2015. "The Semantics of 'Civil'. The EU, Civil Society and the Building of Democracy in Tunisia." *European Foreign Affairs Review* 20 (3).

Bomberg, Elizabeth. 1998. *Green Parties and Politics in the European Union*. London: Routledge.

Borrillo, Daniel. 2005. "La lutte contre les discriminations fondées sur l'orientation sexuelle en droit européen et français." *Droit et cultures. Revue internationale interdisciplinaire*, no. 49 (January): 129–45.

Boswell, Christina. 2008. "The Political Functions of Expert Knowledge: Knowledge and Legitimation in European Union Immigration Policy." *Journal of European Public Policy* 15 (4): 471–88.

Boussaguet, Laurie. 2009. "Les « faiseuses » d'agenda Les militantes féministes et l'émergence des abus sexuels sur mineurs en Europe." *Revue francaise de science politique* 59 (2): 221–46.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

Boussaguet, Laurie, and Sophie Jacquot. 2009. "Mobilisations féministes et mise à l'agenda de nouveaux problèmes publics." *Revue francaise de science politique* 59 (2): 173–81.

Bouwen, Pieter. 2007. "Competing for Consultation: Civil Society and Conflict between the European Commission and the European Parliament." *West European Politics* 30 (2): 265–84.

Brack, Nathalie. 2012. "Eurosceptics in the European Parliament: Exit or Voice?" *Journal of European Integration* 34 (2): 151–68.

———. 2013. "Euroscepticism at the Supranational Level: The Case of the 'Untidy Right' in the European Parliament." *JCMS: Journal of Common Market Studies* 51 (1): 85–104.

———. 2018. *Opposing Europe in the European Parliament. Rebels and Radicals in the Chamber*. United Kingdom: Palgrave Macmillan.

Bracke, Sarah. 2012. "From 'Saving Women' to 'Saving Gays': Rescue Narratives and Their Dis/Continuities." *European Journal of Women's Studies* 19 (2): 237–52.

Brake, Wayne te. 1998. *Shaping History: Ordinary People in European Politics, 1500-1700*. United States: University of California Press.

Brauman, Rony. 2000. *L'action Humanitaire*. Paris: Flammarion.

Brink, Marjolein van den, and Peter Dunne. 2018. "Trans and Intersex Equality Rights in Europe - a Comparative Analysis." Luxembourg: European Commission, Directorate-General for Justice and Consumers.

Brodiez-Dolino, Axelle. 2016. "Le Concept de Vulnérabilité." *La Vie Des Idées*, 2016. https://laviedesidees.fr/IMG/pdf/20160211_vulnerable-2.pdf.

Brown, Wendy. 2000. "Suffering Rights as Paradoxes." *Constellations* 7 (2): 208–29.

Brubaker, Rogers. 2017. "Between Nationalism and Civilizationism: The European Populist Moment in Comparative Perspective." *Ethnic and Racial Studies*.

Bruch, Sarah K., Myra Marx Ferree, and Joe Soss. 2010. "From Policy to Polity: Democracy, Paternalism, and the Incorporation of Disadvantaged Citizens." *American Sociological Review* 75 (2): 205–26.

Brücker, Pauline. 2019. "Le guichet du HCR, entre standardisation bureaucratique et ethos humanitaire : le cas du HCR-Caire." *Politique et Sociétés* 38 (1): 129–55.

Brunsson, Nils. 1986. "Organizing for Inconsistencies: On Organizational Conflict, Depression and Hypocrisy as Substitutes for Action." *Scandinavian Journal of Management Studies* 2 (3): 165–85.

Brusadin, Leandro Benedini. 2020. "L'exercice de l'hospitalité Aux Immigrants et Réfugiés Dans Les Centres d'accueil de Paris: De La Professionalisation de l'hospitalité Au Rôle de Sous-Traitant de l'Etat." *Direito Da Cidade* 12 (2): 958–84.

Bundy, Colin. 2016. "Migrants, Refugees, History and Precedents." *Forced Migration Review* 51: 5–6.

Burawoy, Michael. 2001. "Manufacturing the Global." *Ethnography* 2 (2): 147–59.

Burca, Grainne de. 1996. "The Language of Rights and European Integration." In *New Legal Dynamics of European Union*, edited by G. More and J. Shaw. Oxford: Oxford University Press.

Búrca, Gráinne de. 2011. "The Road Not Taken: The European Union as a Global Human Rights Actor." *American Journal of International Law* 105 (4): 649–93.

Burrell, Jenna. 2009. "The Field Site as a Network: A Strategy for Locating Ethnographic Research:" *Field Methods* 21 (2): 181–99.

Butler, Judith. 2009. *Frames of War. When Is Life Grievable?* United Kingdom: Verso.

Butterfield, Nicole. 2013. "Sexual Rights as a Tool for Mapping Europe: Discourses of Human Rights and European Identity in Activists' Struggles in Croatia." In *Queer Visibility in Post-Socialist Cultures*, edited by Narcisz Fejez and Andrea P. Balogh, 11–34. Bristol: Intellect.

Bygnes, Susanne. 2013. "'We Are in Complete Agreement': The Diversity Issue, Disagreement and Change in the European Women's Lobby." *Social Movement Studies* 12 (2): 199–213.

Caiani, Manuela. 2018. "Radical Right Cross-National Links and International Cooperation." In *The Oxford Handbook of the Radical RIght*, edited by Jens Rydgren. Oxford: Oxford University Press.

———. 2019. "The Rise and Endurance of Radical Right Movements." *Current Sociology* 67 (6): 918–35.

Cantat, Celine, and Margit Feischmidt. 2019. "Conclusion: Civil Involvement in Refugee Protection—Reconfiguring Humanitarianism and Solidarity in Europe." In *Refugee Protection and Civil*

Society in Europe, edited by Margit Feischmidt, Ludger Pries, and Celine Cantat, 379–99. United Kingdom: Palgrave Macmillan.

Carbone, Maurizio. 2010. "The European Union, Good Governance and Aid Co-Ordination." *Third World Quarterly* 31 (1): 13–29.

Caritas Europa, Churches' Commission for Migrants in Europe, Commission of the Bishops' Conferences of the European Community, Eurodiaconia, International Catholic Migration Commission, Jesuit Refugee Service Europe, and Quaker Council for European Affairs. 2010. "Comments on the Proposed Recasts of Directive 2004/83/EC (Qualification Directive) and Directive 2005/85/EC (Asylum Procedures Directive)." Brussels.

Case, Mary Anne. 2011. "After Gender the Destruction of Man - The Vatican's Nightmare Vision of the Gender Agenda for Law After Gender: Examining International Justice Enterprises." *Pace Law Review* 31 (3): 802–17.

Castagnoli, Cristina. 2010. "Transgender Persons' Rights in the EU Member States." Brussels: European Parliament - Directorate General for Internal Policies.

Castelli Gattinara, Pietro, and Lorenzo Zamponi. 2020. "Politicizing Support and Opposition to Migration in France: The EU Asylum Policy Crisis and Direct Social Activism." *Journal of European Integration* 42 (5): 625–41.

Cautela, Stéphanie GAUDILLAT. 2006. "Questions de mot. Le « viol » au XVIe siècle, un crime contre les femmes ?" *Clio. Femmes, Genre, Histoire*, no. 24 (November).

Ceccorulli, Michela. 2019. "Back to Schengen: The Collective Securitisation of the EU Free-Border Area." *West European Politics* 42 (2): 302–22.

Cefaï, Daniel. 2016. "Publics, problèmes publics, arènes publiques…. Que nous apprend le pragmatisme ?" *Questions de communication*, no. 30 (December): 25–64.

Cekik, Aneta. 2017. "Adapting to Europe? Business Interests and Civil Society Groups in Accession Countries." *West European Politics* 40 (5): 1066–87.

Cerutti, Furio, and Sonia Lucarelli. 2008. *The Search for a European Identity: Values, Policies and Legitimacy of the European Union*. United Kingdom: Routledge.

Cesaro, Sara. 2021. "The (Micro-)Politics of Support for LGBT Asylum Seekers in France." In *Queer Migration and Asylum in Europe*, edited by Richard C. M. Mole, 216–37. United Kingdom: University College London Press.

Chamberland, Line, and Christelle Lebreton. 2012. "Réflexions autour de la notion d'homophobie : succès politique, malaises conceptuels et application empirique." *Nouvelles Questions Feministes* Vol. 31 (1): 27–43.

Chauvin, Sébastien, and Alexandre Jaunait. 2015. "L'intersectionnalité contre l'intersection." *Raisons politiques* N° 58 (2): 55–74.

Chávez. 2017. "Homonormativity and Violence against Immigrants." *QED: A Journal in GLBTQ Worldmaking* 4 (2): 131.

Chávez, Karma R. 2010. "Border (In)Securities: Normative and Differential Belonging in LGBTQ and Immigrant Rights Discourse." *Communication and Critical/Cultural Studies* 7 (2): 136–55.

———. 2013. *Queer Migration Politics. Activist Rhetoric and Coalitional Possibilities*. United States: University of Illinois Press.

Chelvan, S. 2021. "The DSSH Model and the Voice of the Silenced: Aderonke Apata—The Queer Refugee: 'I Am a Lesbian.'" *The Queer Outside in Law*, 79–105.

Chesters, Graeme, and Ian Welsh. 2005. "Complexity and Social Movement(s): Process and Emergence in Planetary Action Systems." *Theory, Culture & Society* 22 (5): 187–211.

Chopin, Thierry. 2010. "Le désarroi européen." *Commentaire* 129 (1): 109–18.

Chossière, Florent, Pierre Desvaux, and Alex Mahoudeau. 2021. "La recherche de trop ? Configurations et enjeux de la surétude." *Annales de geographie* 742 (6): 5–19.

Christiansen, Thomas, Andreas Føllesdal, and Simona Piattoni. 2003. "Informal Governance in the European Union: An Introduction." In *Informal Governance in the European Union*, edited by Thomas Christiansen and Piattoni, 1–21. Cheltenham: Edward Elgar Publishing.

Cichowski, Rachel A. 2007. *The European Court and Civil Society: Litigation, Mobilization and Governance*. Cambridge: Cambridge University Press.

Clochec, Pauline, and Noémie Grunenwald, eds. 2021. *Matérialismes Trans*. Paris: Hystériques & Associées.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

Clouet, Hadrien, Julie Oudot, and Camille Noûs. 2021. "Une dématérialisation contrainte : enquêter par temps de Covid-19." *Sociologies pratiques* 43 (2): 85–96.

Cocks, Harry. 2016. "Conspiracy to Corrupt Public Morals and the 'Unlawful' Status of Homosexuality in Britain after 1967." *Social History* 41 (3): 267–84.

Coen, David, and Jeremy Richardson. 2009. *Lobbying the European Union: Institutions, Actors, and Issues*. OUP Oxford.

Colpani, Gianmaria, and Adriano José Habed. 2014. "'In Europe It's Difference': Homonationalism and Peripheral Desires for Europe." In *LGBT Activism and the Making of Europe: A Rainbow Europe?*, edited by Philip Ayoub and David Paternotte. London: Palgrave Macmillan.

Costa, Olivier. 2009. "Le parlement européen dans le système décisionnel de l'Union européenne : la puissance au prix de l'illisibilité." *Politique europeenne* n° 28 (2): 129–55.

Costello, Cathryn. 2005. "The Asylum Procedures Directive and the Proliferation of Safe Country Practices: Deterrence, Deflection and the Dismantling of International Protection." *European Journal of Migration and Law* 7 (1): 35–70.

Costello, Cathryn, and Emily Hancox. 2015. "The Recast Asylum Procedures Directive 2013/32/EU: Caught between the Stereotypes of the Abusive Asylum Seeker and the Vulnerable Refugee." In *Reforming the Common European Asylum System: The New European Refugee Law*, edited by Vincent Chetail, Philippe De Bruycker, and Francesco Maiani. Boston: Brill Nijhoff.

———. 2016. "The Recast Asylum Procedures Directive 2013/32/EU: Caught between the Stereotypes of the Abusive Asylum-Seeker and the Vulnerable Refugee." *Reforming the Common European Asylum System*, January, 375–445.

Cournil, Christel. 2011. "La Mise à l'agenda Scientifique et Politique Des Migrations Environnementales." *Revista Interdisciplinar Da Mobilidade Humana*, 75–93.

Crawley, Heaven, and Dimitris Skleparis. 2018. "Refugees, Migrants, Neither, Both: Categorical Fetishism and the Politics of Bounding in Europe's 'Migration Crisis.'" *Journal of Ethnic and Migration Studies* 44 (1): 48–64.

Crenshaw, Kimberle. 1989. "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics." *The University of Chicago Legal Forum* 140: 139–67.

Crepaz, Katharina. 2020. "Overcoming Borders: The Europeanization of Civil Society Activism in the 'Refugee Crisis.'" *Journal of Ethnic and Migration Studies* 0 (0): 1–14.

Croce, Mariano. 2021. "Juridification as Politics: An Institutional View." *Philosophy & Social Criticism* 47 (9): 1025–42.

Cullen, Pauline. 2015. "From Coalition to Community: Collective Identity Formation in the Social Platform." In *EU Civil Society. Patterns of Cooperation, Competition and Conflict*, edited by Sara Kalm and Håkan Johansson, 81–97. United Kingdom: Palgrave Macmillan.

———. 2020. "From Neglect to Threat: Feminist Responses to Right Wing Populism in the European Union." *European Politics and Society*.

Currah, Paisley. 2013. "Homonationalism, State Rationalities, and Sex Contradictions." *Theory and Event* 16 (1).

Danisi, Carmelo. 2017. "Promoting Human Rights Through the EU External Action: An Empty 'Vessel' for Sexual Minorities?" *European Foreign Affairs Review* 22 (3): 341–56.

Danisi, Carmelo, Moira Dustin, Nuno Ferreira, and Nina Held. 2021. *Queering Asylum in Europe. Legal and Social Experiences of Seeking International Protection on Grounds of Sexual Orientation and Gender Identity*. IMISCOE Research Series. United Kingdom: Springer.

Dayan-Herzbrun, Sonia. 1991. "La sexualité au regard des sciences sociales." *Sciences Sociales et Santé* 9 (4): 7–22.

De Angelis, Emma. 2011. "The Political Discourse of the European Parliament, Enlargement, and the Construction of a European Identity (1962-2004)." London: London School of Economics and Political Science.

De Bruycker, Iskander. 2020. "Democratically Deficient, yet Responsive? How Politicization Facilitates Responsiveness in the European Union." *Journal of European Public Policy* 27 (6): 834–52.

De Bruyckere, Valerie. 2018. "Somewhere Over the Rainbow: On the Use of Psychological Tests to Determine Asylum Seekers' Sexual Orientation and the Impact on the Right to Private Life

(Case C-473/16, 25 January 2018)." *Croatian Yearbook of European Law & Policy* 14 (1): 255–72.

De La Cruz, Rachael. 2017. "No Asylum for the Innocent: Gendered Representations of Salvadoran Refugees in the 1980s." *American Behavioral Scientist* 61 (10): 1103–18.

Dechézelles, Stéphanie, and Maurice Olive. 2019. *Politisation du proche : les lieux familiers comme espaces de mobilisation*. Vol. 183. France: Presses universitaires de Rennes.

Déloye, Yves, and Florence Haegel. 2019. "Politicization: From the term to the conceptual maze." *Politix* 127 (3): 59–83.

Dhoest, Alexander. 2019. "Learning to Be Gay: LGBTQ Forced Migrant Identities and Narratives in Belgium." *Journal of Ethnic and Migration Studies* 45 (7): 1075–89.

Di Croce, Marianne. 2018. "Hannah Arendt et Antigone : perspectives sur la désobéissance civile." *Recherches féministes* 31 (2): 125–40.

Dialer, Doris, and Margarethe Richter. 2019. "Lobbying in Europe: Professionals, Politicians, and Institutions Under General Suspicion?" *Lobbying in the European Union*, 1–18.

Díez Medrano, Juan. 2011. "Social Class and Identity." In *Sociology of the European Union*, edited by Virginie Guiraudon and Adrian Favell, 28–49. United Kingdom: Palgrave Macmillan.

DiMaggio, Paul J., and Walter W. Powell. 1983. "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields." *American Sociological Review* 48 (2): 147–60.

Dionigi, Maja Kluger. 2017. *Lobbying in the European Parliament: The Battle for Influence*. Palgrave Studies in European Union Politics. United Kingdom: Palgrave Macmillan.

———. 2019. "Lobbying in the European Parliament: Who Tips the Scales?" *Lobbying in the European Union*, 133–47.

Doeveren, Veerle van. 2011. "Rethinking Good Governance." *Public Integrity* 13 (4): 301–18.

Dolezal, Martin, Swen Hutter, and Regina Becker. 2016. "Protesting European Integration: Politicisation from Below?" In *Politicising Europe: Integration and Mass Politics*, edited by Edgar Grande, Hanspeter Kriesi, and Swen Hutter, 112–34. Cambridge: Cambridge University Press.

Draper, Jamie. 2018. "Responsibility and Climate-Induced Displacement." *Global Justice : Theory Practice Rhetoric* 11 (2): 59–80.

Dubost, Jean-François. 1997. *La France Italienne, XVe-XVIIe Siècle*. Paris: Aubier.

Dudink, Stefan. 2013. "Les nationalismes sexuels et l'histoire raciale de l'homosexualité." Translated by Alexandre Jaunait. *Raisons politiques* n° 49 (1): 43–54.

———. 2017. "A Queer Nodal Point: Homosexuality in Dutch Debates on Islam and Multiculturalism." *Sexualities* 20 (1–2): 3–23.

Duggan, Lisa. 2002. "The New Homonormativity: The Sexual Politics of Neoliberalism." In *The New Homonormativity: The Sexual Politics of Neoliberalism*, 175–94. Duke University Press.

Dür, Andreas, and Gemma Mateo. 2010. "Choosing a Bargaining Strategy in EU Negotiations: Power, Preferences, and Culture." *Journal of European Public Policy* 17 (5): 680–93.

———. 2013. "Gaining Access or Going Public? Interest Group Strategies in Five European Countries." *European Journal of Political Research* 52 (5): 660–86.

Durieux, Jean-François. 2013. "The Vanishing Refugee. How EU Asylum Law Blurs the Specificity of Refugee Protection." In *The Global Reach of European Refugee Law*, edited by Hélène Lambert, Jane McAdam, and Fullerton Maryellen, 225–57. Cambridge: Cambridge University Press.

Dustin, Moira, and Nuno Ferreira. 2021. "Improving SOGI Asylum Adjudication: Putting Persecution Ahead of Identity." *Refugee Survey Quarterly* 40 (3): 315–47.

Edenborg, Emil. 2020. "Saving Women and Bordering Europe: Narratives of "Migrants' Sexual Violence" and Geopolitical Imaginaries in Russia and Sweden." *Geopolitics* 25 (3): 780–801.

Edwards, Alice. 2011. *Violence against Women under International Human Rights Law*. Cambridge: Cambridge University Press.

Eigenmann, Laura. 2021. "'This Is a Union of Values': The Rise of the LGBTI Rights Norm as Part of the EU's Identity Construction." *Social Politics: International Studies in Gender, State & Society* (August).

Ellinas, Antonis A., and Ezra N. Suleiman. 2011. "Supranationalism in a Transnational Bureaucracy: The Case of the European Commission." *JCMS: Journal of Common Market Studies* 49 (5): 923–47.

Elman, Amy R. 2000. "The Limits of Citizenship: Migration, Sex Discrimination and Same-Sex Partners in EU Law." *JCMS: Journal of Common Market Studies* 38 (5): 729–49.

Engel, Christoph. 2001. "The European Charter of Fundamental Rights A Changed Political Opportunity Structure and Its Normative Consequences." *European Law Journal* 7 (2): 151–70.

Engelbert, Jiska, Isabel Awad, and Jacco van Sterkenburg. 2019. "Everyday Practices and the (Un)Making of 'Fortress Europe': Introduction to the Special Issue." *European Journal of Cultural Studies* 22 (2): 133–43.

Engelmann, Claudia. 2014. "Convergence against the Odds: The Development of Safe Country of Origin Policies in EU Member States (1990-2013)." *European Journal of Migration and Law* 16 (2): 277–302.

Eriksen, Erik Oddvar. 2005. "An Emerging European Public Sphere." *European Journal of Social Theory* 8 (3): 341–63.

Ernst, Jette, and Astrid Jensen Schleiter. 2021. "Organizational Identity Struggles and Reconstruction During Organizational Change: Narratives as Symbolic, Emotional and Practical Glue." *Organization Studies* 42 (6): 891–910.

Etienne-Greenwood, Tobias. 2017. "La notion de persécution." *Recueil Alexandries*, no. 19.

Falquet, Jules. 2011. "Lesbiennes migrantes, entre hétéro-circulation et recompositions néolibérales du nationalisme." *Recueil Alexandries*.

———. 2020. "De la lutte contre le racisme au soutien aux demandeuses d'asile lesbiennes : expériences lesbiennes féministes en France depuis la fin des années 90." *Recherches féministes* 33 (2): 129–48.

Faludi, Andreas. 2010. "Beyond Lisbon: Soft European Spatial Planning." *DisP - The Planning Review* 46 (182): 14–24.

Farmer, Paul. 1996. "On Suffering and Structural Violence: A View from Below." *Daedalus* 125 (1): 261–83.

Farrell, Henry, and Adrienne Heritier. 2002. "Formal and Informal Institutions Under Codecision: Continuous Constitution Building in Europe." *European Integration Online Papers (EIoP)* 6 (3).

Farris, Sara R. 2017. *In the Name of Women's Rights: The Rise of Femonationalism*. United States: Duke University Press.

Fassin, Didier, and Estelle D'halluin. 2005. "The Truth from the Body: Medical Certificates as Ultimate Evidence for Asylum Seekers." *American Anthropologist* 107 (4): 597–608.

Fassin, Didier, and Carolina Kobelinsky. 2012. "How Asylum Claims Are Adjudicated: The Institution as a Moral Agent." *Revue francaise de sociologie* 53 (4): 657–88.

Fassin, Éric. 2003. "L'inversion de la question homosexuelle." *Revue francaise de psychanalyse* Vol. 67 (1): 263–84.

———. 2006. "La démocratie sexuelle et le conflit des civilisations." *Multitudes* no 26 (3): 123–31.

———. 2010. "National Identities and Transnational Intimacies: Sexual Democracy and the Politics of Immigration in Europe." *Public Culture* 22 (3): 507–29.

Fassin, Éric, and Manuela Salcedo. 2019. "Devenir homosexuel ? Politiques migratoires et vérité de l'identité sexuelle." *Genre, sexualité & société*, no. 21 (June).

Favell, Adrian, and Virginie Guiraudon. 2009. "The Sociology of the European Union: An Agenda." *European Union Politics* 10 (4): 550–76..

Fella, Stefano, and Carlo Ruzza. 2006. "Changing Political Opportunities and the Re-Invention of the Italian Right." *Journal of Southern Europe and the Balkans* 8 (2): 179–200.

Fennema, M., and C. Pollmann. 1998. "Ideology of Anti-Immigrant Parties in the European Parliament." *Acta Politica* 33.

Ferree, Myra Marx, William A. Gamson, Jürgen Gerhards, and Dieter Rucht. 2002. *Shaping Abortion Discourse. Democracy and the Public Sphere in Germany and the United States*. United Kingdom: Cambridge University Press.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

Ferreira, Nuno. 2018. "Reforming the Common European Asylum System: Enough Rainbow for Queer Asylum Seekers?" *Rivista Di Studi Giuridici Sull'Orientamento Sessuale et l'Identità Di Genere* 2: 25–42.

———. 2021. "An Exercise in Detachment: The Council of Europe and Sexual Minority Asylum Claims." In *Queer Migration and Asylum in Europe*, edited by Richard C. M. Mole, 78–108. London: University College London Press.

Ferreira, Nuno, Carmelo Danisi, Moira Dustin, and Nina Held. 2018. "The Reform of the Common European Asylum System: Fifteen Recommendations from a Sexual Orientation and Gender Identity Perspective."

Ferreira, Nuno, and Denise Venturi. 2017. "Tell Me What You See and I'll Tell You If You're Gay: Analysing the Advocate General's Opinion in Case C-473/16, F v Bevándorlási És Állampolgársági Hivatal." *EU Immigration and Asylum Law and Policy* (blog). 2017.

Ferrié, Jean-Noël, and Baudouin Dupret. 2004. "Préférences et Pertinences: Analyse Praxéologique Des Figures Du Compromis En Contexte Parlementaire." *Social Science Information* 43 (2): 263–90.

Finnemore, Martha, and Kathryn Sikkink. 1998. "International Norm Dynamics and Political Change." *International Organization* 52 (4): 887–917.

Flinders, Matthew, and Matt Wood. 2015. *Tracing the Political: Depoliticisation, Governance and the State*. Bristol: Policy Press.

Fobear, Katherine. 2014. "Queer Settlers: Questioning Settler Colonialism in LGBT Asylum Processes in Canada | Refuge: Canada's Journal on Refugees." *Refuge: Canada's Journal on Refugees* 30 (1).

Forest, Maxime, and Emanuela Lombardo. 2012. "The Europeanization of Gender Equality Policies: A Discursive-Sociological Approach." Edited by Emanuela Lombardo and Maxime Forest. *The Europeanization of Gender Equality Policies: A Discursive-Sociological Approach*, Gender and Politics Series, 1–27.

Foss, Robert J. 1994. "The Demise of the Homosexual Exclusion: New Possibilities for Gay and Lesbian Immigration Asylum Status." *Immigration and Nationality Law Review* 16: 179–216.

Foster, Emma Ann, Peter Kerr, and Christopher Byrne. 2015. "Rolling Back to Roll Forward: Depoliticisation and the Extension of Government." In *Tracing the Political. Depoliticisation, Governance and the State*, edited by Matthew Flinders and Matt Wood, 117–39. Bristol: Policy Press.

Foucault, Michel. 1975. "19 February 1975." In *Abnormal. Lectures at the Collège de France 1974-1975*, 167–200. London: Verso.

———. 1976. *Histoire de La Sexualité. Tome 1: La Volonté de Savoir*. Paris: Gallimard.

———. 2004. *Sécurité, Territoire, Population. Cours Au Collège de France (1977-1978)*. Paris: Gallimard.

Foxall, Andrew. 2017. "From Evropa to Gayropa: A Critical Geopolitics of the European Union as Seen from Russia." *Geopolitics*, December.

Fraisse, Geneviève. 2008. "Sur l'usage de la contradiction." *Raison présente* 166 (1): 61–70.

———. 2019. *Les Excès Du Genre. Une Enquête Philosophique*. Paris: Seuil.

Fraser, Nancy. 1989. *Unruly Practices: Power, Discourse, and Gender in Contemporary Social Theory*. United States: University of Minnesota Press.

Freedman, Jane. 2010. "Les mobilisations féministes autour du droit d'asile en France et au Royaume-Uni : des normes internationales au droit national." *Nouvelles Questions Feministes* Vol. 29 (1): 46–60.

———. 2016. "Sexual and Gender-Based Violence against Refugee Women: A Hidden Aspect of the Refugee 'Crisis.'" *Reproductive Health Matters* 24 (47): 18–26.

———. 2018. "The Uses and Abuses of 'Vulnerability' in EU Asylum and Refugee Protection: Protecting Women or Reducing Autonomy?" *Papeles Del CEIC* 1: 1–15.

Fresia, Marion. 2014. "Building Consensus within UNHCR's Executive Committee: Global Refugee Norms in the Making." *Journal of Refugee Studies* 27 (4): 514–33.

Freude, Leon, and Núria Vergés Bosch. 2020. "Homonationalism in Europe? A Quantitative Comparison of the Values of Europeans." *Sexuality & Culture* 24 (5): 1292–1314.

Furusho, Carolina Yoko. 2018. "The 'Ideal Migrant Victim' in Human Rights Courts: Between Vulnerability and Otherness." In *Revisiting the "Ideal Victim": Developments in Critical Victimology*, edited by Marian Duggan, 123–41. Policy Press.

Gartner, Johannes Lucas. 2015. "(In)Credibly Queer: Sexuality-Based Asylum in the European Union." *Humanity In Action*.

Gastaut, Yvan. 2019. "Les Travailleurs Immigrés Au Prisme Des Sexualités En France (1962-1983)." In *Sexualités, Identités et Corps Colonisés*, edited by Gilles Boëtsch, Nicolas Bancel, Pascal Blanchard, Sylvie Chalaye, Fanny Robles, T. Denean Sharpley-Whiting, Jean-François Staszak, Christelle Taraud, Dominic Thomas, and Naïma Yahi, 173–82. Paris: CNRS Editions.

Geddes, Andrew. 2000. "Lobbying for Migrant Inclusion in the European Union: New Opportunities for Transnational Advocacy?" *Journal of European Public Policy* 7 (4): 632–49.

Georgi, Fabian. 2010. "For the Benefit of Some: The International Organization for Migration and Its Global Migration Management." In *The Politics of International Migration Management*, edited by Martin Geiger and Antoine Pécoud, 45–72. London: Palgrave Macmillan.

Georgiou, Myria, and Rafal Zaborowski. 2017. *Media Coverage of the "Refugee Crisis": A Cross-European Perspective*. Council of Europe.

Gerard, Alison. 2014. *The Securitization of Migration and Refugee Women*. London: Routledge.

Gfeller, Aurélie Élisa. 2014. "Champion of Human Rights: The European Parliament and the Helsinki Process." *Journal of Contemporary History* 49 (2): 390–409.

Giametta, Calogero. 2017. *The Sexual Politics of Asylum*. London: Routledge.

———. 2018. "New Asylum Protection Categories and Elusive Filtering Devices: The Case of 'Queer Asylum' in France and the UK." *Journal of Ethnic and Migration Studies* 0 (0): 1–16.

Giannetto, Leila. 2020. "CSOs and EU Border Management: Cooperation or Resistance? The Case of Frontex Consultative Forum." *American Behavioral Scientist* 64 (4): 501–24.

Gilbert, Claude, and Emmanuel Henry. 2012. "La Définition Des Problèmes Publics: Entre Publicité et Discrétion." *Revue Française de Sociologie* 53 (1): 35–59.

Giovannini, Arianna, Laura Polverari, and Antonella Seddone. 2016. "Visions of Europe: Emerging Challenges for the European Project in the Aftermath of the 2014 European Parliament Elections." *Italian Political Science Review / Rivista Italiana Di Scienza Politica* 46 (2): 115–30.

Glouftsios, Georgios. 2021. *Engineering Digitised Borders: Designing and Managing the Visa Information System*. Palgrave Macmillan.

Godfrey, Peter C. 1994. "Defining the Social Group in Asylum Proceedings: The Expansion of the Social Group to Include a Broader Class of Refugees Note." *Journal of Law and Policy* 3 (1): 257–88.

Green, Nancy L. 2002. *Repenser Les Migrations*. Paris: Presses Universitaires de France.

Green-Pedersen, Christoffer. 2012. "A Giant Fast Asleep? Party Incentives and the Politicisation of European Integration." *Political Studies* 60 (1): 115–30.

Greenwood, Justin. 1997. *Representing Interests in the European Union*. United Kingdom: Macmillan International Higher Education.

Grote, Jürgen R. 2019. "Civil Society and the European Union. From Enthusiasm to Disenchantment." *Forschungsjournal Soziale Bewegungen* 32 (4): 543–56.

Guenther, Katja M. 2009. "The Impact of Emotional Opportunities on the Emotion Cultures of Feminist Organizations." *Gender & Society* 23 (3): 337–62.

Guinaudeau, Isabelle, and Olivier Costa. 2021. "Issue Politicization in the European Parliament. An Analysis of Parliamentary Questions for Oral Answer (2004–19)." *JCMS: Journal of Common Market Studies*.

Guiraudon, Virginie. 2000. "European Courts and Foreigners' Rights: A Comparative Study of Norms Diffusion." *The International Migration Review* 34 (4): 1088–1125.

———. 2001. "Weak Weapons of the Weak? Transnational Mobilization around Migration in the European Union." In *Contentious Europeans. Protest and Politics in an Emerging Polity*, edited by Sidney Tarrow and Doug Imig, 163–86. United States: Rowman & Littlefield.

———. 2003. "The Constitution of a European Immigration Policy Domain: A Political Sociology Approach." *Journal of European Public Policy* 10 (2): 263–82.

———. 2018. "The 2015 Refugee Crisis Was Not a Turning Point: Explaining Policy Inertia in EU Border Control." *European Political Science* 17 (1): 151–60.

———. 2020. "Towards European Solidarity." In *Europe on Test: The Onus of the Past*, edited by Joanna Fomina and Josef Niznik, 104–9. Publikacje PAN.

Habermas. 1981. *Theory of Communicative Action*. Boston: Massachusetts University Press.

Habraken, Rik, Lucas Meijs, Lau Schulpen, and Cristien Temmink. 2013. "Dutch Civil Society at Crossroads." *Development in Practice* 23 (5–06): 742–54.

Hacking, Ian. 1986. "Making Up People." In *Reconstructing Individualism. Autonomy, Individuality, and the Self in Western Thought*, edited by Heller, Wellbery, and Sosna, 222–36. United States: Stanford University Press.

Hafez, Farid. 2014. "Shifting Borders: Islamophobia as Common Ground for Building Pan-European Right-Wing Unity." *Patterns of Prejudice* 48 (5): 479–99.

Halikiopoulou, Daphne, Steven Mock, and Sofia Vasilopoulou. 2013. "The Civic Zeitgeist: Nationalism and Liberal Values in the European Radical Right." *Nations and Nationalism* 19 (1): 107–27.

Halpern, Charlotte, Pierre Lascoumes, and Patrick Le Gales, eds. 2014. *L'instrumentation de l'action publique*. Paris: Presses de Sciences Po.

Hamila, Ahmed. 2019. "Les persécutions liées à l'orientation sexuelle : un « nouveau » motif pour octroyer le statut de réfugié en Belgique ?" *Politique et Sociétés* 38 (1): 157–77.

———. 2020. "Sortir Du Placard, Entrer En Europe: La Fabrique Des 'Réfugié.Es LGBTI' En Belgique, En France et Au Royaume Uni." Montréal: Université de Montréal, Université Libre de Bruxelles.

———. 2021. "La genèse de la catégorie de « réfugié LGBT » au sein du Haut-Commissariat des Nations Unies pour les réfugiés." *Alterstice - Revue Internationale de la Recherche Interculturelle* 10 (1): 9–20.

Hammersley, Martyn. 2013. *The Myth of Research-Based Policymaking and Practice*. London: SAGE Publications.

Hansen, Malte Breiding. 2021. "Between Two Ills: Homonationalism, Gender Ideology and the Case of Denmark." *Redescriptions: Political Thought, Conceptual History and Feminist Theory* 24 (1): 60–75.

Haritaworn, Jin. 2012. "Women's Rights, Gay Rights and Anti-Muslim Racism in Europe: Introduction." *European Journal of Women's Studies* 19 (1): 73–78.

Hark, Sabine. 2021. "Travers.Es Du Droit." *Trivium* 32: 1–14.

Hassenteufel, Patrick, and Yves Surel. 2000. "Des politiques publiques comme les autres ?" *Politique europeenne* n° 1 (1): 8–24.

Haug, Christoph. 2015. "Meeting Arenas." In *The Social Movements Reader. Cases and Concepts*, edited by Jeff Goodwin and James M. Jasper, 3rd ed., 196–212. London: Blackwell Publishing.

Héas, Stéphane, and Patrice Régnier. 2022. "Enquêter à distance : une spécificité, une incongruité… ?" *Socio-anthropologie*, no. 45 (March): 25–46.

Hegarty, Peter. 2003. "Homosexual Signs and Heterosexual Silences: Rorschach Research on Male Homosexuality from 1921 to 1969." *Journal of the History of Sexuality* 12 (July): 400–423.

Held, Nina, and Karen McCarthy. 2018. "'They like You to Pretend to Be Something You Are Not'. An Exploration of Working with the Intersections of Gender, Sexuality, 'Race', Religion and 'Refugeeness', through the Expertience of Lesbian Immigration Support Group (LISG) Members and Volunteers." In *Intersectionality in Social Work. Activism and Practice in Context*, edited by Suryia Nayak and Rachel Robbins. United Kingdom: Routledge.

Helfer, Laurence R., and Clare Ryan. 2022. "LGBT Rights as Mega-Politics: Litigating before the ECtHR." *Law and Contemporary Problems*, no. 32.

Heller, Pamela. 2009. "Challenges Facing LGBT Asylum-Seekers: The Role of Social Work in Correcting Oppressive Immigration Processes." *Journal of Gay & Lesbian Social Services* 21 (2–3): 294–308.

Helton, Arthur C., and Alison Nicoll. 1996. "Female Genital Mutilation as Ground for Asylum in the United States: The Recent Case of In Re Fauziya Kasinga and Prospects for More Gender Sensitive Approaches." *Columbia Human Rights Law Review* 28 (2): 375–92.

Hendriks, Carolyn M. 2006. "Integrated Deliberation: Reconciling Civil Society's Dual Role in Deliberative Democracy." *Political Studies* 54 (3): 486–508.

Henes, Brian F. 1994. "The Origin and Consequences of Recognizing Homosexuals as a Particular Social Group for Refugee Purposes Comment." *Temple International and Comparative Law Journal* 8 (2): 377–402.

Hercus, Cheryl. 1999. "Identity, Emotion, and Feminist Collective Action." *Gender & Society* 13 (1): 34–55.

Hess, Sabine, and Bernd Kasparek. 2017. "Under Control? Or Border (as) Conflict: Reflections on the European Border Regime." *Social Inclusion* 5 (3): 58–68.

Hiller, Lotte J. 2021. "Queer Asylum Politics of Separation in Germany: Homonationalist Narratives of Safety." *Gender, Place & Culture* 0 (0): 1–22.

Hines, Sally. 2019. "The Feminist Frontier: On Trans and Feminism." *Journal of Gender Studies* 28 (2): 145–57.

Hintermaier, John M. 2000. "The First Modern Refugees? Charity, Entitlement, and Persuasion in the Huguenot Immigration of the 1680s." *Albion* 32 (3): 429–49.

Hollander, Jocelyn A. 2001. "Vulnerability and Dangerousness: The Construction of Gender through Conversation about Violence." *Gender and Society* 15 (1): 83–109.

Holzhacker, Ronald. 2009. "Transnational Strategies of Civil Society Organizations Striving for Equality and Nondiscrimination: Exchanging Information on New EU Directives, Coalition Strategies and Strategic Litigation." In *The Transnationalization of Economies, States, and Civil Societies*, edited by Ronald Holzhacker and Laszlo Bruszt, 219–39. United States: Springer.

Hooghe, Liesbet, and Gary Marks. 2005. "Calculation, Community and Cues: Public Opinion on European Integration." *European Union Politics* 6 (4): 419–43.

hooks, bell. 1995. "Sisterhood: Political Solidarity Between Women." In *Feminism and Community*, edited by Penny Weiss and Marilyn Friedman, 293–316. Philadesphia: Temple University Press.

Hopmann, P. Terrence. 1995. "Two Paradigms of Negotiation: Bargaining and Problem Solving." *The Annals of the American Academy of Political and Social Science* 542 (1): 24–47.

Howlett, Marnie. 2021. "Looking at the 'Field' through a Zoom Lens: Methodological Reflections on Conducting Online Research during a Global Pandemic." *Qualitative Research*, January.

Hua, Julietta. 2010. "Feminism, Asylum and the Limits of Law." *Law, Culture and the Humanities* 6 (3): 375–93.

Huard, Geoffroy. 2012. "Au-Delà de La Libération Gay. Le Monde Homosexuel à Paris de l'après-Guerre Au Front Homosexuel d'Action Révolutionnaire." Université de Cadix et Université d'Amiens.

Huntington, Samuel P. 1993. "The Clash of Civilizations?" *Foreign Affairs* 72 (3): 22–49.

Hutter, Swen, and Edgar Grande. 2014. "Politicizing Europe in the National Electoral Arena: A Comparative Analysis of Five West European Countries, 1970–2010." *JCMS: Journal of Common Market Studies* 52 (5): 1002–18.

Hutter, Swen, Edgar Grande, and Hanspeter Kriesi, eds. 2016. *Politicising Europe: Integration and Mass Politics*. Cambridge: Cambridge University Press.

Huysmans, Jef. 2000. "The European Union and the Securitization of Migration." *JCMS: Journal of Common Market Studies* 38 (5): 751–77.

Ibhawoh, Bonny. 2003. "Defining Persecution and Protection: The Cultural Relativism Debate and the Rights of Refugees." In *Problems of Protection*. Routledge.

Ilie, Cornelia. 2010. "Identity Co-Construction in Parliamentary Discourses." In *European Parliaments under Scrutiny: Discourse Strategies and Interaction Practices*, 57–78. Amsterdam: John Benjamins Publishing Company.

Imig, Douglas R., and Sidney Tarrow. 2001. *Contentious Europeans: Protest and Politics in an Emerging Polity*. Rowman & Littlefield.

Inglehart, Ronald F. 1990. *Culture Shift in Advanced Industrial Society*. Princeton University Press.

Inglehart, Ronald F., Eduard Ponarin, and Ronald C. Inglehart. 2017. "Cultural Change, Slow and Fast: The Distinctive Trajectory of Norms Governing Gender Equality and Sexual Orientation." *Social Forces* 95 (4): 1313–40.

Irondelle, Bastien. 2003. "Europeanization without the European Union? French Military Reforms 1991- 96." *Journal of European Public Policy* 10 (2): 208.

Israël, Liora. 2001. "Usages militants du droit dans l'arène judiciaire : le cause lawyering." *Droit et societe* 49 (3): 793–824.

Ivaldi, Gilles. 2018. "Contesting the EU in Times of Crisis: The Front National and Politics of Euroscepticism in France." *Politics* 38 (3): 278–94.

Jachtenfuchs, Markus, Thomas Diez, and Sabine Jung. 1998. "Which Europe? Conflicting Models of a Legitimate European Political Order." *European Journal of International Relations* 4 (4): 409–45.

Jackman, Michael Connors, and Nishant Uphadhyay. 2014. "Pinkwatching Israel, Whitewashing Canada: Queer (Settler) Politics and Indigenous Colonization in Canada on JSTOR." *Women's Studies Quarterly* 42 (3–4): 195–210.

Jackson, Julian. 2009. *Arcadie. La Vie Homosexuelle En France de l'après-Guerre à La Dépénalisation*. Mutations. Paris: Autrement.

———. 2015. "The Homophile Movement." In *The Ashgate Research Companion to Lesbian and Gay Activism*, edited by Manon Tremblay and David Paternotte, 31–44. London: Routledge.

Jackson, Peter A. 2009. "Global Queering and Global Queer Theory: Thai [Trans]Genders and [Homo]Sexualities in World History." *Autrepart* 49: 15–30.

Jackson, Stevi, and Momin Rahman. 1997. "Liberty, Equality and Sexuality: Essentialism and the Discourse of Rights." *Journal of Gender Studies* 6 (2): 117–29.

Jacob, Lauranne. 2018. "Les Soft Spaces: Les Nouveaux Territoires sans Limites?" 113–18. Rouen.

Jacquot, Sophie. 2010. "The Paradox of Gender Mainstreaming: Unanticipated Effects of New Modes of Governance in the Gender Equality Domain." *West European Politics* 33 (1): 118–35.

———. 2014. *L'égalité au nom du marché? Emergence et démantèlement de la politique européenne d'égalité entre les hommes et les femmes*. P.I.E. Peter Lang.

———. 2015. *Transformations in EU Gender Equality. From Emergence to Dismantling*. United Kingdom: Palgrave Macmillan.

Jacquot, Sophie, and Cornelia Woll. 2004. *Les Usages de l'Europe. Acteurs et Transformations Européennes*. Paris: L'Harmattan.

Jaeger, Hans-Martin. 2007. "'Global Civil Society' and the Political Depoliticization of Global Governance." *International Political Sociology* 1 (3): 257–77.

Jakuleviciene, Lyra. 2016. "Vulnerable Persons as a New Sub-Group of Asylum Seekers?" In *Reforming the Common European Asylum System*, edited by Vincent Chetail, Philippe De Bruycker, and Francesco Maiani, 353–73. United Kingdom: Brill Nijhoff.

Jakulevičienė, Lyra, Laurynas Biekša, and Eglė Samuchovaitė. 2012. "Procedural Problems in LGBT Asylum Cases." *Jurisprudencija* 19 (1): 195–207.

Jansen, Sabine. 2013. "Introduction: Fleeing Homophobia, Asylum Claims Related to Sexual Orientation and Gender Identity in Europe." In *Fleeing Homophobia: Sexual Orientation, Gender Identity and Asylum*, edited by Thomas Spijkerboer, 1–31. New York: Routledge.

Jaunait, Alexandre. 2020. "Genèses du droit de l'identité de genre. Approche des configurations sociojuridiques." *Droit et societe* N° 105 (2): 429–51.

Jaunait, Alexandre, Amélie Le Renard, and Élisabeth Marteu. 2013a. "Nationalismes sexuels ?" *Raisons politiques* n° 49 (1): 5–23.

———. 2013b. "Sexual Nationalisms?" *Raisons Politiques* No 49 (1): 5–23.

Jeffery, Laura, and Matei Candea. 2006. "The Politics of Victimhood." *History and Anthropology* 17 (4): 287–96.

Jenichen, Anne. 2020. "The Politics of Normative Power Europe: Norm Entrepreneurs and Contestation in the Making of EU External Human Rights Policy." *JCMS: Journal of Common Market Studies*, 1–17.

Joachim, Jutta. 2003. "Framing Issues and Seizing Opportunities: The UN, NGOs, and Women's Rights." *International Studies Quarterly* 47 (2): 247–74.

Joerges, Christian, and Jürgen Neyer. 1997. "From Intergovernmental Bargaining to Deliberative Political Processes: The Constitutionalisation of Comitology." *European Law Journal* 3 (3): 273–99.

Johansson, Håkan, and Anders Uhlin. 2020. "Civil Society Elites: A Research Agenda." *Politics and Governance* 8 (3): 82–85.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

Jourdain, Laurence. 2014. "How to advocate for another EU in Brussels? The case of ALTER-EU." *Politique européenne* 43 (1): 210–41.

Juhem, Philippe. 2001. "La légitimation de la cause humanitaire : un discours sans adversaires." *Mots. Les langages du politique* 65 (1): 9–27.

Jupille, Joseph. 2007. "Contested Procedures: Ambiguities, Interstices and EU Institutional Change." *West European Politics* 30 (2): 301–20.

Kahlina, Katja. 2015. "Local Histories, European LGBT Designs: Sexual Citizenship, Nationalism, and 'Europeanisation' in Post-Yugoslav Croatia and Serbia." *Women's Studies International Forum* 49 (March): 73–83.

Kantola, Johanna. 2010. *Gender and the European Union*. United Kingdom: Macmillan International Higher Education.

Kantola, Johanna, and Cherry Miller. 2021a. "Party Politics and Radical Right Populism in the European Parliament: Analysing Political Groups as Democratic Actors." *JCMS: Journal of Common Market Studies* 59 (4): 782–801.

———. 2021b. "Party Politics and Radical Right Populism in the European Parliament: Analysing Political Groups as Democratic Actors." *JCMS: Journal of Common Market Studies* 59 (4): 782–801.

Kantola, Johanna, and Kevät Nousiainen. 2009. "Institutionalizing Intersectionality in Europe." *International Feminist Journal of Politics* 11 (4): 459–77.

Karakayali, Serhat. 2019. "The Welcomers: How Volunteers Frame Their Commitment for Refugees." *Refugee Protection and Civil Society in Europe*, 221–41.

Katz, Amy S., Billie-Jo Hardy, Michelle Firestone, Aisha Lofters, and Melody E. Morton-Ninomiya. 2020. "Vagueness, Power and Public Health: Use of 'vulnerable' in Public Health Literature." *Critical Public Health* 30 (5): 601–11.

Katz, Jonathan Ned. 1990. "The Invention of Heterosexuality." *Socialist Review* 20: 7–34.

Kauppi, Niilo, Kari Palonen, and Claudia Wiesner. 2016. "The Politification and Politicisation of the EU." *Redescriptions* 19 (1).

Kay, Diana, and Robert Miles. 1988. "Refugees or Migrant Workers? The Case of the European Volunteer Workers in Britain (1946–1951)." *Journal of Refugee Studies* 1 (3–4): 214–36.

Keck, Margaret E., and Kathryn Sikkink. 1999. "Transnational Advocacy Networks in International and Regional Politics." *International Social Science Journal* 51 (159): 89–101.

Kenix, Linda Jean, and Reza Jarvandi. 2016. "The Role of Political Ideology in the International Mainstream News Media Framing of Refugees and LGBT Refugees." Poznan, Poland: University of Canterbury. School of Language, Social and Political Sciences.

Kenney, Sally J. 2003. "Where Is Gender in Agenda Setting?" *Women & Politics* 25 (1–2): 179–207.

Kesa, Katerina. 2021. "Circulation et Transnationalisation de Mouvements et Idées Populistes d'Extrême-Droite Dans l'Espace Baltique. Le Cas Du Parti Populaire Conservateur d'Estonie (EKRE)." *Connexe: Les Espaces Postcommunistes En Question(s)* 6: 178–208.

Ketola, Markus. 2011. "Europeanisation and Civil Society: The Early Impact of EU Pre-Accession Policies on Turkish NGOs." Phd, London School of Economics and Political Science.

Keygnaert, Ines, Sonia F. Dias, Olivier Degomme, Walter Devillé, Patricia Kennedy, András Kováts, Sara De Meyer, Nicole Vettenburg, Kristien Roelens, and Marleen Temmerman. 2015. "Sexual and Gender-Based Violence in the European Asylum and Reception Sector: A Perpetuum Mobile?" *European Journal of Public Health* 25 (1): 90–96.

Kingdon, John W. 2003. *Agendas, Alternatives, and Public Policies*. New York: Longman.

Kist, Jasper van der, and Damian Rosset. 2020. "Knowledge and Legitimacy in Asylum Decision-Making: The Politics of Country of Origin Information." *Citizenship Studies* 24 (5): 663–79.

Kobelinsky, Carolina. 2015. "Juger l'homosexualité, attribuer l'asile." *La Vie des idées*, December.

Kohler-Koch, Beate. 2009. "The Three Worlds of European Civil Society—What Role for Civil Society for What Kind of Europe?" *Policy and Society* 28 (1): 47–57.

———. 2010. "Civil Society and EU Democracy: 'Astroturf' Representation?" *Journal of European Public Policy* 17 (1): 100–116.

Kollman, Kelly. 2009. "European Institutions, Transnational Networks and National Same-Sex Unions Policy: When Soft Law Hits Harder." *Contemporary Politics* 15 (1): 37–53.

Koopmans, Ruud, and Paul Statham. 2010. *The Making of a European Public Sphere: Media Discourse and Political Contention*. Cambridge University Press.

Korolczuk, Elżbieta, and Agnieszka Graff. 2018. "Gender as 'Ebola from Brussels': The Anticolonial Frame and the Rise of Illiberal Populism." *Signs: Journal of Women in Culture and Society* 43 (4): 797–821.

Kovats, Eszter. 2022. "Only ! Know My Gender: The Individualist Turn in Gender Theory and Politics, and the Right-Wing Opposition." *Intersections. East European Journal of Society and Politics* 8 (1): 110–27.

Kováts, Eszter, and Maari Põim. 2015. *Gender as Symbolic Glue: The Position and Role of Conservative and Far-Right Parties in the Anti-Gender Mobilizations in Europe*. Foundation for European Progressive Studies.

Kriesi, Hanspeter. 1995. "The Political Opportunity Structure of New Social Movements: Its Impact on Their Mobilization." In *The Politics of Social Protest*, edited by J.C Jenkins and B. Klandermans, 167–99. United States: University of Minnesota Press.

Kriesi, Hanspeter, Anke Tresch, and Margit Jochum. 2007. "Going Public in the European Union: Action Repertoires of Western European Collective Political Actors." *Comparative Political Studies* 40 (1): 48–73.

Kröger, Sandra. 2018. "Strategic or Principled? The Engagement of Civil Society Organizations with the EU." *Journal of Civil Society* 14 (1): 41–57.

Krzyżanowski, Michał. 2019. "Brexit and the Imaginary of 'Crisis': A Discourse-Conceptual Analysis of European News Media." *Critical Discourse Studies* 16 (4): 465–90.

———. 2020. "Discursive Shifts and the Normalisation of Racism: Imaginaries of Immigration, Moral Panics and the Discourse of Contemporary Right-Wing Populism." *Social Semiotics* 30 (4): 503–27.

Krzyżanowski, Michał, Anna Triandafyllidou, and Ruth Wodak. 2018. "The Mediatization and the Politicization of the 'Refugee Crisis' in Europe." *Journal of Immigrant & Refugee Studies* 16 (1–2): 1–14.

Kuhar, Roman, and Aleš Zobec. 2017. "The Anti-Gender Movement in Europe and the Educational Process in Public Schools." *CEPS Journal* 7 (2): 29–46.

Lacroix, Justine. 2009a. "Une Citoyenneté Européenne Est-Elle Possible?" *La Vie des Idées.*

———. 2009b. "Does Europe Need Common Values?: Habermas vs Habermas." *European Journal of Political Theory*, April.

Lafon, Claire. 2017. "La professionnalisation des militantes féministes au sein du Lobby Européen des Femmes : le cas des salariées spécialisées et des bénévoles nationales 'déléguées au lobby.'" In *La professionnalisation des luttes pour l'égalité : genre et féminisme*, edited by David Paternotte and Petra Meier.

———. 2018. "Europeanization Through the European Women's Lobby: A Sociological Comparison of the French and Belgian National Coordinations." *Journal of Contemporary European Research* 14 (2): 154–68.

Lahusen, Christian. 2014. "Mind the Gap: Local Civil Society Organizations and the European Union." *Civil Society Organizations, Unemployment, and Precarity in Europe*, 204–28.

Lang, Sabine. 2009. "Assessing Advocacy: European Transnational Women's Networks and Gender Mainstreaming." *Social Politics: International Studies in Gender, State & Society* 16 (3): 327–57.

Lange, Sarah L. de, and Liza M. Mügge. 2015. "Gender and Right-Wing Populism in the Low Countries: Ideological Variations across Parties and Time." *Patterns of Prejudice* 49 (1–2): 61–80.

Langlois, Anthony J. 2018. "Review Article: Curiosity, Paradox and Dissatisfaction: Queer Analyses of Human Rights." *Millennium* 47 (1): 153–65.

Lascoumes, Pierre. 1990. "Normes Juridiques et Mise En Oeuvre Des Politiques Publiques." *L'Année Sociologique (1940/1948-)* 40: 43–71.

———. 2009. "Les compromis parlementaires, combinaisons de surpolitisation et de sous-politisation." *Revue francaise de science politique* Vol. 59 (3): 455–78.

Lascoumes, Pierre, and Patrick Le Gales. 2007. "Introduction: Understanding Public Policy through Its Instruments—From the Nature of Instruments to the Sociology of Public Policy Instrumentation." *Governance* 20 (1): 1–21.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

Lavenex, Sandra. 2001. "The Europeanization of Refugee Policies: Normative Challenges and Institutional Legacies." *JCMS: Journal of Common Market Studies* 39 (5): 851–74.

———. 2018. "'Failing Forward' Towards Which Europe? Organized Hypocrisy in the Common European Asylum System." *Journal of Common Market Studies* 56 (5): 1195–1212.

LaViolette, Nicole. 2013. "Overcoming Problems with Sexual Minority Refugee Claims: Is LGBT Cultural Competency Training the Solution?" In *Fleeing Homophobia. Sexual Orientation, Gender Identity and Asylum*. United Kingdom: Taylor and Francis.

Le Bellec, Amandine. 2018. "'Separating (LGBT) Wheat from the (Migrant) Chaff': Politicization of Human Rights in the Case of the Legal Protection of LGBT Asylum Seekers in France." Paris: Sciences Po Paris.

———. 2021. "Toward a Gender-Sensitive Securitization of the Common European Asylum System." *Frontiers in Human Dynamics* 3.

Leca, Jean. 1973. "Le Repérage Du Politique." *Projet*.

———. 2001. "Le politique comme fondation." *Espace Temps* 76 (1): 27–36.

Leconte, Cécile. 2008a. "Opposing Integration on Matters of Social and Normative Preferences: A New Dimension of Political Contestation in the EU." *JCMS: Journal of Common Market Studies* 46 (5): 1071–91.

———. 2008b. "Opposing Integration on Matters of Social and Normative Preferences: A New Dimension of Political Contestation in the EU." *Journal of Common Market Studies* 46 (5): 1071–91.

———. 2014. "The EU Fundamental Rights Policy as a Source of Euroscepticism." *Human Rights Review* 15 (1): 83–96.

Lewis, Rachel. 2013. "Deportable Subjects: Lesbians and Political Asylum." *Feminist Formations* 25 (2): 174–94.

———. 2021. "Queering Deportability: The Racial and Gendered Politics of Lesbian Anti-Deportation Activism." *Sexualities*, December, 13634607211047516.

Lewis, Rachel A. 2014. "'Gay? Prove It': The Politics of Queer Anti-Deportation Activism." *Sexualities* 17 (8): 958–75.

Lindellee, Jayeon, and Roberto Scaramuzzino. 2020. "Can EU Civil Society Elites Burst the Brussels Bubble? Civil Society Leaders' Career Trajectories." *Politics and Governance* 8 (3): 86–96.

Liogier, Raphaël. 2016. *Le Mythe de l'islamisation. Essai Sur Une Obsession Collective*. Paris: Seuil.

Littoz-Monnet, Annabelle. 2017. *The Politics of Expertise in International Organizations. How International Bureaucracies Produce and Mobilize Knowledge*. United Kingdom: Routledge.

Llewellyn, Cheryl. 2017. "Homonationalism and Sexual Orientation-Based Asylum Cases in the United States." *Sexualities* 20 (5–6): 682–98.

Lochak, Danièle. 2003. "L'humanitaire, les droits de l'homme et le politique." *Matériaux pour l'histoire de notre temps* 72 (1): 53–60.

———. 2013. "Qu'est-ce qu'un réfugié ? La construction politique d'une catégorie juridique." *Pouvoirs* n° 144 (1): 33–47.

Lochard, Yves, and Maud Simonet. 2009. "Les experts associatifs, entre savoirs profanes, militants et professionnels." In *Sociologie des groupes professionnels*, edited by Didier Demazière and Charles Gadéa, 274–84. Paris: La Découverte.

Loick, Daniel. 2014. "Juridification and Politics: From the Dilemma of Juridification to the Paradoxes of Rights." *Philosophy and Social Criticism* 40 (8): 757–78.

Lombardo, Emanuela, and Petra Meier. 2006. "Gender Mainstreaming in the EU: Incorporating a Feminist Reading?" *European Journal of Women's Studies* 13 (2): 151–66.

Lombardo, Emanuela, Petra Meier, and Mieke Verloo, eds. 2009. *The Discursive Politics of Gender Equality. Stretching, Bending and Policymaking*. United Kingdom: Routledge.

Lombardo, Emanuela, and Lise Rolandsen Agustín. 2011. "Framing Gender Intersections in the European Union: What Implications for the Quality of Intersectionality in Policies?" *Social Politics: International Studies in Gender, State & Society* 19 (4): 482–512.

———. 2016. "Intersectionality in European Union Policymaking: The Case of Gender-Based Violence." *Politics* 36 (4): 364–73.

Lombardo, Emanuela, and Mieke Verloo. 2009. "Institutionalizing Intersectionality in the European Union?" *International Feminist Journal of Politics* 11 (4): 478–95.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

Lord, Christopher. 2018. "The European Parliament: A Working Parliament without a Public?" *The Journal of Legislative Studies* 24 (1): 34–50.

Lorde, Audre. 1984. *Sister Outsider*. United States: Crossing Press.

Loschi, Chiara, and Peter Slominski. 2021. "Interagency Relations and the EU Migration Crisis: Strenghtening of Law Enforcement Through Agencification?" In *The Role of EU Agencies in the Eurozone and Migration Crisis. Impact and Future Challenges*, edited by Johannes Pollak and Peter Slominski, 205–28. London: Palgrave Macmillan.

Louis, Marieke, and Lucile Maertens. 2021. *Why International Organizations Hate Politics. Depoliticizing the World*. United Kingdom: Routledge.

Lucardie, Paul. 2000. "Prophets, Purifiers and Prolocutors: Towards a Theory on the Emergence of New Parties." *Party Politics* 6 (2): 175–85.

Lugones, Maria. 2004. *Pilgrimages/Peregrinajes: Theorizing Coalition Against Multiple Oppressions*. United States: Rowman & Littlefield.

Magnussen, Anne-Mette, and Anna Banasiak. 2013. "Juridification: Disrupting the Relationship between Law and Politics?" *European Law Journal* 19 (3): 325–39.

Maiani, Francesco. 2010. "The Concept of 'Persecution' in Refugee Law: Indeterminacy, Context-Sensitivity, and the Quest for a Principled Approach." *Les Dossiers Du Grihl*.

———. 2017. "The Reform of the Dublin System and the Dystopia of 'Sharing People.'" *Maastricht Journal of European and Comparative Law* 24 (5): 622–45.

Majone, Giandomenico. 1996. "A European Regulatory State?" In *European Union*. London: Routledge.

Marche, Guillaume. 2019. *Sexuality, Subjectivity, and LGBTQ Militancy in the United States*. Amsterdam: Amsterdam University Press.

Marcus, George E. 1995. "Ethnography in/of the World System: The Emergence of Multi-Sited Ethnography." *Annual Review of Anthropology* 24: 95–117.

Marks, Gary, and Doug McAdam. 1996. "Social Movements and the Changing Structure of Political Opportunity in the European Union." In *Governance in the European Union*, edited by Gary Marks, Fritz W Scharpf, Philippe C Schmitter, and Wolfgang Streeck, 95–120. London: SAGE Publications.

———. 1999. "On the Relationship of Political Opportunities to the Form of Collective Action: The Case of the European Union." In *Social Movements in a Globalizing World*, edited by Donatella della Porta, Hanspeter Kriesi, and Dieter Rucht, 97–111. London: Palgrave Macmillan UK.

Marrus, Michael R. 1985. *Les Exclus. Les Réfugiés Européen Au XXème Siècle*. Histoire. New York and Oxford: Oxford University Press.

Marzano, Michela. 2006. "Qu'est-ce qu'une victime ?" *Archives de politique criminelle* n° 28 (1): 11–20.

Massad, Joseph A. 2008. *3. Re-Orienting Desire: The Gay International and the Arab World. Desiring Arabs*. University of Chicago Press.

Massad, Joseph Andoni. 2002. "Re-Orienting Desire: The Gay International and the Arab World." *Public Culture* 14 (2): 361–85.

Massetti, Emanuele. 2021. "The Populist-Eurosceptic Mix: Conceptual Distinctions, Ideational Linkages and Internal Differentiation." In *The Impact of Populism on European Institutions and Civil Society: Discourses, Practices, and Policies*, edited by Carlo Ruzza, Carlo Berti, and Paolo Cossarini, 21–44. Palgrave Studies in European Political Sociology. Switzerland: Springer International Publishing.

Massey, Doreen. 2005. *For Space*. United Kingdom: SAGE Publications.

Matsuda, Mari J. 1991. "Beside My Sister, Facing the Enemy: Legal Theory out of Coalition." *Stanford Law Review* 43 (6): 1183–92.

McDowell, Linda. 2003. "Workers, Migrants, Aliens or Citizens? State Constructions and Discourses of Identity among Post-War European Labour Migrants in Britain." *Political Geography* 22 (8): 863–86.

McGhee, Derek. 2000. "Accessing Homosexuality: Truth, Evidence and the Legal Practices for Determining Refugee Status - The Case of Ioan Vraciu." *Body & Society* 6 (1).

———. 2001. "Persecution and Social Group Status: Homosexual Refugees in the 1990s." *Journal of Refugee Studies* 14 (1): 20–42.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

McGoldrick, Brian J. 1994. "United States Immigration Policy and Sexual Orientation: Is Asylum for Homosexuals a Possibility." *Georgetown Immigration Law Journal*, no. 2: 201–26.

McGuirk, Siobhan. 2018. "(In)Credible Subjects: NGOs, Attorneys, and Permissible LGBT Asylum Seeker Identities." *PoLAR: The Political and Legal Anthropology Review* 41: 4–18.

Meissner, Vittoria. 2021. "The European Border and Coast Guard Agency Frontx After the Migration Crisis: Towards a 'Superagency'?" In *The Role of EU Agencies in the Eurozone and Migration Crisis. Impact and Future Challenges*, edited by Johannes Pollak and Peter Slominski, 151–74. London: Palgrave Macmillan.

Melucci, Alberto. 1996. *Challenging Codes: Collective Action in the Information Age*. Cambridge: Cambridge University Press.

Mepschen, Paul. 2016. "Sexual Democracy, Cultural Alterity and the Politics of Everyday Life in Amsterdam." *Patterns of Prejudice* 50 (2): 150–67.

Mercat-Bruns, Marie. 2012. "Discrimination fondée sur le sexe aux États-Unis : une notion juridique sous tensions." *Travail, genre et societes* n° 28 (2): 63–87.

Meyer, Sarah, and Sieglinde Rosenberger. 2015. "Just a Shadow? The Role of Radical Right Parties in the Politicization of Immigration, 1995–2009." *Politics and Governance* 3 (2): 1–17.

Miaz, Jonathan. 2014. "Les 'persécutions liées au genre' en Suisse : les frontières du droit d'asile en question." *Cahiers du Genre* n° 57 (2): 55–75.

Millbank, Jenni. 2005. "A Preoccupation with Perversion: The British Response to Refugee Claims on the Basis of Sexual Orientation, 1989–2003." *Social & Legal Studies* 14 (1): 115–38.

———. 2013. "Sexual Orientation and Refugee Status Determination over the Past 20 Years. Unsteady Progress through Standard Sequences?" In *Fleeing Homophobia. Sexual Orientation, Gender Identity and Asylum*, edited by Thomas Spijkerboer, 32–54. London: Routledge.

Millbank, Jenni, and Laurie Berg. 2009. "Constructing the Personal Narratives of Lesbian, Gay and Bisexual Asylum Claimants." *Journal of Refugee Studies* 22 (1).

Miller, Carol. 1995. "In-depth Interviewing by Telephone: Some Practical Considerations." *Evaluation & Research in Education* 9 (1): 29–38.

Millner, Naomi. 2011. "From 'Refugee' to 'Migrant' in Calais Solidarity Activism: Re-Staging Undocumented Migration for a Future Politics of Asylum." *Political Geography* 30 (6): 320–28.

Minter, Shannon. 1993. "Sodomy and Public Morality Offenses under U.S. Immigration Law: Penalizing Lesbian and Gay Identity Note." *Cornell International Law Journal* 26 (3): 771–818.

Moffitt, Benjamin. 2017. "Liberal Illiberalism? The Reshaping of the Contemporary Populist Radical Right in Northern Europe." *Politics and Governance* 5 (4): 112–22.

Mohanty, Chandra Talpade. 2003. "'Under Western Eyes' Revisited: Feminist Solidarity through Anticapitalist Struggles." *Signs: Journal of Women in Culture and Society* 28 (2): 499–535.

Monforte, Pierre. 2009. "Social Movements and Europeanization Processes: The Case of the French Associations Mobilizing around the Asylum Issue." *Social Movement Studies* 8 (4): 409–25.

———. 2010. "Le secteur associatif face aux politiques européennes d'immigration et d'asile.Quels acteurs pour quels modes d'européanisation ?" *Politique européenne* 31 (2): 119–45.

———. 2014. *Europeanizing Contention. The Protest against "Fortress Euope" in France and Germany*. United Kingdom: Berghahn Books.

———. 2019. "From 'Fortress Europe' to 'Refugees Welcome': Social Movements and the Political Imaginary on European Borders." In *Routledge Handbook of Contemporary European Social Movements*. Routledge.

Morgan, Deborah A. 2006. "Not Gay Enough for the Government: Racial and Sexual Stereotypes in Sexual Orientation Asylum Cases NLGLA Michael Greenberg Writing Competition." *Law & Sexuality: A Review of Lesbian, Gay, Bisexual, and Transgender Legal Issues* 15: 135–62.

Morgensen, Scott Lauria. 2012. "Queer Settler Colonialism in Canada and Israel: Articulating Two-Spirit and Palestinian Queer Critiques." *Settler Colonial Studies* 2 (2): 167–90.

Mos, Martijn. 2014. "Of Gay Rights and Christmas Ornaments: The Political History of Sexual Orientation Non-Discrimination in the Treaty of Amsterdam." *JCMS: Journal of Common Market Studies* 52 (3): 632–49.

Mosse, George L. 1985. *Nationalism and Sexuality in Nineteenth-Century Europe*. New York: Howard Fertig.

Mouffe, Chantal. 2003. "Le politique et la dynamique des passions." *Politique et Sociétés* 22 (3): 143–54.

———. 2010. "Politique et agonisme." *Rue Descartes* 67 (1): 18–24.

Mrazova, Andra. 2019. "Legal Requirements to Prove Asylum Claims Based on Sexual Orientation: A Comparison Between the CJEU and ECtHR Case Law." In *LGBTI Asylum Seekers and Refugees from a Legal and Political Perspective. Persecution, Asylum and Integration*, edited by Arzu Güler, Maryna Shetvtsova, and Denise Venturi. London: Springer.

Muir, Elise. 2014. "Fundamental Rights: An Unsettling EU Competence." *Human Rights Review* 15 (1): 25–37.

Mulé, Nick J. 2020. "Safe Haven Questioned: Proof of Identity Over Persecution of SOGIE Asylum Seekers and Refugee Claimants in Canada." *Journal of Immigrant & Refugee Studies* 18 (2): 207–23.

Murray, David A. B. 2016. "Queer Forms: Producing Documentation in Sexual Orientation Refugee Cases." *Anthropological Quarterly* 89 (2): 465–84.

Murray, David A.B. 2014. "Real Queer: 'Authentic' LGBT Refugee Claimants and Homonationalism in the Canadian Refugee System." *Anthropologica* 56 (1): 21–32.

Nader, Laura. 1974. "Up the Anthropologist: Perspectives Gained From Studying Up." In *Reinventing Anthropology*, edited by Dell Hymes. New York: Vintage.

Najmabadi, Afsaneh. 2005. *Women with Mustaches and Men without Beards. Gender and Sexual Anxieties of Iranian Modernity*. California: University of California Press.

Nasser-Eddin, Nof, Nour Abu-Assab, and Aydan Greatrick. 2018. "Reconceptualising and Contextualising Sexual Rights in the MENA Region: Beyond LGBTQI Categories." *Gender & Development* 26 (1): 173–89.

Neilson, Victoria. 2004. "Uncharted Territory: Choosing an Effective Approach in Transgender-Based Asylum Claims Special Series: 2003 Lavender Law Conference." *Fordham Urban Law Journal* 32 (2): 265–90.

Neisen, Joseph H. 1990. "Heterosexism:" *Journal of Gay & Lesbian Psychotherapy* 1 (3): 21–35.

Niemann, Arne, and Natascha Zaun. 2018. "EU Refugee Policies and Politics in Times of Crisis: Theoretical and Empirical Perspectives." *Journal of Common Market Studies* 56 (1): 3–22.

Nissen, Anita, and Lise Rolandsen Agustín. 2018. "Rights for Women, Migrants and Minorities: Consensus and Silences in the European Parliament." In *Gender and Generational Division in EU Citizenship*, edited by Trudie Knijn and Manuela Naldini, 21–38. United Kingdom: Edward Elgar Publishing.

Noiriel, Gérard. 1991. *La Tyrannie Du National*. Paris: Calmann-Levy.

Novick, Gina. 2008. "Is There a Bias Against Telephone Interviews in Qualitative Research?" *Research in Nursing and Health* 31: 391–98.

O'Connor, Henrietta, and Clare Madge. 2001. "Cyber-Mothers: Online Synchronous Interviewing Using Conferencing Software." *Sociological Research Online* 5 (4): 102–17.

O'Dwyer, Paul. 2007. "A Well-Founded Fear of Having My Sexual Orientation Asylum Claim Heard in the Wrong Court I. Article." *New York Law School Law Review* 52 (2): 185–214.

O'Flaherty, Michael, and John Fisher. 2008. "Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles." *Human Rights Law Review* 8 (2): 207–48.

Ollitrault, Sylvie. 1996. "Science et militantisme : les transformations d'un échange circulaire. Le cas de l'écologie française." *Politix. Revue des sciences sociales du politique* 9 (36): 141–62.

Olwig, Karen Fog, and Kirsten Hastrup. 1997. *Siting Culture: The Shifting Anthropological Object*. London: Psychology Press.

Osterbur, Megan, and Christina Kiel. 2017. "A Hegemon Fighting for Equal Rights: The Dominant Role of COC Nederland in the LGBT Transnational Advocacy Network." *Global Networks* 17 (2): 234–54.

Palonen, Kari. 2003. "Four Times of Politics: Policy, Polity, Politicking, and Politicization." *Alternatives* 28: 171–86.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

Papada, Evie. 2021. "Engaging the Geopolitics of Asylum Seeking: The Care/Control Function of Vulnerability Assessments in the Context of the EU–Turkey Agreement." *Geopolitics*. 1–25.

Paternotte, David. 2011. *Revendiquer Le "Mariage Gay". Belgique, France, Espagne.* Bruxelles: Editions de l'Université de Bruxelles.

———. 2012. "La juridification ou le droit comme matrice de l'action collective : la revendication du droit au mariage entre personnes du même sexe." *Politique et Sociétés* 31 (2): 93–112.

———. 2014. "The International (Lesbian and) Gay Association and the Question of Pedophilia: Tracking the Demise of Gay Liberation Ideals." *Sexualities* 17 (1–2): 121–38.

———. 2016. "The NGOization of LGBT Activism: ILGA-Europe and the Treaty of Amsterdam." *Social Movement Studies* 15 (4): 388–402.

Paternotte, David, Alex Cosials Apellaniz, and David Tong. 2017. "The History of ILGA (1978- 2012)." ILGA. October 19, 2017. https://ilga.org/ilga-history.

Paternotte, David, and Roman Kuhar. 2017. "The Anti-Gender Movement in Comparative Perspective." In *Anti-Gender Campaigns in Europe. Mobilizing against Equality*, 253–76. London: Rowman and Littlefield.

———. 2018. "Disentangling and Locating the 'Global Right': Anti-Gender Campaigns in Europe." *Politics and Governance* 6 (3): 6–19.

Paternotte, David, and Bruno Perreau. 2012. "Sexualité et politique en francophonie : état des lieux et perspectives de recherche." *Politique et Sociétés* 31 (2): 3–30.

Paternotte, David, and Hakan Seckinelgin. 2015. "'Lesbian and Gay Rights Are Human Rights': Multiple Globalizations and LGBTI Activism." In *The Ashgate Research Companion to Lesbian and Gay Activism*, edited by Manon Tremblay and David Paternotte, 209–23. London: Routledge.

Peck, Jamie, and Nik Theodore. 2012. "Follow the Policy: A Distended Case Approach." *Environment and Planning A: Economy and Space* 44 (1): 21–30.

Pécoud, Antoine. 2010. "Informing Migrants to Manage Migration? An Analysis of IOM's Information Campaigns." In *The Politics of International Migration Management*, edited by Martin Geiger and Antoine Pécoud, 184–201. London: Palgrave Macmillan.

———. 2015. *Depoliticising Migration: Global Governance and International Migration Narratives*. Mobility & Politics. Palgrave Macmillan UK.

———. 2017. "From 'Managing' to Controlling Migration? Discourses and Practices of the International Organization for Migration." *Critique internationale* 76 (3): 81–99.

Peroni, Lourdes. 2018. "The Protection of Women Asylum Seekers under the European Convention on Human Rights: Unearthing the Gendered Roots of Harm." *Human Rights Law Review* 18 (2): 347–70.

Persson, Thomas, and Kajsa Edholm. 2018. "Assessing the Effects of European Union Funding of Civil Society Organizations: Money for Nothing?" *JCMS: Journal of Common Market Studies* 56 (3): 559–75.

Petiteville, Franck. 2002. "L'Union européenne, acteur international « global » ?" *Revue internationale et strategique* 47 (3): 145–57.

———. 2017. "La politisation résiliente des organisations internationales." *Critique internationale* 76 (3): 9–19.

Pette, Mathilde. 2014. "Associations : les nouveaux guichets de l'immigration ? Du travail militant en préfecture." *Sociologie* Vol. 5 (4): 405–21.

Pierson, Paul. 1993. "When Effect Becomes Cause: Policy Feedback and Political Change." *World Politics* 45: 595–628.

Pomeranz, Emily F., and Richard C. Stedman. 2020. "Measuring Good Governance: Piloting an Instrument for Evaluating Good Governance Principles." *Journal of Environmental Policy & Planning* 22 (3): 428–40.

Porta, Donatella della, and Manuela Caiani. 2007. "Europeanization From Below? Social Movements and Europe." *Mobilization: An International Quarterly* 12 (1): 1–20.

———. 2009. *Social Movements and Europeanization. Social Movements and Europeanization.* Oxford: Oxford University Press.

Prearo, Massimo. 2012. "La trajectoire révolutionnaire du militantisme homosexuel italien dans les années 1970." *Cahiers d'histoire. Revue d'histoire critique*, no. 119 (April): 79–97.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

———. 2020. "The Moral Politics of LGBTI Asylum: How the State Deals with the SOGI Framework." *Journal of Refugee Studies* (July).

Pries, Ludger. 2019. "Introduction: Civil Society and Volunteering in the So-Called Refugee Crisis of 2015—Ambiguities and Structural Tensions." *Refugee Protection and Civil Society in Europe*, 1–23.

Prowe, Diethelm. 1997. "National Identity and Racial Nationalism in the New Germany: Nazism versus the Contemporary Radical Right." *German Politics & Society* 15 (1 (42)): 1–21.

Puar, Jasbir. 2007. *Terrorist Assemblages. Homonationalism in Queer Times*. Durham: Duke University Press.

Pytlas, Bartek. 2021. "Hijacking Europe: Counter-European Strategies and Radical Right Mainstreaming during the Humanitarian Crisis Debate 2015–16*." *JCMS: Journal of Common Market Studies* 59 (2): 335–53.

Quinan, Christine, Dana Theewis, and Cecilia Cienfuegos. 2020. "The Politics of Vulnerability and Protection: Analysing the Case of LGBT Asylum Seekers in the Netherlands in Light of Securitization and Homonationalist Discourses." In *The SAGE Handbook of Media and Migration*, edited by Kevin Smets, Koen Leurs, Myria Georgiou, Saskia Witteborn, and Radhika Gajjala, 346–57. London: SAGE Publications.

Raboin, Thibaut. 2017. *Discourses on LGBT Asylum in the UK: Constructing a Queer Haven*. 1st ed. Manchester University Press.

Radaelli, Claudio M. 1999. "The Public Policy of the European Union: Whither Politics of Expertise?" *Journal of European Public Policy* 6 (5): 757–74.

Raissiguier, Catherine. 2010. *Reinventing the Republic: Gender, Migration, and Citizenship in France*. Redwood City: Stanford University Press.

Raj, Senthorun. 2015. "Asylum and Sexual Orientation." In *The Wiley Blackwell Encyclopedia of Gender and Sexuality Studies*, 1–5.

Rasmussen, Anne, and Christine Reh. 2013. "The Consequences of Concluding Codecision Early: Trilogues and Intra-Institutional Bargaining Success." *Journal of European Public Policy* 20 (7): 1006–24.

Rayner, Tim, and Andrew Jordan. 2013. "The European Union: The Polycentric Climate Policy Leader?" *WIREs Climate Change* 4 (2): 75–90.

Reda, Ali, and Philip Proudfoot. 2021. "Against Abandonment Activist-Humanitarian Responses to LGBT Refugees in Athens and Beirut." *Journal of Refugee Studies* 34 (2): 1494–1515.

Reh, Christine. 2014. "Is Informal Politics Undemocratic? Trilogues, Early Agreements and the Selection Model of Representation." *Journal of European Public Policy* 21 (6):822–41.

Rennes, Juliette. 2020. "Conceptualiser l'âgisme à Partir Du Sexisme et Du Racisme." *Revue Francaise de Science Politique* 70 (6): 725–45.

Revillard, Anne. 2009. "L'expertise Critique, Force d'une Institution Faible. Le Comité Du Travail Féminin et La Genèse d'une Politique d'égalité Professionnelle En France (1965-1983)." *Revue Française de Science Politique* 59 (2): 279–300.

Rexhepi, Piro. 2016. "From Orientalism to Homonationalism: Queer Politics, Islamophobia and Europeanization in Kosovo." *Southeastern Europe* 40 (1): 32–53.

Ricard, Nathalie. 2014. "Que Faut-Il Taire 'Quand Dire, c'est Faire'? L'audience d'un Demandeur d'asile à l'identité de Genre Hétérodoxe." *Cultures-Kairos*, no. Justice, droits, performativité.

Ricci, Ilaria. 2017. "European Asylum Policy and Sexual Orientation." In *Claiming Citizenship Rights in Europe*. Routledge.

Ricucci, Roberta. 2021. "Faith in God Is Our Strength! Faith-Based Organizations Challenging 'Fortress Europe.'" In *Ethnicity, Identity and Faith in the Current Migratory Crisis: Continuity and Change in Migrants' Religiousness in Southern Europe*, edited by Roberta Ricucci, 89–104. Switzerland: Springer International Publishing.

Ripoll Servent, Ariadna. 2019. "The European Parliament after the 2019 Elections: Testing the Boundaries of the 'Cordon Sanitaire.'" *Journal of Contemporary European Research* 15 (4): 331–42.

Risse, Thomas, and Mareike Kleine. 2010. "Deliberation in Negotiations." *Journal of European Public Policy* 17 (5): 708–26.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

Ritchie, Jason. 2015. "Pinkwashing, Homonationalism, and Israel-Palestine: The Conceits of Queer Theory and the Politics of the Ordinary." *Antipode* 3: 616–34.

Riva, Virginie. 2008. "L'articulation entre les dimensions nationales et européenne d'appréhension du religieux : l'exemple des mobilisations autour de la controverse sur la mention des racines chrétiennes de l'Europe." *Eurostudia* 4 (1).

Robert, Cécile. 2001. "La Commission européenne dans son rapport au politique : Pourquoi et comment faire de la politique sans en avoir l'air ?" *Pôle Sud* 15 (1): 61–75.

———. 2008. "Expertise et Action Publique." In *Politiques Publiques*, edited by Olivier Borraz and Virginie Guiraudon, 309–35. Paris: Presses de Sciences Po.

———. 2021a. "Depoliticization at the EU Level : Delegitimization and Circumvention of Representative Democracy in the Government of Europe." In , edited by Claudia Wiesner, 201–22. London: Palgrave Macmillan.

———. 2021b. "Pourquoi et Comment Contourner La Mise En Débat Démocratique de l'action Publique? Modalités, Usages et Enjeux Des Processus de Dépolitisation." In *Confiner La Démocratie. Les Dépolitisations de l'action Publique*, edited by Cécile Robert, 263–83. Lille: Presses Universitaires du Septentrion.

Roger, Léa. 2016. *Voice(s) in the European Parliament*. Nomos Verlagsgesellschaft mbH & Co. KG.

Roger, Léa, and Gary S. Schaal. 2013. "The Quality of Deliberation in Two Committees of the European Parliament: The Neglected Influence of the Situational Context and the Policymaking Stage." *Politics and Governance* 1 (2): 151–69.

Rosenberger, Sieglinde, and Jakob Winkler. 2014. "Com/Passionate Protests: Fighting the Deportation of Asylum Seekers." *Mobilization: An International Quarterly* 19 (2): 165–84.

Roth, Silke. 2007. "Sisterhood and Solidarity? Women's Organizations in the Expanded European Union." *Social Politics: International Studies in Gender, State & Society* 14 (4): 460–87.

Rozenberg, Olivier. 2009. "L'influence du Parlement européen et l'indifférence de ses électeurs : une corrélation fallacieuse ?" *Politique europeenne* n° 28 (2): 7–36.

Rupp, Leila J. 2011. "The Persistence of Transnational Organizing: The Case of the Homophile Movement." *The American Historical Review* 116 (4): 1014–39.

———. 2014. "The European Origins of Transnational Organizing: The International Committee for Sexual Equality." In *LGBT Activism and the Making of Europe. A Rainbow Europe?*, edited by Phillip M. Ayoub and David Paternotte, 29–49. London: Palgrave Macmillan.

Ruzza, Carlo. 2004. *Europe and Civil Society : Movement Coalitions and European Governance*. Manchester University Press.

———. 2014. "Civil Society Actors and EU Fundamental Rights Policy: Opportunities and Challenges." *Human Rights Review* 15 (1): 65–81.

———. 2021a. "The European Commission and Reactions to the 'Populist Turn' in Anti-Discrimination Policy." In *The Impact of Populism on European Institutions and Civil Society: Discourses, Practices, and Policies*, edited by Carlo Ruzza, Carlo Berti, and Paolo Cossarini, 147–71. Palgrave Studies in European Political Sociology. Switzerland: Springer International Publishing.

———. 2021b. "The Populist Radical Right and Its Discursive Impact on EU-Level Civil Society." *European Politics and Society* 22 (4): 567–88.

Ruzza, Carlo, and Emanuela Bozzini. 2008. "Organised Civil Society and European Governance: Routes of Contestation." *European Political Science* 7 (3): 296–303.

Ruzza, Carlo, and Rosa Sanchez Salgado. 2021. "The Populist Turn in EU Politics and the Intermediary Role of Civil Society Organisations." *European Politics and Society* 22 (4): 471–85.

Saltnes, Johanne Døhlie, and Markus Thiel. 2021a. "The Politicization of LGBTI Human Rights Norms in the EU-Uganda Development Partnership." *JCMS: Journal of Common Market Studies* 59 (1): 108–25.

———. 2021b. "The Politicization of LGBTI Human Rights Norms in the EU-Uganda Development Partnership." *JCMS: Journal of Common Market Studies* 59 (1): 108–25.

Sanchez Salgado, Rosa. 2011. "European Civil Society : the Functions of a Fiction." *Raisons politiques* 44 (4): 201–26.

———. 2014. *Europeanizing Civil Society. How the EU Shapes Civil Society Organizations*. Basingstoke: Palgrave Macmillan.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

———. 2021. "Emotions in European Parliamentary Debates: Passionate Speakers or Un-Emotional Gentlemen?" *Comparative European Politics* 19 (4): 509–33.

Sanchez Salgado, Rosa, and Andrey Demidov. 2018. "Beyond the Brussels Bubble? National Civil Society Organisations in the European Union." *Journal of Contemporary European Research* 14 (2): 56–67.

Santaniello, Roberto. 2021. "Populism and European Institutions: A Historical Perspective." In *The Impact of Populism on European Institutions and Civil Society. Discourses, Practices, and Policies*, edited by Carlo Ruzza, Carlo Berti, and Paolo Cossarini. Palgrave Studies in European Political Sociology. Switzerland: Springer International Publishing.

Sartori, Giovanni. 1970. "Concept Misformation in Comparative Politics." *The American Political Science Review* 64 (4): 1033–53.

Saurugger, Sabine. 2002. "L'expertise: un mode de participation des groupes d'intérêt au processus décisionnel communautaire." *Revue francaise de science politique* 52 (4): 375–401.

———. 2006. "The Professionalisation of Interest Representation: A Problem for the Participation of Civil Society in EU Governance?" In *Civil Society and Legitimate European Governance*, edited by Stijn Smismans, 260–76. United Kingdom: Edward Elgar.

———. 2007. "Democratic 'Misfit'? Conceptions of Civil Society Participation in France and the European Union." *Political Studies* 55 (2): 384–404.

Scheel, Stephan, and Philipp Ratfisch. 2014. "Refugee Protection Meets Migration Management: UNHCR as a Global Police of Populations." *Journal of Ethnic and Migration Studies* 40 (6): 924–41.

Scheingold, Stuart. 2004. *The Politics of Rights. Lawyers, Public Policy, and Political Change*. 2nd ed. United States: The University of Michigan Press.

Schmidt, Vivien. 2008. "Discursive Institutionalism: The Explanatory Power of Ideas and Discourse." *Annual Review of Political Science* 11: 303–26.

———. 2010. "Taking Ideas and Discourse Seriously: Explaining Change through Discursive Institutionalism as the Fourth 'New Institutionalism.'" *European Political Science Review* 2 (1): 1–25.

———. 2019. "Politicization in the EU: Between National Politics and EU Political Dynamics." *Journal of European Public Policy* 26 (7): 1018–36.

Schneiker, Andrea. 2019. "The New Defenders of Human Rights? How Radical Right-Wing TNGOs Are Using the Human Rights Discourse to Promote Their Ideas." *Global Society* 33 (2): 149–62.

Schnyder, Melissa. 2015. *Activism, NGOs, and the State. Multilevel Responses to Immigration Politics in Europe*. United States: Rowman & Littlefield International.

———. 2020. "Analysing Norm-Based Advocacy Strategies to Address Asylum on the Basis of Sexual Orientation and Gender Identity in Europe." *Journal of Human Rights Practice* 12 (3): 664–80.

Schotten, C. Heike. 2016. "Homonationalism. From Critique to Diagnosis, or, Are We All Homonationalists Now?" *International Feminist Journal of Politics* 18 (3): 351–70.

Schuster, Liza. 2003. "Common Sense or Racism? The Treatment of Asylum-Seekers in Europe." *Patterns of Prejudice* 37 (3): 233–56.

Scott, James Wesley, and Ilkka Liikanen. 2010. "Civil Society and the 'Neighbourhood' — Europeanization through Cross-Border Cooperation?" *Journal of European Integration* 32 (5): 423–38.

Scott, Joan W. 2002. "L'énigme de l'égalité." *Cahiers du Genre* 33 (2): 17–41.

———. 2010. *The Politics of the Veil*. United States: Princeton University Press.

Sebastiani, Luca. 2017. "¿Para quién y para qué son buenas las buenas prácticas? Unión Europea, integración de (in)migrantes y despolitización/tecnificación de las políticas hegemónicas: un estudio de caso." *Empiria. Revista de metodología de ciencias sociales* 0 (36): 39–62.

Sénac, Philippe. 2006. "La Naissance Progressive d'une Image Hostile." In *Histoire de l'Islam et Des Musulmans En France, Du Moyen-Âge à Nos Jours*, edited by Mohammed Arkoun, 140–47. Paris: Albin Michel.

Sénac, Réjane. 2012. *L'invention de La Diversité*. Paris: Presses Universitaires de France.

———. 2017. *Les non-frères au pays de l'égalité*. Paris: Presses de Sciences Po.

———. 2021. *Radicales et Fluides. Les Mobilisations Contemporaines*. Paris: Presses de Sciences Po.

Settembri, Pierpaolo, and Christine Neuhold. 2009. "Achieving Consensus Through Committees: Does the European Parliament Manage?" *JCMS: Journal of Common Market Studies* 47 (1): 127–51.

Shackleton, Michael. 2017. "Transforming Representative Democracy in the EU? The Role of the European Parliament." *Journal of European Integration* 39 (2): 191–205.

Shuman, Amy, and Carol Bohmer. 2014. "Gender and Cultural Silences in the Political Asylum Process." *Sexualities* 17 (8): 939–57.

Sicakkan, Hakan G. 2013. "Trans-Europeanizing Public Spaces in Europe." In *Linking the European Union with the Citizens. Evaluation of EU Policies Aiming to Create a General European Public Sphere*, edited by Hakan G. Sicakkan, 165–81. Bergen.

Silliman, Jael. 1999. "Expanding Civil Society: Shrinking Political Spaces— The Case of Women's Nongovernmental Organizations." *Social Politics: International Studies in Gender, State & Society* 6 (1): 23–53.

Simmons, Beth A. 2009. *Mobilizing for Human Rights: International Law in Domestic Politics*. New York: Cambridge University Press.

Singler, Samuel. 2021. "Biometric Statehood, Transnational Solutionism and Security Devices: The Performative Dimensions of the IOM's MIDAS." *Theoretical Criminology* 25 (3): 454–73.

Sinha, Anita. 2001. "Domestic Violence and U.S. Asylum Law: Eliminating the Cultural Hook for Claims Involving Gender-Related Persecution Note." *New York University Law Review* 76 (5): 1562–98.

Skleparis, Dimitris, and Ioannis Armakolas. 2016. "The Refugee Crisis and the Role of NGOs, Civil Society, and Media in Greece." In *Balkan Human Corridor: Essays on the Refugee and Migrant Crisis from Scholars and Opinion Leaders in Southeast Europe*, edited by D. L. Phillips, 171–84. United States, Columbia University.

Slavtcheva-Petkova, Vera. 2014. "Rethinking Banal Nationalism: Banal Americanism, Europeanism and the Missing Link between Media Representations and Identities." *International Journal of Communication* 8 (0): 19.

Śledzińska-Simon, Anna, and Krzysztof Śmiszek. 2013. "Demandes d'asile LGBTI: La Perspective Des Pays d'Europe Centrale et Orientale." *Forced Migration Review*, no. 42: 16–18.

Slootmaeckers, Koen. 2021. "The Europeanization and Politicization of LGBT Rights in Serbia." In *The Routledge Handbook of Gender in Central-Eastern Europe and Eurasia*, edited by Katalin Fábián, Janet Elise Johnson, and Mara Lazda. United Kingdom: Routledge.

Slootmaeckers, Koen, Heleen Touquet, and Peter Vermeersch. 2016. *The EU Enlargement and Gay Politics*. United Kingdom: Springer.

Smismans, Stijn. 2003. "European Civil Society: Shaped by Discourses and Institutional Interests." *European Law Journal* 9 (4): 473–95.

———. 2010. "The European Union's Fundamental Rights Myth*." *JCMS: Journal of Common Market Studies* 48 (1): 45–66.

Smith, Anna Marie. 1994. *New Right Discourse on Race and Sexuality*. Cambridge: Cambridge University Press.

Spanje, Joost van. 2010. "Contagious Parties: Anti-Immigration Parties and Their Impact on Other Parties' Immigration Stances in Contemporary Western Europe." *Party Politics* 16 (5): 563–86.

Spathopoulou, Aila, Anna Carastathis, and Myrto Tsilimpounidi. 2020. "'Vulnerable Refugees' and 'Voluntary Deportations': Performing the Hotspot, Embodying Its Violence." *Geopolitics* 0 (0): 1–27.

Spijkerboer, Thomas. 2018. "Gender, Sexuality, Asylum and European Human Rights." *Law and Critique* 29 (2): 221–39.

Spire, Alexis. 2007. "L'asile au guichet." *Actes de la recherche en sciences sociales* n° 169 (4): 4–21.

Spivak, Gayatri. 1983. *Outside in the Teaching Machine*. United Kingdom: Routledge.

Startin, Nicholas. 2010. "Where to for the Radical Right in the European Parliament? The Rise and Fall of Transnational Political Cooperation." *Perspectives on European Politics and Society* 11 (4): 429–49.

Stasiulis, Daiva, and Nira Yuval-Davis. 1995. *Unsettling Settler Societies: Articulations of Gender, Race, Ethnicity and Class*. SAGE.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

Stefanova, Marina. 2014. "The Safe Need Not Apply: The Effects of the Canadian and EU Safe Country of Origin Mechanisms on Roma Asylum Claims Note." *Texas International Law Journal* 49 (1): 121–44.

Steffek, J., C. Kissling, and P. Nanz. 2008. *Civil Society Participation in European and Global Governance: A Cure for the Democratic Deficit?* London: Springer.

Steffek, Jens, and Maria Paola Ferretti. 2009. "Accountability or 'Good Decisions'? The Competing Goals of Civil Society Participation in International Governance." *Global Society* 23 (1): 37–57.

Stoler, Ann Laura. 2002. *Carnal knowledge and imperial power: race and the intimate in colonial rule*. Berkeley: University of California Press.

Stråth, Bo. 2000. *Europe and the Other and Europe as the Other*. Multiple Europe. Brussels: P.I.E. Peter Lang.

Stratigaki, Maria. 2005. "Gender Mainstreaming vs Positive Action: An Ongoing Conflict in EU Gender Equality Policy." *European Journal of Women's Studies* 12 (2): 165–86.

Stubbergaard, Ylva. 2015. "Conflict and Cooperation: Interactions among EU-Level Civil Society Organizations in the Field of Gender Equality." In *EU Civil Society: Patterns of Cooperation, Competition and Conflict*, edited by Håkan Johansson and Sara Kalm. United Kingdom: Palgrave Macmillan.

Suen, Yiu Tung. 2021. "Sexual Minority Expatriates as Agent of Change? How Foreign Same-Sex Couples Won the Recognition of Same-Sex Relationship for Immigration Purposes." *Journal of Ethnic and Migration Studies* 47 (13–14): 2961–78.

Sullivan-Blum, Constance R. 2006. "'The Natural Order of Creation': Naturalizing Discourses in the Christian Same-Sex Marriage Debate." *Anthropologica* 48 (2): 203–15.

Tamagne, Florence. 2002. "Genre et homosexualité." *Vingtieme Siecle. Revue d'histoire* no 75 (3): 61–73.

Tambakaki, Paulina. 2014. "The Tasks of Agonism and Agonism to the Task: Introducing 'Chantal Mouffe: Agonism and the Politics of Passion.'" *Parallax* 20 (2): 1–13.

Tarrow, Sidney. 2001. "Contentious Politics in a Composite Polity." In *Contentious Europeans. Protest and Politics in an Emerging Polity*, edited by Sidney Tarrow and Doug Imig, 233–52. United States: Rowman & Littlefield.

Tekin, Caner. 2019. "Coming to Terms with Liberal Democracy by the Populist Radical Right Parties of Western Europe: Evidence from European Parliament Speeches over Minorities and Migration." In *Exclusion and Inclusion in International Migration: Power, Resistance and Identity*, 13–27. London: Transnational Press London.

Théry, Irène. 2010. "Le Genre : Identité Des Personnes Ou Modalité Des Relations Sociales ?" *Revue Française de Pédagogie*, no. 171: 103–17.

Thiel, Markus. 2014. "European Civil Society and the EU Fundamental Rights Agency: Creating Legitimacy through Civil Society Inclusion?" *Journal of European Integration* 36 (5): 435–51.

Thiel, Markus, and Emek M. Uçarer. 2014. "Access and Agenda-Setting in the European Union: Advocacy NGOs in Comparative Perspective." *Interest Groups & Advocacy* 3 (1): 99–116.

Thiollet, Hélène. 2016. "Depoliticizing Migration : Global Governance and International Migration Narratives." *Critique internationale* 72 (3): 155–59.

Thomas, David A., Donald C. Clarke, Ian David Edge, Thomas J. Bernard, and Antony Nicolas Allott. 1998. "Crime (Law)." In *Encyclopedia Britannica*.

Thompson, Simon, and Paul Hoggett. 1996. "Universalism, Selectivism and Particularism: Towards a Postmodern Social Policy." *Critical Social Policy* 16 (46): 21–42.

Tissier-Raffin, Marion. 2015. "L'orientation sexuelle comme motif de persécution doit être appréciée dans la dignité. Droit d'asile (Directive 2004/83/CE & Directive 2005/85/CE)." *La Revue des droits de l'homme. Revue du Centre de recherches et d'études sur les droits fondamentaux*.

———. 2019. "Le réfugié de 1951 dans la continuité de l'asile politique du XIXe siècle." *Monde(s)* N° 15 (1): 141–62.

Torfing, Jacob. 2005. "Governance Network Theory: Towards a Second Generation." *European Political Science* 4 (3): 305–15.

Torfing, Jacob, and Eva Sørensen. 2014. "The European Debate on Governance Networks: Towards a New and Viable Paradigm?*." *Policy and Society* 33 (4): 329–44.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

Tschalaer, Mengia. 2019. "Between Queer Liberalisms and Muslim Masculinities: LGBTQI+ Muslim Asylum Assessment in Germany." *Ethnic and Racial Studies* 0 (0): 1–19.

Tsourdi, Evangelia. 2021. "Beyond the 'Migration Crisis': The Evolving Role of EU Agencies in the Administrative Governance of the Asylum and External Border Control Policies." In *The Role of EU Agencies in the Eurozone and Migration Crisis. Impact and Future Challenges*, edited by Johannes Pollak and Peter Slominski, 175–204. London: Palgrave Macmillan.

Tsourdi, Evangelia (Lilian). 2013. "Sexual orientation and gender identity: developments in EU law." *Forced Migration Review* 42: 20–21.

Uçarer, Emek M. 2002. "Guarding the Borders of the European Union: Paths, Portals, and Prerogatives." In *Migration and the Externalities of European Integration*, edited by Sandra Lavenex and Emek M. Uçarer. Lexington: Lanham.

Uenal, Fatih. 2016. "The Secret Islamization of Europe Exploring the Integrated Threat Theory: Predicting Islamophobic Conspiracy Stereotypes." *International Journal of Conflict and Violence (IJCV)* 10 (October): 93–108.

Valette, Marie-Françoise. 2016. "Protection and Promotion of Migrants' Social Rights by the European Committee of Social Rights." Translated by Alexandra Pomeon. *Revue Européenne Des Migrations Internationales* 32 (3–4)..

Valji, Nahla. 2001. "Women and the 1951 Refugee Convention: Fifty Years of Seeking Visibility | Refuge: Canada's Journal on Refugees." *Refuge: Canada's Journal on Refugees* 19 (5). https://refuge.journals.yorku.ca/index.php/refuge/article/view/21227.

Van Der Heijden, Hein-Anton. 1997. "Political Opportunity Structure and the Institutionalisation of the Environmental Movement." *Environmental Politics* 6 (4): 25–50.

Vantaggiato, Francesca Pia, Hussein Kassim, and Sara Connolly. 2020. "Breaking out of Silos: Explaining Cross-Departmental Interactions in Two European Bureaucracies." *Journal of European Public Policy* 0 (0): 1–21.

Ventos Lopes Heimer, Rosa dos. 2020. "Homonationalist/Orientalist Negotiations: The UK Approach to Queer Asylum Claims." *Sexuality & Culture* 24 (1): 174–96.

Verloo, Mieke. 2006. "Multiple Inequalities, Intersectionality and the European Union." *European Journal of Women's Studies* 13 (3): 211–28.

Vleuten, Anna van der. 2014. "Transnational LGBTI Activism and the European Courts: Constructing the Idea of Europe." In *LGBT Activism and the Making of Europe: A Rainbow Europe?*, edited by Phillip M. Ayoub and David Paternotte, 119–44. Gender and Politics Series. London: Palgrave Macmillan UK.

Vogler, Stefan. 2016. "Legally Queer: The Construction of Sexuality in LGBQ Asylum Claims." *Law & Society Review* 50 (4): 856–89.

Voss, M. Joel. 2020. "Europe's Supranational Courts and LGBT Rights." In *Oxford Research Encyclopedia of Politics*. Oxford.

Waddington, Lisa, and Mark Bell. 2001. "More Equals than Others: Distinguishing European Union Equality Directives." *Common Market Law Review* 38: 587–611.

Waites, Matthew. 2009. "Critique of 'Sexual Orientation' and 'Gender Identity' in Human Rights Discourse: Global Queer Politics beyond the Yogyakarta Principles." *Contemporary Politics* 15 (1): 137–56.

Walsh, Cormac, Marta Jacuniak-Suda, Jörg Knieling, and Frank Othengrafen. 2012. "Soft Spaces in spatial planning and governance: theoretical reflections and definitional issues.", *Regional Studies Association European Conference*

Warleigh, Alex. 2004. "Informal Governance: Improving EU Democracy?" In *Informal Governance in the European Union*, edited by Thomas Christiansen, Andreas Føllesdal, and Simona Piattoni. United Kingdom: Edward Elgar Publishing.

Wassenberg, Birte, and Sylvain Schirmann. 2018. "Culture Politique et Dynamiques Du Parlement Européen, 1979-1989." Brussels: Direction générale des services de recherche parlementaire, Parlement Européen.

Weber, Leanne. 2014. *Policing Non-Citizens*. London: Routledge.

Wedel, Janine R., Cris Shore, Gregory Feldman, and Stacy Lathrop. 2005. "Toward an Anthropology of Public Policy." *The ANNALS of the American Academy of Political and Social Science* 600 (1): 30–51.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

Weisbein, Julien. 2003. "Sociogenèse de la « société civile européenne »." *Raisons politiques* 10 (2): 125–37.

Whittier, Nancy. 2021. "How Emotions Shape Feminist Coalitions." *European Journal of Women's Studies* 28 (3): 369–86.

Winer, Canton, and Catherine Bolzendahl. 2021. "Conceptualizing Homonationalism: (Re)Formulation, Application, and Debates of Expansion." *Sociology Compass* 15 (5).

Winter, Bronwyn. 2012. "Sûr de Rien: Les Demandeurs/Euses d'asile Homosexuels et Lesbiennes Face à l'idée Des 'Pays Sûrs.'" *Australian Journal of French Studies*, September.

Witschel, Michael A. 2016. "Human Rights in Times of Crisis: Article 3 Prevails - Examining How LGBTQ Asylum Seekers in the European Union Are Denied Equal Protection of Law Comment." *American University International Law Review* 32 (5): 1047–78.

Wodak, Ruth. 2004. "National and Transnational Identities: European and Other Identities Constructed in Interviews with EU Officials." In *Transnational Identities: Becoming European in the EU*, edited by Richard K. Herrmann, Thomas Risse, and Marilynn B. Brewer. United States: Rowman and Littlefield Publishers.

———. 2019. "Analysing the Micropolitics of the Populist Far Right in the 'post-Shame' Era." In *Europe at the Crossroads. Confronting Populist, Nationalsit, and Global Challenges*, edited by Pieter Bevelander and Ruth Wodak, 63–92. Lund: Nordic Academic Press.

Woesthoff, Julia. 2013. "'Foreigners and Women Have the Same Problems': Binational Marriages, Women's Grassroots Organizing, and the Quest for Legal Equality in Post-1968 Germany." *Journal of Family History*, October.

Woll, Cornelia. 2012. "The Brash and the Soft-Spoken: Lobbying Styles in a Transatlantic Comparison." *Interest Groups & Advocacy* 1 (2): 193–214.

Yılmaz, Ferruh. 2012. "Right-Wing Hegemony and Immigration: How the Populist Far-Right Achieved Hegemony through the Immigration Debate in Europe." *Current Sociology* 60 (3): 368–81.

———. 2015. "From Immigrant Worker to Muslim Immigrant: Challenges for Feminism." *European Journal of Women's Studies* 22 (1): 37–52.

Youngs, Richard. 2014. "Climate Change and EU Security Policy: An Unmet Challenge." *Naçao e Defesa*, no. 137: 100–117.

Zaun, Natascha. 2020. "Fence-Sitters No More: Southern and Central Eastern European Member States' Role in the Deadlock of the CEAS Reform." *Journal of European Public Policy* 0 (0): 1–22.

Zhelyazkova, Asya. 2013. "Complying with EU Directives' Requirements: The Link between EU Decision-Making and the Correct Transposition of EU Provisions." *Journal of European Public Policy* 20 (5): 702–21.

Zimmermann, Lisbeth, Nicole Deitelhoff, and Max Lesch. 2017. "Unlocking the Agency of the Governed: Contestation and Norm Dynamics." *Third World Thematics: A TWQ Journal* 2 (5): 691–708.

Zisakou, Sophia. 2021. "Credibility Assessment in Asylum Claims Based on Sexual Orientation by the Greek Asylum Service: A Deep-Rooted Culture of Disbelief." *Frontiers in Human Dynamics* 3.

Zürn, Michael. 2019. "Politicization Compared: At National, European, and Global Levels." *Journal of European Public Policy* 26 (7): 977–95.

Zürn, Michael, and Pieter de Wilde. 2016. "Debating Globalization: Cosmopolitanism and Communitarianism as Political Ideologies." *Journal of Political Ideologies* 21 (3): 280–301.

Zwaan, Karin. 2019. "The Aznar Protocol. Diminishing the Geography of Refugee Protection in Europe." In *Caught In-between Borders: Citizens, Migrants and Humans*, edited by P.E Minderhoud, S.A Mantu, and K.M Zwaan, 303–11. Tilburg: Wolf Legal Publishers.

Non-academic sources quoted in text:

End FGM European Campaign (Amnesty International), EWL, ILGA-Europe. 2011. "Engendering the European Asylum Support Office" https://ilga-europe.org/files/uploads/2022/06/En-gendering-European-Asylum-Support-Office.pdf

EUAA. 2015. "Researching the situation of lesbian, gay, and bisexual persons (LGB) in countries of origin" https://euaa.europa.eu/sites/default/files/public/Researching-the-situation-of-LGB-in-countries-of-origin-FINAL-080515.pdf

EUAA. 2021. "Training Catalogue. Training and Professional Development Centre", https://euaa.europa.eu/publications/training-catalogue-2021

EPP. 2020. "EPP Group Position Paper on Asylum and Migration." https://www.eppgroup.eu/newsroom/publications/epp-group-position-paper-on-asylum-and-migration.

European Council on Refugees and Exiles. 2010. "Comments from the European Council on Refugees and Exiles on the European Commission Proposal to Recast the Qualification Directive." Brussels.

European Migration Network. 2018. "Safe Countries of Origin - EMN Inform." Brussels: European Migration Network. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_inform_safe_country_of_origin_final_en_1.pdf.

FRA (2017), "Current migration situation in the EU: Lesbian, gay, bisexual, transgender and intersex asylum seekers" https://fra.europa.eu/en/publication/2017/current-migration-situation-eu-lesbian-gay-bisexual-transgender-and-intersex

ILGA-Europe. 2007. "Written Response to the EC Consultation on New Anti-Discrimination Measures." Brussels. https://www.ilga-europe.org/resources/policy-papers/written-responseto-ec-consultation-new-anti-discrimination-measures

Jansen, Sabine. 2018. "Pride or Shame: Assessing LGBTI Asylum Applications in the Netherlands Following the XYZ and ABC Judgements." Amsterdam: COC Netherlands.

Jansen, Sabine, and Thomas Spijkerboer. 2011. "Fleeing Homophobia, Asylum Claims Related to Sexual Orientation and Gender Identity in Europe."

LGBTI Intergroup. 2016. "European Parliament demands protection LGBTI refugees, also from 'safe' countries" https://lgbti-ep.eu/2016/03/08/european-parliament-demands-protection-lgbti-refugees-also-from-safe-countries/

UNHCR. 2021. "Training package: SOGIESC and working with LGBTIQ+ persons in forced displacement", https://www.unhcr.org/workingwithlgbtiq-sogiesc-trainingpackage.html

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Annexes

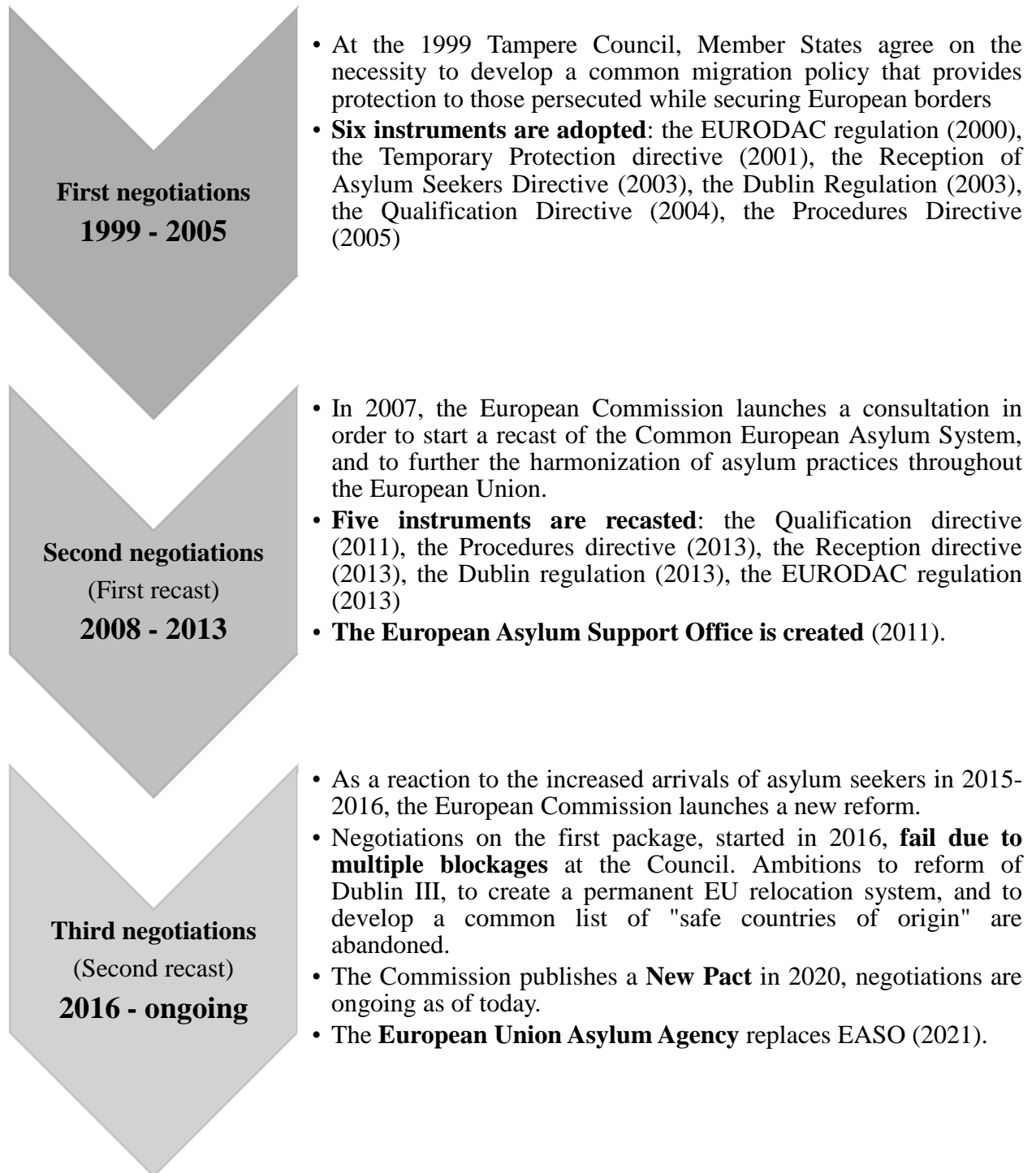**Annex 1 – List of relevant texts and timeline of the Common European Asylum System**

List of Common European Asylum System directives and regulations

- The Qualification Directive (2011/95/EU) clarifies who may qualify for international protection within the European Union.
- The Asylum Procedures Directive (2013/32/EU) sets out the framework for the processing asylum claims. It also clarifies who may benefit from further support during the assessment of their claim ("special procedural guarantees")
- The Reception Conditions Directive (2013/33/EU) seeks to harmonize reception conditions throughout the European Union. It defines the concept of "vulnerability".
- The Dublin III Regulation (No 604/2013) establishes rules governing the relations between Member States on matters of migration. Among others, it determinates the country responsible for the processing of a given asylum claim.
- The EURODAC Regulation (No 603/2013) supports the Dublin III Regulation, notably by allowing the registration of the fingerprints of asylum seekers in a shared database.
- The European Union Asylum Agency Regulation (No 2021/2303) establishes the European Union Asylum Agency, and replaces the previous regulation establishing the European Asylum Support Office
- The Temporary Protection Directive (2001/55/EC) provides a mechanism allowing to protect asylum seekers in case of a massive arrival. It was first activated in 2022.
- The European Resettlement Framework (proposal) proposes a structured resettlement policy. It is still at the stage of proposal since 2016.
- The Return Directive (2008/115/EC) is not part of the Common European Asylum System *per se,* but it is relevant to asylum seekers as it establishes procedures for the return of foreigners without a permit to stay (including asylum seekers when their claims have been refused)

Other directives mentioned in the dissertation

- The 1976 Equal Treatment between men and women Directive (76/207/EEC – replaced by 2006/54/EC) affirms the principle of equal treatment between men and women as regards access to employment and training.
- The Equal Treatment Directive (2000/78/EC) establishes a framework on discrimination in employment covering religion, disability, age, and sexual orientation.
- The 2000 Racial Equality Directive (2000/43/EC) establishes a framework on discrimination based on racial or ethnic origin. It covers a broader set of sectors of activity, including employment, training, unions, social protection and healthcare, education, social advantages, good and services.
- The Victim of Crimes Rights Directive (2012/29/EU) establishes common standards with regard to the treatment of victims of crimes in the European Union.

Timeline of Common European Asylum System reforms

**First negotiations
1999 - 2005**

- At the 1999 Tampere Council, Member States agree on the necessity to develop a common migration policy that provides protection to those persecuted while securing European borders
- **Six instruments are adopted**: the EURODAC regulation (2000), the Temporary Protection directive (2001), the Reception of Asylum Seekers Directive (2003), the Dublin Regulation (2003), the Qualification Directive (2004), the Procedures Directive (2005)

Second negotiations
(First recast)
2008 - 2013

- In 2007, the European Commission launches a consultation in order to start a recast of the Common European Asylum System, and to further the harmonization of asylum practices throughout the European Union.
- **Five instruments are recasted**: the Qualification directive (2011), the Procedures directive (2013), the Reception directive (2013), the Dublin regulation (2013), the EURODAC regulation (2013)
- **The European Asylum Support Office is created** (2011).

Third negotiations
(Second recast)
2016 - ongoing

- As a reaction to the increased arrivals of asylum seekers in 2015-2016, the European Commission launches a new reform.
- Negotiations on the first package, started in 2016, **fail due to multiple blockages** at the Council. Ambitions to reform of Dublin III, to create a permanent EU relocation system, and to develop a common list of "safe countries of origin" are abandoned.
- The Commission publishes a **New Pact** in 2020, negotiations are ongoing as of today.
- The **European Union Asylum Agency** replaces EASO (2021).

Annex 2 – List of interviewees

At the European Parliament (politicians and affiliated – 17 interviewees):

BJÖRK Malin, MEP, and rapporteur for the Resettlement Framework, GUE/NGL (Sweden), 23/04/2020

DELBOS-CORFIELD Gwendoline, MEP, Greens/EFA (France), 06/04/2020

DEN HERTOG Leonhard, assistant to the MEP rapporteur on Reception Conditions directive, Renew (Netherlands), 13/03/2020

LENAERS Jeroen, MEP and shadow rapporteur for the Procedures directive, EPP (Netherlands), 23/03/2020

MADISON Jaak, MEP and shadow rapporteur for the Procedures directive, ID (Estonia), 19/03/2020

MATIAS Marisa, MEP, GUE/NGL (Portugal), 18/05/2020

MELCHIOR Karen, MEP, Renew (Denmark), 08/04/2020

MORAES Claude, MEP, S&D (United Kingdom), 07/05/2020

PAILLERET David, assistant to MEP shadow rapporteur of the Return directive, GUE/NGL (France), 05/05/2020

PELLETIER Anne-Sophie, MEP, and shadow rapporteur for the Return directive, GUE/NGL (France), 05/05/2020

PIETIKÄINEN Sirpa, MEP and ex-vice president of the LGBTI Intergroup, EPP (Finland), 27/05/2020

REGO Sira, MEP and shadow rapporteur for the Procedures directive, GUE/NGL (Spain), written response, 23/06/2020

SANCHEZ-LAMBERT Juliette, past general secretary of the LGBTI Intergroup at the European Parliament and past staff member of ILGA-Europe, 08/05/2020

STRIK Tineke, MEP and rapporteur for the Return directive, Greens/EFA (Netherlands), 30/04/2020

Lisa (anonymous), S&D assistant, 20/03/2020

Elisabeth (anonymous), MEP, EPP, 30/03/2020

Nathanael, past administrative staff member of the LGBTI Intergroup, 28/02/2020

At the European Commission and in European agencies (civil servants – 7 interviewees):

BARACCHI Anna, training officer at the EUAA, 25/05/2020

JERCA Flavia, senior reception officer at the EUAA, 25/05/2020

VILLE Jean-Louis, Commission DG DEVCO, past Head of Unit "Human Rights, Gender and Democratic Governance", 18/05/2020

Abigail (anonymous), Country-of-Origin Information officer at the EUAA, written response, 01/12/2020

Rachel (anonymous), vulnerability officer at the EUAA, 25/05/2020

Civil servant (anonymous), 29/04/2020

Civil servant (anonymous), 06/05/2020

In European lobbies and nongovernmental organizations (expert activists – 17 interviewees):

AGIUS Silvan, past staff member of ILGA-Europe and cabinet expert for Commissioner for Equality Helena DALLI, 29/02/2020

BELL Mark, past member of ILGA-Europe and expert for them, 24/02/2020

BODEUX Leïla, policy and advocacy officer on migration at Caritas Europa, 04/06/2020

GERVAIS Camille, European advocacy officer, Front Line Defenders, 09/05/2020

GRAHAM Catriona, policy and campaigns officer at EWL, 11/05/2020

KILBRIDE Erin, research and visibility coordinator, Front Line Defenders, 13/05/2020

LE DEROFF Joël, past policy and programme officer at ILGA-Europe, 23/03/2020

LEVOY Michele, director of PICUM, 28/05/2020

PERTL Luan, finance and administration officer at OII-Europe, 04/06/2020

PRENDIVILLE Patricia, past executive director of ILGA-Europe, 16/04/2020

QUEVAL Cécile, European advocacy officer, Forum Réfugiés-Cosi, 23/04/2020

RAICEVIK Vuk, advocacy manager, ERA, 28/05/2020

WARNER Nigel, historical activist and long-time member of ILGA-Europe, 06/10/2020

ZELVENSKA Julia, head of legal support and litigation at ECRE, 22/04/2020

Dorothy (anonymous), spokeperson of a migrants' rights organization, 05/06/2020

Jean (anonymous), PICUM, 24/06/2020

Leah (anonymous), antiracist activist, 15/05/2020

European experts and researchers (4 interviewees):

JANSEN Sabine, lead researcher in the Fleeing Homophobia project, 03/04/2020

PAPAGIANNAKIS Lefteris, past Vice Mayor on Migrant and Refugee Affairs at the Municipality of Athens, 14/05/2020

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PEYGHAMBARZADEH Zeynab, PhD student at Huddersfield and activist, 03/06/2020

TSOURDI Evangelia (Lilian), Assistant Professor of European Union Law at Maastricht University and past expert for ILGA-Europe, 20/03/2020

In local associations (activists – 27 interviewees):

For reasons of security, the name of interviewees whom I did not contact back (because I did not need their approval for a quote) has been removed. Their position is still indicated because at the time of the interview they agreed with the idea of being potentially quoted. This is to avoid having their names associated with LGBTI asylum in a definitive manner on Internet.

APATA Aderonke, founder, African Rainbow Family (United Kingdom), 10/09/2020

GRACANIN Eva, finance and administration officer, Legebitra (Slovenia), 22/11/2019

HUBER Marty, activist, Queer Base (Austria), 10/12/2019

KORTENBACH Maria, contactperson, LGBT Asylum (Denmark), 22/11/2019

LE MOULLEC-RIEU Aude, president, ARDHIS (France), 27/11/2019

NANNEN David, activist, HAKI (Germany), 29/11/2019

O'REAGAN Collette, training officer, LGBT Ireland (Ireland), 27/11/2019

RAMOS Marta, president, Associação ILGA Portugal, 12/11/2019

SARTINI Michela, past social worker, Centro Risorse LGBTI of Bologna (Italy), 27/04/2020

Leonardo (anonymous), activist, Italy, 17/04/2020

Elias (anonymous), activist, Malta, 21/04/2020

Founder, Why Me (Belgium), 20/05/2020

Project coordinator, çavaria (Belgium), 12/12/2019

Psychologist, Cyprus Refugee Council (Cyprus), 05/12/2019

Contactperson, LGBT Denmark (Denmark), 06/12/2019

President, Helsinki Pride Community (Finland), 11/12/2019

Past board member, LSVD (Germany), 21/12/2019

Project officer, LSVD (Germany), 20/12/2019

Board member, Colour Youth (Greece), 03/06/2020

Activist, The Project (Greece), 31/05/2020

Activist 2, The Project (Greece), 31/05/2020

Vice-president, Transvanilla Transgender Association (Hungary), 25/08/2020

President of a local section, Arcigay (Italy), 23/04/2020

National referee, Arcigay (Italy), 17/04/2020

President, IAM Intersectionalities And More (Italy), 28/11/2019

Psychologist and board member, Queer World (Norway), 08/05/2020

President of the board, Association for Legal Intervention (Poland), 09/09/2020

Annex 3 – Interview schedule

Note: this is an indicative interview schedule. Questions were reformulated depending on the position of the interviewee. However, the main themes were always covered.

Introductory section

Could you please tell me a bit about your personal journey, and how you became *[insert]* at *[insert]*? What made you become interested in European politics, or why did you choose to work at the European level? *[ask also about their interest for gender/migration]*

Migration policies and security

Key question: What is your personal viewpoint on the way migration and asylum issues are currently being managed by the EU? What do you think are the place of gender and sexuality related issues therein?

Both from your personal standpoint and as a member of *[institution/organization],* what do you think should be the priorities of the ongoing asylum law reform? Do you feel like your position is heard by your colleagues, or by European institutions in general?

Are you in favor of the greater harmonization of European asylum systems, or is it rather something that you oppose? And, if you are in favor of this harmonization, which form should it take? (binding instruments, trainings, sharing of good practices, etc).

Vulnerability, gender, and human rights

Migration issues are very politicized at the moment, and so are LGBTI and gender-related issues. Do you feel like it is becoming difficult to talk about these issues in *[context]*?

When analyzing the different files of the CEAS reform, I noticed that references to "vulnerable groups", including LGBTI people, was very present in the texts. Do you think that it is a good thing to have the protection of these groups explicitly stated into law? Or do you favor a more "universalist" approach?

Do you think that LGBTI people face specific issues during their migratory journey, whether it is in terms of factors leaving them to leave, the travel itself, or the asylum procedure in Europe? What should be done?

What do you think *should* be the role of the EU in the development of this protection?

Ideally, what should a really gender-sensitive European asylum policy look like?

When I am talking about migration to my interviewees, I have noted that people react very differently depending on their political group or their institution. What do you think about this, is it something that you see too? And how would you define your action, compared to that of others?

There is a lot going on around migration at the moment (it is very discussed in politics, there is so much happening at the borders or inside many countries, etc), and the idea that we would be at a 'turning point' for EU migration policies is also something that comes back very often in my interviews. What do you think? Are we at a turning point, or is it just 'as usual'?

According to you, what is the level of public policy (international, European, national, local,...) the most legitimate to tackle migration issues today? Do you see tensions between these different levels of policymaking?

Do you think that 2019 elections were a good momentum for far-right, anti-immigration and anti-gender parties? If so, what impact do you see on *[context]*?

In these times of pandemic, what do you think about the current situation of human rights throughout the EU? What impact on LGBTI people, on migrants, on women, or on the people most at-risk in general?

Annex 4 – Online survey questions: text of the questionnaire

This questionnaire is adressed to civil society organizations dealing with the issue of LGBT+ asylum in Europe.

The questionnaire will contribute to the PhD research by Amandine Le Bellec in international studies and political science at the University of Trento and Sciences Po Paris. It aims at analyzing the current state and trends of LGBTQI+ asylum in the Europe ; and at identifying the main disparities (or on the contrary recurrences) among states (specific focus on EU member-states but not restricted to them). Respondants are warmly invited to provide their email address at the end of the questionnaire if they wish to receive the results of the study. For further inquiries and/or doubts about what this research is about, please send an email to amandine.lebellec@unitn.it

Please note that only one answer per organization is needed (no multiple submissions by different members). Answers will remain anonymous.

The questionnaire should take you around 15 minutes to complete.

Consent section

I have read and understood the information on Amandine Le Bellec's study on LGBTQI asylum in Europe (section 1 of this questionnaire). I voluntarily and freely consent to be a participant in this study, and I have understood that I can withdraw from the study at anytime, without giving any reason, by sending an email to: amandine.lebellec@unitn.it. I understand that participating in this research involves completing this questionnaire.

I understand that personal information that can identify me, such as my position in my organization, will be known by the researcher only. I agree that my information can be quoted in research outputs anonymously.

I also understand that information I provide will be used for Amandine Le Bellec's PhD research. This includes both her dissertation in itself, but also possible forms of valorization of the research (research articles, book or book chapters for example).

I have read and understood the paragraph above, and I agree to participate in this research:

- YES/NO

I am above 18 years old:

- YES/NO

This first section aims at better understanding the type of support that civil society organizations are providing to LGBTQI+ asylum-seekers; and the challenges they may encounter.

Which LGBTQI asylum-related activities do you lead in your organization? (multiple choice)

- Legal advice / other types of support during the procedure (helping the asylum seeker filling forms, etc) / Psychological counselling / Cultural and sport events / Community events (support groups, language classes, parties, etc) / Research / Information sharing / Advocacy or lobbying / Protests / Other:…….

On a scale from 0 (very easy) to 10 (very difficult), how difficult is it to lead your activities related to the support of LGBTQI asylum seekers in your country?

If your answer was above 5: is your feeling that these difficulties are more related to the fact that LGBTQI issues are considered controversial, or more to the tension around migration?

- It is rather related to LGBTQI issues / It is rather related to migration issues / You don't know / Other:……

How would you describe your relationship to asylum institutions? [first instance / appeal institution]

- Not relevant / Conflictual / Quite conflictual / Neutral / Quite good / Good

What groups do you focus on in your work? Please check all that apply.

- No particular focus, we work with asylum seekers in general / LGBT asylum seekers only / gay and bisexual men only / lesbian and bisexual women only / trans and non-binary people only / people from a specific religion / people from a specific ethnicity / people from a specific nationality / Other:……………

This section aims at providing an overview of the situation asylum-seekers may face in different European countries, thus seeking to identify patterns (or lack thereof).

Compared to non-LGBTQI asylum seekers, how difficult do you think it is for LGBTQI asylum seekers to get refugee status in your country?

- Scale from 0 (much easier) to 10 (much more difficult)

If you wish to explain your answer to the previous question, please do so here.

In your experience, how often do the asylum seekers you support tend to encounter the following issues DURING the asylum procedure? (If you are not supporting LGBTIQ asylum seekers directly, please tick 'not relevant'. If you used to support LGBTQI asylum seekers but do not do so anymore, please base yourself on your previous experience).

- LGBTphobias: Not relevant / never / rarely / sometimes / regularly / often / very often / almost always
- Sexism: (same)
- Racism and xenophobia: (same)
- Religious discrimination: (same)
- Discrimination based on health: (same)
- Language-related issues: (same)
- Education-related issues: (same)
- Poverty: (same)

Did the 2015 "refugee crisis" have an impact on LGBTQI asylum seekers in your country?

- Yes, it impacted LGBTQI asylum seekers directly
- Yes, but it did not impact LGBTQI asylum seekers per se, rather all asylum seekers in general
- No

Please specify briefly.

Section: role of the European Union

This section aims at evaluating the role the EU may have for you as an organization, and the relevance of EU legislation (Common European Asylum System: Qualification, Reception and Procedure Directives, Dublin regulation,...) to your work.

Compared to national law, how important is the EU framework to your activities?

- Scale from 0 (not important: national law is more relevant) to 10 (very important: we refer to EU frameworks much more than national law)

Do you consider EU frameworks in… (this question is about your overall relationship to EU frameworks. If you wish to nuance your point of view, please do not hesitate to fill in the next section).

- … A mostly positive way (ex: it is an advocacy resource for your organization)
- …A mostly negative way (ex: you have to deal with negative impacts on asylum seekers)
- Not relevant
- Other:………….

Please specify which elements of EU law you refer to most often, and/or elaborate on the way you mobilize them.

Within your own country, do you have contacts with any of these organizations? (tick all that apply)

- Organizations dealing specifically with LGBTQI asylum seekers
- Organizations dealing with broader issues (medical help, migrants organizations,…)
- Organizations that are part of the same umbrella network

- We don't have contacts with any organizations
- Other:…………………

Outside your own country, do you have contacts with any of these organizations regarding LGBTQI asylum?

- Local organizations based in Member States
- EU level organizations (ex: ILGA-Europe)
- Organizations outside the EU
- No
- Other :…………..

What kind of relationship exactly ? (ex: being in the same network, information sharing, lobbying, redirecting asylum seekers to each other, etc). Open ended question.

Section: demographic data

Name of the organization:………….

Your position in the organization:……………..

Country:………………

You are…

- An organization focusing exclusively on LGBTQI asylum
- A LGBTQI organization with a migration programme
- A migrants organization with a LGBTQI programme
- A human rights organization with an asylum programme
- Other:……………..

Are you a faith-based organization? If so, please specify.

When did you start working on LGBTQI asylum issues?

Size of the organization (local level). This refers to your local branch. For example, if you are part of an international NGO, do not indicate the global number of members, but just the one of the team you are working with (whether at the country/region/city level, as appropriate).

- 1-10 members
- 11-30 members
- 31-50 members
- 51-100 members
- 101-500 members
- +500 members

Numbers of asylum seekers supported on average (per year) in the last 5 years:

- 1-10
- 11-30

- 31-50
- 51-100
- 101-300
- 301-500
- 501-800
- 801-10000
- +10000

Do you accept public funding as an organization? (whether or not for the LGBTQI asylum programme)

- YES/NO

If not, why?

- Lack of available funding
- Political choice
- Because of sufficient funds from other sources
- Other:…………

Conclusion

Do you want to add something in particular?

Do you wish to be contacted with the results of this research? If so, please indicate an email address here: …………………….

Annex 5 – List of respondents to the questionnaire (nationality and type of organization)

Respondent 1, Organization focusing exclusively on LGBTI asylum (Denmark)

Respondent 2, LGBTI organization working ad hoc on migration (Slovenia)

Respondent 3, LGBTI organization with a migration programme (Ireland)

Respondent 4, Human rights organization with an asylum programme (Poland)

Respondent 5, Human rights organization with an asylum programme (Italy)

Respondent 6, LGBTI organization with a migration programme (Germany)

Respondent 7, Human rights organization with a LGBTI asylum programme (Germany)

Respondent 8, Asylum organization with a LGBTI programme (Cyprus)

Respondent 9, Human rights organization with an asylum programme (Hungary)

Respondent 10, An organization focusing exclusively on LGBTI asylum (Austria)

Respondent 11, An organization focusing exclusively on LGBTI asylum (Austria)

Respondent 12, An organization focusing exclusively on LGBTI asylum (France)

Respondent 13, An organization focusing exclusively on LGBTI asylum (Austria)

Respondent 14, A LGBTI organization with a migration programme (Germany)

Respondent 15, A LGBTI organization with a migration programme (Portugal)

Respondent 16, A LGBTI organization with a migration programme (Germany)

Respondent 17, An organization focusing exclusively on LGBTI asylum (United Kingdom)

Respondent 18, An organization focusing exclusively on LGBTI asylum (Germany)

Respondent 19, A LGBTI organization with a migration programme (Germany)

Respondent 20, A LGBTI organization with a migration programme (Germany)

Respondent 21, An organization for youth work, social work, and projects to support migrants, with one project to support specifically LGBTI refugees (Germany)

Respondent 22, A LGBTI organization with a migration programme (Germany)

Respondent 23, A LGBTI organization with a migration programme (Germany)

Respondent 24, A LGBTI organization with a migration programme (Germany)

Respondent 25, A LGBTI organization with a migration programme (Germany)

Respondent 26, An organization focusing exclusively on LGBT+ asylum (Germany)

Respondent 27, An LGBTI organization with no specific migration programme (Cyprus)

Respondent 28, A LGBTI organization with a migration programme (Germany)

Respondent 29, A LGBTI organization with a migration programme (Germany)

Respondent 30, A LGBTI organization with a migration programme (Germany)

Respondent 31, A LGBTI organization with a migration programme (Germany)

Respondent 32, A LGBTI organization with a migration programme (Germany)

Respondent 33, An organization focusing on LGBTI migrants (France)

Respondent 34, A LGBTI organization with a migration programme (France)

Respondent 35, A LGBTI organization with a migration programme (France)

Respondent 36, An organization supporting LGBTI Muslims (United Kingdom)

Respondent 37, A LGBTI organization with a migration programme (France)

Respondent 38, A human rights organization with an asylum programme (Estonia)

Respondent 39, An asylum organization with a LGBTI programme (Spain)

Respondent 40, A human rights organization mostly focusing on LGBTI rights but supporting asylum seekers on an ad hoc basis (Lithuania)

Respondent 41, A LGBTI organization with a migration programme (France)

Respondent 42, A LGBTI organization with a migration programme (Croatia)

Respondent 43, A human rights organization with an asylum programme (Malta)

Respondent 44, A LGBTI organization with a migration programme (Italy)

Respondent 45, A LGBTI organization with a migration programme (Italy)

Respondent 46, An organization focusing exclusively on LGBTI asylum (Norway)

Respondent 47, A LGBTI organization open to asylum seekers without specific programme (Hungary)

Respondent 48, A LGBTI organization with a migration programme (Belgium)

Respondent 49, A human rights organization with an asylum programme (Turkish Republic of North Cyprus)

Respondent 50, An organization focusing exclusively on LGBTI asylum (Spain)

Respondent 51, A human rights organization with an asylum programme (Greece)

Respondent 52, A LGBTI organization with a migration programme (Belgium)

Respondent 53, An organization focusing exclusively on LGBTI asylum (United Kingdom)

Respondent 54, A LGBTI organization with a migration programme (Belgium)

Respondent 55, An organization focusing exclusively on LGBTI asylum (United Kingdom)

Respondent 56, An organization focusing only on lesbian and bisexual women asylum seekers and refugees (United Kingdom)

Respondent 57, A LGBTI organization (Belgium)

Respondent 58, A trans organization working with migrants (Hungary)

Respondent 59, An organization focusing exclusively on LGBTI asylum (United Kingdom)

Respondent 60, A majority LGBTI church with an asylum programme (United Kingdom)

Respondent 61, A LGBTI organization with a migration programme (Italy)

Respondent 62, A LGBTI organization with a migration programme (Italy)

Respondent 63, An organization focusing exclusively on LGBTI asylum (Italy)

Respondent 64, A LGBTI organization with a migration programme (Italy)

Respondent 65, A human rights organization with an asylum programme (Italy)

Respondent 66, A LGBTI organization with a migration programme (Italy)

Le Régime d'Asile Européen Commun à l'épreuve des droits LGBTI

La politisation du genre et de la sexualité au sein des réformes du droit d'asile européen (1999-2020)

Résumé en français

Les questions de genre et de migration sont souvent considérées comme faisant partie des défis principaux auxquels l'Europe doit faire face aujourd'hui. Il est vrai que ces enjeux ont récemment été au cœur de vives polémiques au sein des Etats-Membres de l'Union Européenne. La question du genre – souvent entendue comme comprenant assez largement l'égalité femmes-hommes, les droits reproductifs, mais aussi les droits des personnes LGBTI[72]– a récemment donné lieu à d'importantes controverses se cristallisant autour de la notion de « théorie du genre », terme détourné de son usage académique pour désigner la supposée perversion de l'ordre moral traditionnel par les mouvements féministes et LGBTI. Au niveau migratoire, et bien que la sécuritisation de la mobilité humaine ne soit pas un phénomène récent en Europe (Bigo 1998; Huysmans 2000), la « crise des réfugiés » de 2015 a elle aussi amené son lot de tensions en Europe – entre pays du Nord et du Sud, de l'Est et de l'Ouest, mais aussi au sein même des Etats-Membres, qui ont pour beaucoup vécu une résurgence des discours nationalistes et xénophobes (Krzyżanowski, Triandafyllidou, and Wodak 2018). De manière intéressante, les acteurs contemporains de ces deux débats sont bien souvent les mêmes. Le gouvernement hongrois de Viktor Orbán en est un excellent exemple. Ce dernier a développé une rhétorique imbriquant menace extérieure et trahison intérieure, décrivant ainsi la « civilisation européenne » comme étant en crise du fait de « l'érosion de la famille nucléaire » voulue par le lobby LGBTI et de son remplacement par une « invasion musulmane[73] ».

Bien évidemment, cet Euroscepticisme quasi-civilisationnel, ou tout du moins se fondant largement sur des questions de valeurs (Leconte 2008a) est loin d'être le seul problème auquel l'Union Européenne est aujourd'hui confrontée. La pandémie de Covid-19, le changement climatique, et l'invasion de l'Ukraine par la Russie ont constitué tout autant de bouleversements du champ politique européen. Toutefois, ces deux débats, en magnifiant un certain nombre de fractures internes à la communauté européenne, ont largement contribué à exacerber « l'imaginaire de crise » européen (Krzyżanowski 2019). La présente thèse s'intéresse spécifiquement à leur intersection. Elle part d'un constat paradoxal, celui de la reconnaissance extensive des identités LGBTI au sein du Régime d'Asile Européen Commun, ensemble de textes et d'outils visant à harmoniser les pratiques du droit d'asile au sein de l'Union Européenne. Du fait des crispations entourant tant les questions LGBTI que celles d'asile, l'on aurait en effet pu s'attendre à ce que l'asile LGBTI – la reconnaissance explicite de l'éligibilité des personnes persécutées pour des raisons de genre et de sexualité à la protection internationale[74] – soit un sujet sur lequel les négociateurs européens aient du mal à s'accorder. Toutefois, il n'en a rien été, et le Régime d'Asile Européen Commun fut le premier dispositif européen à élargir la reconnaissance des identités LGBTI au-delà de l'homosexualité, restant à ce jour plus complet sur le sujet que le droit antidiscriminatoire communautaire[75].

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[72] Cet assemblage peut sembler hétéroclite au chercheur averti, et ce d'autant plus que le nexus égalité-avortement-LGBTI a souvent été exploité par les acteurs conservateurs eux-mêmes. Cependant, je prends le parti de le considérer ici comme un objet pertinent pour la recherche, non seulement parce qu'il s'agit de la catégorie qui motive de nombreuses mobilisations mais aussi parce que genre et sexualité sont intimement liés.

[73] Sources : https://www.dw.com/en/hungary-leaders-slam-migration-lgbtq-at-family-values-summit/a-59283286 ; https://www.politico.eu/article/viktor-orban-hungary-doesnt-want-muslim-invaders/ (consultées le 27/06/2022)

[74] Le terme « demandeurs d'asile LGBTI » est ici privilégié par rapport aux désignations alternatives circulant dans les milieux académiques (« réfugiés SOGI », « queer », etc). Ce choix est motivé par le fait qu'il s'agit là de la manière dont les institutions européennes appréhendent ces demandes d'asile. Il ne s'agit pas de prétendre que ce terme est supérieur aux autres, mais plutôt de le regarder en tant que catégorie de l'action publique.

[75] Le Régime d'Asile Européen Commun mentionne l'orientation sexuelle et l'identité de genre, et la réforme en cours devrait aboutir à la codification de l'expression de genre et des caractéristiques sexuelles. Une seule autre directive est aussi explicite : il s'agit de la directive « Droits des victimes de crimes », qui reconnaît l'identité et l'expression de genre. Elle est elle-même, nous le verrons plus tard, directement inspirée du droit d'asile. Les autres directives se limitent à l'orientation sexuelle telle que légitimée par le Traité d'Amsterdam.

Amandine Le Bellec – PhD dissertation, University of Trento and IEP de Paris - 2022

La littérature existant sur le sujet ne fournit pas d'explication satisfaisante à ce phénomène. Cette littérature est, d'une part, majoritairement centrée sur l'échelon national et ne s'intéresse que rarement à la fabrique des politiques publiques, lui préférant les interactions fondant quotidiennement l'asile (pour une exception, voir Hamila 2020). Sans prétendre que les analyses développées au niveau national ne puissent être appliquées à la politique européenne, force est de constater que celle-ci possède ses spécificités (Hassenteufel and Surel 2000). De plus, l'Union Européenne n'ayant pas la compétence de traiter les demandes d'asile, les analyses se centrant sur le quotidien de l'asile ne permettent d'éclairer que partiellement les enjeux de cette protection communautaire. D'autre part, une grande partie des études publiées dernièrement sur l'asile LGBTI approchent cette question sous l'angle de « l'homonationalisme » (Puar 2007). Ce concept désigne l'instrumentalisation de la cause LGBTI à des fins racistes et xénophobes, les pays européens se positionnant comme éclairés face à un « Sud » obscurantiste et homophobe. Toutefois, bien que ce concept soit pertinent au niveau national (avec toutefois des limitations : voir Schotten 2016), il semble plus compliqué d'affirmer que ce qui unit l'Union Européenne de la Hongrie à l'Irlande et de la Finlande à la Grèce soit l'homonationalisme – ou du moins cette affirmation aurait-elle besoin d'être étayée.

Partant du constat de ce manque empirique et des limitations théoriques du paradigme explicatif dominant, cette recherche répond à l'invitation de Sartori (1970) à « monter d'un cran sur l'échelle conceptuelle », et propose ainsi d'approcher l'homonationalisme comme l'une des expressions, parmi d'autres, d'un phénomène politique plus large – celui de la politisation. La politisation est entendue ici non pas dans son acceptation historique, celle de la socialisation à la politique, mais plutôt dans son second sens, comme processus qui « marque » certains sujets comme politiques (Déloye and Haegel 2019). Ce concept n'est pas approché ici de manière monolithique, mais au contraire comme un phénomène pluriel et qui ne saurait être détaché du tandem qu'il constitue avec la dépolitisation – qui constitue bien souvent elle-même une forme de politisation qui refuse de dire son nom (Kauppi, Palonen, and Wiesner 2016).

Grâce à ce cadrage théorique, cette recherche s'intéresse tant aux processus ayant abouti au développement des politiques d'asile LGBTI européennes qu'à ce que ceux-ci disent de l'évolution du sujet des politiques d'égalité en Europe, et au rôle qu'a pu jouer la politisation dans cette redéfinition. La notion d'égalité est ici entendue non dans une acceptation légale stricte, mais, de manière plus large, comme un principe de justice inconditionnelle – recouvrant ainsi les questions de protection, de non-discrimination, mais aussi d'émancipation individuelle et collective y compris par la mise en place de politiques spécifiques (R. Sénac 2017). Trois différentes acceptations de ce principe s'expriment au sein de l'asile LGBTI. Bien évidemment, il y a tout d'abord celle de l'égalité LGBTI elle-même, puisque le droit d'asile fait partie d'un corpus plus large de revendications militantes – il s'agit, après tout, de reconnaître que la valeur des vies LGBTI est telle qu'elle justifie que les Etats européens protègent non seulement leurs citoyens, mais aussi ceux de pays tiers. Il s'agit également d'une égalité interne au groupe des étrangers, cherchant à s'assurer que le droit d'asile ne soit pas aveugle à certains enjeux constituant des « sous-groupes » de requérants. Enfin, ce débat touche aussi et peut-être surtout à la question de l'égalité entre étrangers et européens. D'aucuns seront peut-être surpris par l'usage du terme d'égalité dans ce contexte, tant nous nous sommes habitués à l'idée qu'il est légitime que les étrangers soient discriminés (Bélorgey et al. 1989). Toutefois, ce concept me paraît ici pertinent, puisque le droit d'asile détermine le cadre selon lequel nombre de non-nationaux seront (in)justement (mal)traités en Europe, tout en opérant simultanément comme la porte d'entrée permettant à certains de ces « autres » de rejoindre la communauté de semblables que souhaite établir l'Union Européenne.

Cette thèse répond à la problématique suivante : *en quoi le débat européen sur l'asile LGBTI interroge-t-il le rôle joué par la politisation dans la redéfinition du principe d'égalité et de son*

application dans les politiques publiques européennes ? Mon hypothèse initiale était que la politisation, du fait de la remise en question du *statu quo* qu'elle permet d'opérer, représente une condition nécessaire quoique ambivalente à l'extension du domaine de l'égalité à de nouveaux groupes au sein de la communauté européenne. Appliquée à la question de l'asile LGBTI, cette hypothèse me laissait penser que, si la politisation avait été essentielle à la fabrique de cette protection, elle pourrait également nourrir des formes « d'égalité excluantes » au travers desquelles certains individus viendraient à être admis dans la communauté tandis que leur groupe d'appartenance verrait son exclusion inébranlée. Il me semblait probable, en quelque sorte, que l'asile LGBTI soit davantage révélateur d'une volonté de remettre en question l'infériorisation des personnes LGBTI en Europe, plutôt qu'il ne témoigne d'une réelle réflexion critique sur le traitement des étrangers ou sur l'articulation de ces deux causes.

Afin de tester cette hypothèse, j'ai mené, entre novembre 2019 et septembre 2020, une enquête de terrain adoptant une approche méthodologique mixte auprès des acteurs de l'asile LGBTI européen – hauts-fonctionnaires, parlementaires, acteurs associatifs. En ce qui concerne cette dernière catégorie, me fondant sur l'expérience de mon mémoire de master, au cours duquel j'avais pu constater que les associations françaises étaient souvent amenées à se saisir de l'échelon communautaire dans leurs interactions, mon enquête s'est intéressée tant aux lobbys bruxellois qu'aux associations opérant au niveau local mais présentes au sein de réseaux transnationaux. L'argument que je développe ci-dessous s'appuie sur quatre sources principales de données : une analyse documentaire (minutes des débats au Parlement Européen, rapports et guides produits par les institutions européennes, newsletters et documents de synthèse produits depuis 1992 par ILGA-Europe), une période d'observation bruxelloise et en ligne, des entretiens semi-directifs avec 72 acteurs de l'asile LGBTI européen (17 députés et affiliés, 7 hauts-fonctionnaires, 17 acteurs associatifs européens, 27 acteurs associatifs locaux, 4 experts), et enfin un questionnaire en ligne diffusé au sein des associations opérant dans les Etats-Membres (66 associations localisées dans 21 pays). Cette enquête hybride et multi-niveaux m'a ainsi permis de rompre avec la fiction de l'origine unique et élitaire de la politique européenne au profit d'une approche itinérante, « voyageant le long des chemins creusés par les politiques publiques elles-mêmes » (Peck and Theodore 2012, 24).

Cette enquête m'a menée à concevoir la politisation comme un phénomène pluriel. Et, si des formes d'égalité excluantes sont bel et bien apparues au cours de mon terrain, il s'est avéré que la dépolitisation en fut davantage responsable que la politisation, même dans ses formes les plus extrêmes. Afin d'étayer cet argument, ce résumé s'organise comme suit. Une première partie examine la multiplicité du phénomène de politisation ainsi que son rôle dans l'extension du domaine de l'égalité en Europe. La deuxième partie, elle, s'intéresse au mode de reconnaissance dépolitisé de demandeurs d'asile LGBTI qui prédomine au niveau européen, et montre en quoi celui-ci s'insère dans une logique de gestion des flux migratoires porteuse d'exclusions structurelles que le discours de la « différence » ne permet pas d'infléchir. Enfin, la dernière partie interroge les formes de contestation de ce monopole de la dépolitisation.

L'extension du domaine de l'égalité entre sur- et sous-politisation

L'histoire de la mise à l'agenda de de l'asile LGBTI au niveau européen témoigne du rôle crucial qu'a joué la politisation dans l'invention par le mouvement LGBTI d'un nouveau droit – celui de vivre une vie bonne quel que soit son lieu de naissance, et donc de pouvoir réclamer protection tant à son Etat qu'à un pays qui n'est pas le sien. Le droit d'asile pour les personnes homosexuelles émerge en effet très tôt au sein du mouvement LGBTI européen, dès 1979, lors de la première conférence annuelle d'ILGA-Europe[76]. Il est construit, à cette époque, moins

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[76] L'association s'appelle encore l'IGA à l'époque, mais pour faciliter la lecture, son nom actuel est privilégié.

comme témoignant du parachèvement de l'égalité LGBTI en Europe (au contraire, le contexte d'alors est celui d'une violence structurelle) que comme une facette parmi d'autres du combat pour le droit à être protégé et à obtenir justice. Dans un court texte, les militants d'alors se proposent alors d'interroger leurs gouvernements respectifs sur cette question, de fournir une aide matérielle aux réfugiés potentiels, et enfin de constituer une liste de partenaires potentiels permettant une régularisation à travers des mariages blancs.

Sur cette lancée, les deux décennies suivantes seront marquées par des formes de politisation assez traditionnelles. Quelques manifestations ont lieu : en 1984, l'association participe à une marche newyorkaise réclamant « la fin des violences contre les personnes LGB (…), la fin des politiques migratoires anti-gay, et la concrétisation des droits civiques et humains dans le monde » (Paternotte, Cosials Apellaniz, and Tong 2017). Mais ce à quoi les membres d'ILGA-Europe s'attellent avant tout, c'est à la documentation – à des fins de mise en lumière et de dénonciation – des violences auxquelles les personnes LGBTI sont confrontées. Entre 1985 et 1993, trois ouvrages documentant ces violences dans le monde sont publiés (les *Pink Books*). En 1992, l'association se dote d'un *Asylum Information Pool*, groupe géré depuis le Danemark ; et les newsletters des années 1990 témoignent d'une volonté de politiser l'asile de manière transnationale, avec notamment une campagne de faxes destinés aux autorités suédoises lorsque celles-ci refusent l'asile à trois hommes gays. Si ces mobilisations initiales se déroulent par-delà les frontières, elles ne ciblent toutefois pas encore le droit communautaire. C'est à partir de la fin des années 1990 que celui-ci devient un objectif stratégique pour les militants, lorsque, sur le modèle national (Bécasse, Cesaro, and Chossière 2020), des couples binationaux dénoncent l'injustice des politiques migratoires européennes envers les personnes LGBTI.

Cette brève histoire de la naissance d'un intérêt européen pour l'asile LGBTI démontre l'importance de la politisation – définie ici en tant que marquage politique (Kauppi, Palonen, and Wiesner 2016) – dans la remise en question du « qui » et du « comment » de l'égalité. Sans ce processus de mise en lumière et de dénonciation, il aurait été tout à fait improbable que l'Union Européenne se saisisse de la protection des étrangers LGBTI persécutés. En effet, bien que certains chercheurs aient relevé l'existence d'un contexte plutôt favorable aux droits LGBTI au Parlement Européen (Hamila 2020), les institutions européennes continuèrent à discriminer leurs fonctionnaires homosexuels jusqu'au tournant du millénaire (Elman 2000). Sans mobilisations militantes, il paraît difficilement imaginable que l'asile ait pu émerger.

L'histoire présentée ci-dessus peut sembler somme toute assez typique des processus de mise à l'agenda par les mouvements sociaux (Boussaguet and Jacquot 2009). Elle montre l'importance de la politisation, certes, mais ne questionne pas la nature de ce concept en lui-même. Cependant, ce que les phases successives de la négociation des politiques d'asile LGBTI européennes révèlent, c'est que ce concept nécessite d'être envisagé au pluriel, sous la forme d'un continuum allant de la sous-politisation à la surpolitisation (Lascoumes 2009). Cette nécessité de complexification prend sa source dans la double évolution qui s'opère au sein de l'objet « asile LGBTI » à partir des années 2000. D'une part, au cours de cette décennie, ILGA-Europe abandonne peu à peu toute stratégie contestataire, s'adaptant ainsi à l'environnement européen où l'expertise est clé (Saurugger 2002; Paternotte 2016). Elle privilégie alors, en tant qu'association, une sous-politisation feutrée, qui repose à la fois sur des activités de lobbying technique au niveau institutionnel, et sur la mise entre parenthèses du conflit politique au niveau de la coopération interassociative. D'autre part, au début des années 2010, le champ des acteurs s'intéressant à l'asile LGBTI s'élargit considérablement, ce qui accentue la modification les dynamiques de politisation préexistantes. Ainsi, lorsque les députés européens se saisissent de ce sujet, ils développent un usage de la politisation non pas en tant que stratégie militante, mais plutôt en tant que performance symbolique de leur identité politique et de celle de l'Union Européenne – qu'il s'agisse d'un symbole de l'Europe qu'ils défendent ou de celle qu'ils

rejettent. Lorsqu'en 2015 la « crise des réfugiés » se combine à la montée en puissance de la droite radicale européenne, l'asile LGBTI en devient surpolitisé, au sens où il n'est plus débattu juste en tant que tel mais parce qu'il permet « une amplification des oppositions partisanes sur des scènes symboliques majeures qui dépassent le sujet en cause » (Lascoumes 2009, 460).

La coexistence de ces deux dynamiques – sous-politisation militante et surpolitisation parlementaire – peut paraître contradictoire à première vue. Cependant, c'est leur combinaison qui consolida non seulement la protection des demandeurs d'asile LGBTI, mais aussi celle des personnes LGBTI en général au sein de l'Union Européenne. Ainsi, c'est la sous-politisation des questions de genre au sein du Régime d'Asile Européen Commun qui permit à ILGA-Europe de faire de l'asile un champ précurseur de la fabrique des droits LGBTI en Europe. Le désintérêt des acteurs des migrations pour les questions de genre permit en effet à l'association de faire reconnaître pour la première fois dans l'ordre juridique européen les besoins de protection des personnes trans, sujet controversé au sein du débat antidiscriminatoire mais peu débattu au sein du droit d'asile. L'évitement du débat, ici, crée un « retour du politique » permettant d'envisager de nouveaux groupes comme faisant partie intégrante de la communauté. Mais cette sous-politisation possède aussi ses limites, dans le sens où cet évitement fut, sur le long terme, peu propice à une remise en cause du système ou au développement de coalitions militantes réflexives. En maintenant l'illusion du consensus, la sous-politisation nie paradoxalement la portée transformatrice de ses propres propositions, les dépeignant comme relevant du « bon sens ». A l'inverse, la surpolitisation parlementaire de l'asile LGBTI engendrée par les oppositions stridentes de la droite radicale eut le mérite de fêler la surface de cette illusion – les opposants à l'asile LGBTI ayant paradoxalement mieux compris le projet de société incarné par cette protection que ses propres promoteurs. Sans prétendre que les positions xénophobes et hétérosexistes de la droite radicale n'aient eu que du bon, elles permirent, par réaction, la clarification des alternatives partisanes au sein des autres groupes politiques (Mouffe 2010). Et, en matière d'asile LGBTI, si l'on compare les débats de 2011–2013 à ceux de 2016, la repolitisation du soutien à cette protection (et aux droits LGBTI de manière plus globale) est clairement perceptible au sein du Parlement Européen, dans le sens où ces enjeux sont désormais plus frontalement – et plus régulièrement – évoqués par la gauche.

Une politisation dépolitisante pour gouverner : l'asile LGBTI au prisme de la « différence » dans un contexte de gestion des flux migratoires

Ainsi, en opposition aux représentations de la politisation comme phénomène essentiellement négatif circulant au sein des acteurs européens, cette thèse montre que celle-ci – sous toutes ses formes – fut essentielle à la constitution des politiques d'égalité que ces mêmes acteurs revendiquent aujourd'hui comme faisant partie des « valeurs européennes ». Il faut ici envisager la politisation comme phénomène pluriel, dont les formes parfois contradictoires se superposent plutôt qu'elles ne se succèdent. Cependant, l'analyse du rôle joué par la politisation dans la renégociation du « qui » de la communauté européenne ne saurait s'arrêter aux mobilisations associatives ou aux débats parlementaires. Ce focus trop exclusif nous conduirait à dépeindre la politisation comme un phénomène essentiellement militant, ou du moins propre aux arènes permettant la mise en scène du politique. Or, ce que les politiques d'asile LGBTI européennes permettent de percevoir, c'est que la notion de politisation doit toujours être analysée conjointement à celle de dépolitisation. La notion de « dépolitisation » est elle-même entendue ici comme une forme particulière de politisation, dans le sens où il s'agit bien souvent d'un stratagème permettant à certains acteurs de politiser des enjeux (de les marquer comme relevant du domaine de l'action politique) tout en les présentant comme nécessitant avant tout des solutions neutres, rationnelles, apartisanes (Kauppi, Palonen, and Wiesner 2016). Ce

stratagème est particulièrement utile aux administrations et aux organisations internationales cherchant à accroître leur mainmise sur certains sujets controversés (Pécoud 2015; Louis and Maertens 2021). La position dans laquelle cette définition de la dépolitisation nous met est nécessairement plus difficile à habiter que celle de la dichotomie manichéenne politisation/dépolitisation. Toutefois, elle est nécessaire ici pour saisir pleinement comment les deux premières formes de politisation identifiées ci-dessus – politisation militante et politisation performative – se sont paradoxalement articulées, dans le contexte européen, au discours dépolitisant de la « bonne gestion des flux migratoires », nourrissant *in fine* des formes d'égalité excluantes qui ont mené à la désarticulation des causes plutôt qu'à leur entrelacement.

Faire l'impasse sur la politisation dépolitisante de l'asile LGBTI organisée par les administrations européennes serait en effet une erreur, puisque celle-ci constitue le discours dominant aujourd'hui sur ce sujet. Depuis le début des années 2010, l'heure est désormais à la constitution d'un corpus de savoirs dépolitisés – listes de bonnes pratiques, rapports, recommandations, grilles d'entretien, modèles d'objectivation des identités – permettant « d'améliorer » le traitement des demandes d'asile LGBTI en Europe. Ce corpus avait déjà commencé à émerger au début des années 2000 après les premières publications du Haut-Commissariat aux Réfugiés des Nations Unies, mais son développement s'est récemment accéléré au sein de la Commission Européenne et de ses agences. De manière intéressante, ce corpus ne cherche pas à nier la légitimité de l'asile LGBTI en tant qu'enjeu de l'action publique. Au contraire : il insiste sur le rôle que doivent jouer les institutions européennes dans cette protection *à travers* la promotion de savoirs neutres et de bonnes pratiques. Il s'agit donc bien d'une forme paradoxale de politisation qui nie sa propre nature, d'où le terme de « politisation dépolitisante » utilisé ici. Le fait qu'il s'agisse malgré tout d'une forme de politisation est crucial afin d'expliquer pourquoi celle-ci s'articule plus qu'elle ne s'oppose aux deux formes de politisation précédemment décrites. En effet, elle ne remet pas en cause la légitimité politique de l'enjeu « asile LGBTI » pour laquelle les militants se sont battus, mais propose de gérer cette protection « autrement ». Il s'agit d'une dépolitisation sur la forme, pas sur le fond.

Ce corpus de savoirs se positionne de plus comme une initiative à visée inclusive, car proposant des solutions concrètes afin de limiter les stéréotypes et les violences présents au sein des systèmes d'asile européens. Il en devient donc d'autant plus difficile à opposer pour les acteurs progressistes, et ce d'autant plus que la présence accrue de la droite radicale au sein des institutions européennes nourrit en leur sein un sentiment de crise ontologique (Kantola and Miller 2021b). Dans ce contexte, la proposition des administrations européennes de contourner les blocages marquant le processus législatif grâce à une emphase renouvelée sur les savoirs pratiques est perçue par nombre d'acteurs progressistes comme une potentielle échappatoire, permettant de consolider la protection des personnes LGBTI envers et contre tout.

Cependant, cette politisation dépolitisante reste problématique pour la protection des demandeurs d'asile LGBTI dans le sens où elle demeure inscrite au sein de l'idéal de gouvernance des frontières devenu désormais prévalent au niveau international et européen (Andrijasevic and Walters 2010; Pécoud 2015). Cet idéal de gouvernance opère, sous couvert de gestion bienveillante de la mobilité humaine, un contrôle strict des frontières (Agier 2008; Aas 2011). Ce contrôle ne s'exprime pas juste sous la forme de politiques visant à empêcher les étrangers à circuler, mais plutôt à travers la mise en place d'un système de classification et de triage, qui assigne à chacun sa place (Green 2002). Or, le corpus de savoirs actuellement produit sur l'asile LGBTI participe précisément à ce dispositif de gouvernance et de triage. Celui-ci s'intéresse en effet plus à produire des outils permettant aux administrations nationales de différencier les « vrais » des « faux » qu'à la problématisation des systèmes structurels qui produisent la situation de leurs usagers – hétérosexisme, xénophobie, racisme.

Ainsi, le genre et la sexualité, au lieu d'être comprises comme des expériences humaines contextuelles dont la nature volatile questionne le manichéisme des systèmes d'asile – puisque si les pratiques sexuelles sont amenées à varier et ne sont pas forcément inscrite sur les corps, comment justifier un système qui se fonde sur un régime de vérité absolue ? – en sont réduites à des identités immuables, sorte « d'essence humaine » que l'officier de protection se doit simplement d'objectiver au mieux. Il ne s'agit pas ici de nier l'amélioration du traitement des demandes LGBTI permise par ce corpus de savoirs. La disparition progressive des examens anaux et phallométriques, tout comme celle des demandes de matériel pornographiques, peut difficilement être regrettée (McGhee 2000; R. Lewis 2013; Mrazova 2019). Mais, cela étant, il nous faut réaliser que leur remplacement par le modèle « DSSH[77] » et les approches fondées sur les émotions ne mène qu'à l'actualisation, pas la disparition, de cette idéologie de triage fondé sur un régime de vérité. L'on assiste ainsi davantage à une fuite en avant dans les outils d'identification plutôt qu'à une réflexion sur leur nécessité. Cette actualisation ne rend pas les frontières européennes plus perméables aux corps LGBTI : seuls certains peuvent les traverser, les autres subissant de plein fouet, comme tous les étrangers, le durcissement de cette fermeture et sa naturalisation *via* le discours technique de la bonne (et bienveillante) gouvernance.

Ce dispositif de triage ne dépolitise pas seulement le contrôle des frontières, mais aussi les demandes d'asile LGBTI elles-mêmes. Celles-ci sont réduites à un enjeu purement individuel. Bien évidemment, depuis la Convention de Genève de 1951, l'octroi du statut de réfugié *est* une affaire individuelle – ce qui n'a pas toujours été le cas (Lochak 2013). Toutefois, ce que j'entends ici est légèrement différent. Il s'agit de noter la manière dont, au sein des documents produits et des formations dispensées par l'Agence Européenne pour l'Asile, l'asile LGBTI est réduit à un enjeu de reconnaissance des identités individuelles, et les violences auxquelles font face ces requérants au sein des systèmes nationaux à une question de biais personnels. L'orientation sexuelle et l'identité de genre, en droit européen, sont approchées principalement comme des caractéristiques originales démarquant les demandeurs d'asile LGBTI des autres migrants, et leur octroyant ainsi un droit d'entrée au sein d'un régime d'exception[78] dédié – qui prend la forme de « garanties spécifiques » et de reconnaissance de leur « vulnérabilité ». Ce régime d'exception ne s'applique bien évidement pas à la masse indistincte et déshumanisée des migrants. Il ne s'agit pas ici de remettre en cause le traitement des étrangers en Europe, mais plutôt « d'extraire » certains demandeurs d'asile de la « masse » des migrants, et d'en faire, à travers une emphase sur leur « différence », des individus à part entière méritant considération pour leur situation spécifique. Il faut ainsi comprendre l'inclusion sélective des demandeurs d'asile LGBTI non pas comme relevant simplement d'une cooptation homonationaliste, mais comme participant plus globalement d'un système de triage généralisé.

Cette extraction de l'individu de la masse produit la fiction, malheureusement peu remise en cause par les lobbys européens, qu'il serait possible de produire des politiques d'asile à la fois sécuritaires (envers les étrangers) et inclusives (envers les LGBTI). Cette fiction n'est pas propre à l'asile LGBTI : elle s'applique à tous les groupes concernés par la notion de vulnérabilité. Cependant, elle est exacerbée dans ce cas spécifique, puisque la sexualité et le genre restent aujourd'hui largement perçues comme des caractéristiques individuelles non-héritées qui dénouent les liens existants entre les individus et leurs communautés d'origine –

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[77] Le modèle DSSH (*Difference, Shame, Stigma, Harm*) fut développé par l'avocat britannique S. Chelvan. Il propose d'évaluer la véracité des demandes d'asile LGBTI à partir d'une correspondance avec un script émotionnel spécifique. Il est désormais soutenu et diffusé par les organisations européennes et internationales ; bien que de nombreux chercheurs et associations critiquent l'exclusion des requérants LGBTI qu'il engendre, beaucoup d'entre eux n'étant pas capable de fournir le discours émotionnel et hautement réflexif requis (Jansen 2018).

[78] En réalité, de plus en plus de chercheurs travaillant sur le niveau national avec lesquels j'ai pu discuter soulignent que ce régime d'exception est plus rhétorique que matériel.

que celles-ci soient familiales, culturelles, religieuses, nationales, etc. Ainsi, en constituant les demandeurs d'asile LGBTI non comme des étrangers mais comme des individus, et en naturalisant cette distinction, la politisation dépolitisante qui prédomine désormais aujourd'hui au niveau européen délie l'entrelacement entre égalité LGBTI et égalité des étrangers inhérent à la question de l'asile LGBTI. Ce faisant, elle fragmente aussi les acteurs progressistes ; les militants LGBTI se satisfaisant d'un régime migratoire excluant tant qu'il possède des clauses d'exception, tandis que ceux des droits des étrangers en viennent souvent à considérer le genre et la sexualité comme des enjeux somme toute assez secondaires. Cet idéal de gouvernance renvoie ainsi dos à dos des acteurs ayant pourtant tout intérêt à travailler à une émancipation collective, donnant d'une main ce qu'il reprend de l'autre.

Repolitiser l'asile LGBTI, réinvestir l'Union Européenne

Mais comment se libérer du paradigme de la « différence » sans pour autant retomber dans les travers d'une vision universaliste de la figure du réfugié, qui néglige la pluralité des expériences de la violence ? Et est-il seulement possible de « repolitiser » l'asile LGBTI, non pas dans le sens de lui réoctroyer une légitimité politique supposément perdue, mais plutôt dans celui de réaffirmer l'entrelacement entre égalité LGBTI et égalité pour les étrangers au lieu de se contenter d'accommodements raisonnables ? Ces questions sont, bien évidemment, fondamentales pour le futur de la protection des demandeurs d'asile LGBTI dans l'Union Européenne. Il semble en effet illusoire d'espérer que la politique migratoire européenne prenne d'elle-même une direction autre que celle d'un dispositif de triage. Celui-ci n'a jamais disparu une fois passée la « crise » de 2015 ; et lorsque les exilés ukrainiens de 2022 ont pu bénéficier d'une protection temporaire quasi-immédiate au sein de l'Union Européenne, les cas d'étudiants étrangers résidant en Ukraine recevant des obligations de quitter le territoire des Etats-Membres se sont multipliés[79].

La solution à cette politisation qui ne dit pas son nom ne peut être trouvée au sein des acteurs européens ; ou, tout du moins, pas au sein de ceux qui ont été au centre de cette recherche, puisqu'il existe de fait des initiatives européennes qui refusent publiquement le tri entre les « bons » et les « mauvais » étrangers, comme la Plateforme pour la Coopération Internationale pour les Migrants Sans-Papiers. Mais, à quelques exceptions près, la plupart des lobbys européens travaillant sur les questions d'égalité semblent avoir du mal à s'émanciper de la promesse des « accommodements raisonnables » offerte par le Régime d'Asile Européen Commun. Ainsi, lors d'une réunion entre une association LGBTI européenne et ses membres à laquelle j'ai pu assister, le malaise du représentant de l'association à l'idée de rejeter en bloc le Nouveau Pacte pour l'Asile alors que celui-ci prévoyait des clauses pour les groupes vulnérables apparut très clairement – au grand désarroi de certains de ses membres, inquiets de la généralisation des procédures à la frontière et des procédures accélérées. Cet inconfort découle largement de la cooptation opérée par les institutions européennes sur les acteurs associatifs, ceux-ci ayant une marge de critique réduite s'ils souhaitent conserver la confiance de leurs partenaires institutionnels (Saurugger 2006; Kohler-Koch 2010). Dans le cas du mouvement LGBTI, ce malaise tire également ses origines de l'histoire de la légitimation des droits LGBTI dans l'ordre juridique européen. En effet, là où l'égalité femmes-hommes fut légitimée par la communauté européenne dès les années 1950 puis fit l'objet de fortes mobilisations féministes jusqu'au début des années 1990 (Jacquot 2014), les droits LGBTI rencontrèrent une résistance bien plus vive. Ils n'intégrèrent le droit communautaire qu'à la

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[79] Lire notamment : https://www.lemonde.fr/afrique/article/2022/06/07/ukraine-des-etrangers-qui-ont-fui-la-guerre-sommes-de-quitter-la-france_6129293_3212.html (consulté le 01/07/2022)

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toute fin des années 1990, à un moment où les politiques d'égalité avaient déjà vu la critique d'ordre structurel qu'elles portaient être neutralisée par l'usage de termes plus universalistes, individualistes, et dépolitisant (Stratigaki 2005). Au cours de mon terrain, j'ai pu noter la manière dont ce contexte a agi comme une contrainte sur la formulation d'une critique des politiques européennes par le mouvement LGBTI, dans le sens où, lorsque le niveau communautaire s'ouvrit à ces militants, ceux-ci cherchèrent plus à en exploiter les opportunités nouvellement offertes qu'à questionner la forme prise par celles-ci (voir aussi Paternotte 2016).

Il faut donc que la repolitisation de l'asile LGBTI provienne d'ailleurs. Cet ailleurs fut identifié, au cours de cette recherche, au sein d'acteurs souvent déconsidérés au sein des études européennes : les associations locales insérées au sein de réseaux transnationaux. A de rares exceptions près (notamment Monforte 2014), celles-ci ne font l'objet que peu l'objet de l'attention des européanistes, qui se concentrent bien plus volontiers soit sur les lobbys européens, soit sur l'influence de l'Union Européenne sur les associations locales – mais pas sur ces associations en tant qu'acteurs autonomes. Il ne s'agit pas ici d'idéaliser ces espaces. Ils participent, eux aussi, à la circulation du corpus de savoirs pratiques identifié plus haut, que ce soit parce que les associations concernées se l'approprient et le diffusent, ou parce qu'elles y contribuent en fournissant un certain nombre de savoirs et d'informations aux instances européennes et nationales. Par ailleurs, ces associations ne sont pas dépourvues de formes de domination envers les demandeurs d'asile soutenus, bien au contraire (Cesaro 2021). Reste, cependant, que l'analyse combinée du questionnaire rempli par ces acteurs et des entretiens effectués avec certains d'entre eux révèle que ceux-ci tendent à concevoir l'asile LGBTI d'une manière bien différente de celle des lobbys européens.

Ainsi, là où les acteurs européens ont largement accepté l'idée que les droits LGBTI et les droits des étrangers doivent être envisagés séparément, les associations locales, elles, refusent de saisir l'asile LGBTI en dehors de son contexte migratoire. Elles considèrent les demandeurs d'asile LGBTI comme des demandeurs d'asile – et pas juste comme LGBTI. L'émancipation de ces requérants dépend donc de celle des étrangers en Europe de manière plus générale. Ces associations refusent ainsi de délier enjeux LGBTI et enjeux migratoires, et lorsqu'elles sont contraintes de le faire, de manière intéressante, elles mettent davantage l'accent sur les politiques migratoires que sur les controverses liées au genre et à la sexualité. Cette observation est d'autant plus marquante que les structures ayant répondu à mes enquêtes sont principalement des associations LGBTI en étant venues à s'intéresser aux questions de migration – et non des associations de droits des migrants s'intéressant aux enjeux LGBTI. Qu'elles placent ainsi les droits des étrangers au centre de leur engagement, et ce quel que soit leur degré de radicalité ou de réformisme, témoigne du fait qu'il est encore possible, aujourd'hui, de dépasser les fictions individualisantes et d'envisager l'égalité d'un point de vue collectif – l'émancipation des uns accroissant l'émancipation des autres.

Cette repolitisation par le bas – repolitisation en termes d'acteurs et repolitisation en termes d'enjeux – est aujourd'hui plus que jamais nécessaire pour faire du Régime d'Asile Européen Commun un dispositif qui soit réellement protecteur et humain. Mais cette évolution ne sera possible qu'au prix d'un réinvestissement de l'Union Européenne comme échelon d'action et d'analyse pertinent, ce qui est loin d'être le cas aujourd'hui au sein des sphères militantes. Les associations locales enquêtées présentent en effet un certain désintérêt pour la politique européenne, non pas qu'elles la considèrent comme non-pertinente (bien au contraire), mais plutôt qu'elles estiment qu'elles n'y ont pas leur place. Elles adoptent, pour beaucoup, une posture de « consensus permissif » vis-à-vis de leurs représentants européens, laissant ceux-ci parler en leur nom – ce qui ne permet pas à leurs visions alternatives de l'asile LGBTI de circuler vers les institutions européennes. Il serait trop facile, cependant, de les blâmer pour ce désintérêt, puisque celui-ci est entretenu par les acteurs européens eux-mêmes, à qui il octroie

une plus grande liberté d'action (Rozenberg 2009). La réarticulation des droits LGBTI aux droits des migrants incarnée par l'asile LGBTI ne pourra donc avoir lieu que si les acteurs locaux parviennent à surmonter ces points de blocage, soit en énonçant plus clairement leurs désaccords auprès de leurs représentants européens, soit en établissant des « coalitions alternatives » leur permettant de faire entendre leur voix de manière autonome (Monforte 2014). Quant aux institutions européennes, il leur est plus que jamais nécessaire d'admettre que toute critique des politiques qu'elles produisent n'est pas forcément teintée d'Euroscepticisme. Certaines de ces critiques sont au contraire nécessaires afin de faire de l'Union Européenne un projet davantage exigeant, qui ne se satisfait pas de solutions n'ayant d'apolitique que l'apparence, et finalement plus fidèle aux idéaux de droits fondamentaux, de liberté et de solidarité transnationale sur lesquels il revendique d'avoir été fondé.

Conclusion

A travers l'étude de la fabrique du droit d'asile pour les personnes LGBTI au niveau européen, cette recherche a montré l'importance de prendre en compte les processus de politisation dans l'analyse de la fabrique et de la renégociation des politiques d'égalité aujourd'hui en Europe. Ce cas est intéressant à la fois pour lui-même – en ce qu'il nous informe de la manière dont la protection des demandeurs d'asile LGBTI est traitée aujourd'hui en Europe – mais aussi parce qu'il permet de mettre en lumière des dynamiques présentes de manière sous-jacente au sein de l'ordre juridique européen en général. Ainsi, il permet de penser la politisation comme un concept pluriel, dont les formes s'entremêlent et se superposent plus qu'elles ne se succèdent. Il témoigne également de la manière dont cette politisation, lorsqu'elle refuse de dire son nom, peut servir des discours qui sous couvert de technicité et de bienveillance nourrissent des dispositifs de triage d'une grande dureté. Enfin, il montre que le politique n'est malgré tout jamais un espace clos, et que des mobilisations alternatives peuvent émerger là d'où on ne les attend pas, pour peu qu'elles disposent d'un espace fertile dans lequel s'enraciner. La fabrique de l'asile LGBTI ne saurait donc être réduite à une succession de phases techniques répondant simplement aux besoins des administrations. Au contraire, cet enjeu doit être abordé comme un phénomène éminemment politique, révélateur de luttes normatives majeures quant à l'inclusion de populations historiquement exclues de l'idéal européen. Cette dimension normative doit être reconnue plutôt qu'évitée, car son contournement, même bien intentionné, ne peut venir qu'au prix d'une dilution du potentiel transformateur inhérent à l'asile LGBTI – qui questionne les exclusions et les angles morts autour desquels s'est forgé le principe d'égalité en Europe. Le risque principal de cette dilution demeure la mise en compatibilité de l'asile LGBTI avec des idéaux de gouvernance et de triage. Car, contrairement à ce qu'ont pu écrire de nombreux chercheurs travaillant à partir du concept d'homonationalisme, l'asile LGBTI n'est pas voué à être un terrain de mise en opposition entre droits des étrangers et droits LGBTI. Il peut au contraire servir la formulation d'idéaux d'émancipation collective (Chávez 2013). La question est de savoir comment permettre à ces solidarités alternatives de fleurir et de fructifier.