UNIVERSITY OF AMSTERDAM

UvA-DARE (Digital Academic Repository)

Conditional belonging

A legal-philosophical inquiry into integration requirements for immigrants in Europe

de Waal, T.M.

Publication date
2017
Document Version
Other version
License
Other

Link to publication

Citation for published version (APA):
de Waal, T. M. (2017). *Conditional belonging: A legal-philosophical inquiry into integration requirements for immigrants in Europe*. [Thesis, fully internal, Universiteit van Amsterdam].

General rights
It is not permitted to download or to forward/distribute the text or part of it without the consent of the author(s) and/or copyright holder(s), other than for strictly personal, individual use, unless the work is under an open content license (like Creative Commons).

Disclaimer/Complaints regulations
If you believe that digital publication of certain material infringes any of your rights or (privacy) interests, please let the Library know, stating your reasons. In case of a legitimate complaint, the Library will make the material inaccessible and/or remove it from the website. Please Ask the Library: https://uba.uva.nl/en/contact, or a letter to: Library of the University of Amsterdam, Secretariat, Singel 425, 1012 WP Amsterdam, The Netherlands. You will be contacted as soon as possible.

UvA-DARE is a service provided by the library of the University of Amsterdam (https://dare.uva.nl)

Download date:10 Nov 2024

Chapter 5
Disconnecting Integration from Rights

So far in this study, I explored a variety of theoretical, legal and empirical perspectives in order to understand and evaluate the recent growth of (mandatory and formalized) integration requirements in EU Member States for TCNs as conditions for obtaining increased rights, as described in Chapter 1. In Chapter 2, I discussed the ethics of migration; in Chapter 3, I examined theories of national liberalism, alongside with social science literature on the rise of integration requirements in Europe (and on the political and societal dynamics that shape public policies affecting immigration and immigrants in liberal-democratic states); and in Chapter 4, I reviewed the normative debate on social equality and justice and applied it to immigration, integration and equal citizenship in Europe.

In this chapter, I will combine the relevant insights I collected in the previous chapters and formulate a normative response to the increase of integration requirements in EU Member States. This response follows from the discovery that none of the existing academic literatures I explored thus far have provided conclusive normative answers to these developments, even though I have established that the manner in which EU countries increasingly enact integration requirements for TCNs is potentially problematic. Therefore, in this chapter I pick up the challenge (as formulated in Chapter 3) by raising the question: how can we *ensure* that EU states do not misuse integration requirements for TCNs for exclusionary and counterproductive purposes?

In response to this question, I will argue that the use of integration measures by Member States is permissible, with the important stipulation that a so-called 'firewall' should be implemented between, on the one hand, laws that regulate the access to residency and naturalization rights for TCNs that are refugees or family migrants and, on the other hand, policies and programs promoting integration. This proposal, crucially, does not deny that receiving EU states may indeed have legitimate interests to enact constructive (mandatory) integration schemes for newcomers in their societies. Instead, the normative crux of the argument is that a fundamental problem arises if laws monitoring residency and

citizenship rights of TCNs with a humanitarian status and/or family migrants are *connected* to integration policies (and e.g. integration requirements are prescribed for refugees as a necessary precondition for obtaining permanent residency).

My proposal to establish a firewall between integration strategies and the allocation of residency and citizenship rights is based on a combination of principled and pragmatic arguments. First, I argue that the firewall is normatively desirable because it prevents states from misusing the clear asymmetry in power relations between them and residing refugees and family migrants. Second, I defend that a benefit of the firewall is that it curbs the ability of states to reinforce the reward paradigm of naturalization, by framing rights as something to be earned through demonstrating the ability to pass the hurdles of integration requirements. Third, I explain that if the firewall would be in force, receiving EU countries will be inclined to adopt a broader perspective on the purposes of integration policies. In particular, it will pressure them to assess the success of these public policies based on, what I will describe as a 'disaggregated' perspective on integration. This perspective sees integration as an ongoing and multidimensional societal process (e.g. economical, culture, attitudinal, etc.) that involves and affects both immigrant and non-immigrant members of society.[432] As a result, it will become likely that integration policies will be evaluated based on their actual societal outcomes. Moreover, through this disaggregated perspective on integration, several innovative and constructive integration strategies will become imaginable that are worth considering.

There are hence a variety of reasons that support this firewall, and each of these reasons raises a number of particular questions and issues. I will therefore start with listing the main failings of the current integration requirements in Member States, considering my analysis in the previous chapters. Next, I will present my firewall solution and explain how it can address the problems in the current integration requirements in EU countries. Subsequently, I will examine the additional advantages of making residency and citizenship laws independent of integration strategies, by exploring several possible integration measures that could be considered if the firewall would be installed. Lastly, I will discuss four potential counterarguments against my firewall strategy, reaching the final conclusion that there seem to be no genuine disadvantages to the proposed solution.

Yet before further unfurling this line of thought, I will start off with a short clarification. In this chapter, I thus defend that a firewall should separate laws that distribute residency and citizenship rights, and public strategies to further integration particularly in the case of *refugees* and *family migrants*. I focus on these two types of migration for two reasons. First, these two groups, which European countries are obliged to accept under international and EU laws, have been the main target of the (mandatory) integration measures in EU countries that have proliferated over the last two decades. Consequently, based on my analysis in the previous

432 See Freeman 2004; Entzinger 2000.

chapters, the institutional solution I propose also primarily pertains to these two types of immigration. Second, as discussed above, refugees and family migrants, possess strong residency rights and protection against expulsion, and in principle have a right to become permanent residents after five years of residency in a Member State based on the LTR Directive (see p. 34-39). For this reason, I think it is important that integration strategies for these groups do not erroneously suggest that they can function as prolonged immigration policies — that is, yield the power to reject these TCNs after many years of residency — if they fail to complete certain integration conditions.[433]

1. The Problems of the Current Integration Requirements in European Member States

I will start with briefly enumerating the failings of the integration requirements in Member States for family migration, permanent residency and naturalization. Sharply delineating their particular flaws is useful for pointing to suitable countermeasures and determining the appropriate normative response. Indeed, drawing on the previous chapters, I stress the relevance of four main issues with regard to the proliferation of integration requirements in EU Member States over the last two decades, which all require normative attention.

First, I addressed the normative intricacy of the integration requirements in EU countries most fundamentally in Chapter 3. I argued that a serious risk of imposing integration requirements on legal immigrants (e.g. TCNs in EU states) as conditions for obtaining increased rights, is that they are prone to exploit the inherent power imbalance between receiving states and their legal newcomers. This results from the fact that newcomers are not (yet) equal members of the political and legal order. Moreover, these groups can be especially vulnerable to the extent that they form, in certain contexts, a relatively unpopular minority in society. For this reason, I concluded that the 'Achilles' heel' of the integration requirements in EU countries is that these policies give Member States the power to constantly redefine a set of performances, achievements and costs that TCNs must fulfill to obtain more secure legal statuses, while anti-immigrant attitudes can (easily) lead to exclusionary and counterproductive integration requirements, specifically targeted at refugees and family migrants. On that account, this analysis indicated that an adequate measure to counterbalance this institutional weakness should recognize that refugees and family

433 It is, nonetheless, an interesting question whether the lines of reasoning I present in favor of this firewall also apply to other types of immigration. For example, take Canadian or Eritrean expats or exchange students that arrive on work or education visas and after years of residency prefer not to return to their country of origin. Could Member States then require them to complete certain integration requirements in order to upgrade their temporary residency rights into permanent residency statuses? See also section 3 of the Conclusion, p. 170.

migrants reside in positions of precarity, and should hence be treated as individuals who deserve special protection against state power.

Second, in Chapter 4, I examined potential problematic societal 'spill-over' effects that Member States may inculcate through certain (mandatory) integration requirements. I determined that several European countries currently intensify problematic social hierarchies between citizens, mostly by suggesting that gaining access to secure residency and citizenship are *rewards* reserved for persons with immigrant backgrounds who display certain desirable efforts, attitudes and characteristics (framed as standards of personal integration). As a result, these policies (either intentionally or inadvertently) can contribute to a ranked society, in which citizens with nonimmigrant backgrounds are perceived as *being* citizens (irrespective of their behavior, attitudes, characteristics, success, etc.) and immigrant citizens as *having* a form of citizenship that can be revoked (as a consequence of undesirable behavior, attitudes, characteristics, deeds, etc.). Moreover, I described that in certain instances, integration requirements suggest that the universal values that underpin EU states are culturally 'nativist' notions, in the sense that they are presented as exclusively, or at least most accessible, through the dominant culture of the receiving state. Following from this, adequate countermeasures to combat such stigmatizing integration requirements must restrict the ability of states to suggest that the access to increased rights or equal citizenship is something that must be (culturally) *earned*.

Third, I found that it is problematic that the current integration requirements in Europe reduce numbers of naturalization.[434] I established that several normative literatures suggest that it is desirable if long-term immigrants, after a reasonable time-threshold is passed, obtain full citizenship. More particularly, in Chapter 2, I discussed migration theorists who argue that long-term immigrants should naturalize, because the inner logic of liberal-democracies mandates that all individuals who are perpetually subject to the political and coercive powers of the state should be enabled to have a voice in the processes of lawmaking. In addition, in Chapter 4, I deduced that social equality theories also push towards the position that it should be a state priority that *de facto* members of society obtain equal rights, to uphold a societal ethos that promotes values such as equality and fair treatment. For this reason, an adequate normative response should neutralize potential (legal) exclusionary effects of integration strategies of receiving states.

Fourth, I gave descriptive analyses of the spread of integration requirements in Member States and the conceptual shift that reinforced it in Chapter 1. These showed, I believe, that integration requirements in several EU countries are supported by 'individualized' integration conceptualizations, which paradoxically tend to have counterproductive integration outcomes seen from a more long-term and societal perspective. Essentially, if integration requirements start to narrowly assess the deserved belonging of individuals, they are predisposed to increasingly

434 E.g. Van Oers 2013, 276.

disregard — and therefore carry great risk of conflicting with — facilitating desirable societal outcomes (e.g. enhance language and equal opportunity in society). From an individualized integration perspective, it might seem reasonable to first determine whether a person 'fits' society and deserves to stay, as this question precedes and subsumes all other concerns. However, from a societal perspective this is puzzling and even nonsensical, because integration requirements should evidently not undermine desirable societal outcomes — not in the least because the family migrants and refugees who are obliged to integrate *cannot* be deported due to failing integration requirements, but actually remain members of society. For example, in the Netherlands, we have seen, fulfilling integration policies has become increasingly burdensome and expensive for family migrants and refugees. As a result, we have seen, low percentages of family migrants and refugees succeed in completing integration requirements. The other, less successful, TCNs are now confronted with prolonged provisionality, fines and also have to pay back their debts for their (privatized) integration education. Arguably, these integration requirements thus *increase* rather than decrease the chances that (vulnerable) TCNs will get stranded in the margins of society. Additionally, if integration requirements for TCNs are ineffective or even prevent the inclusion and participation of newcomers, this may also be problematic from a legal perspective. In Chapter 1, I established that the mandatory integration requirements for family migration and permanent residency are permitted by EU Directives, but *only* if they promote the inclusionary objectives of these directives and are in line with the general EU principles of effectiveness and proportionally (see p. 32-39).[435]

Accordingly, these examinations revealed that an institutional response to the current integration requirements in Member States should aim to prevent that they become ineffective or even exclusionary. Or, to be more precise, they should stimulate that integration measures are *less* associated with the question 'Who belongs here?' and are redirected towards the question 'If newcomers join society, what public issues might this raise, and what state policies would demonstrably work to adequately address these?'

435 In addition, in Chapter 1, I also briefly mentioned the Qualification Directive that states that on Member States a best-effort obligation remains to include refugees into their labor market and economic activities under conditions comparable to their own nationals (see p. 28).

2. The Firewall Solution

The outcomes and (exclusionary) effects of current integration requirements in Europe listed in the previous section can be addressed with a single institutional precaution.[436] I propose that receiving EU liberal democracies should establish a new principle, namely to place a firewall between, on the one side, laws that regulate the allocation of rights to legal residency and citizenship to refugees and family migrants and, on the other side, public strategies that monitor and encourage integration. The institutional attributes of this firewall are therefore quite straightforward: integration measures are in principle legitimate, but they should institutionally and legally be decoupled from laws that supervise the residential inclusion and the naturalization of refugees and family migrants.

The outcomes of this institutional separation are, I think, subtler then they may seem. The point is not that newcomers in society do not deserve or should not receive particular public attention. In fact, the firewall permits receiving states to install all sorts of participation workshops, language education and integration trajectories for TCNs in society and also (even) allows these to be obligatory.[437] On that account, the firewall proposal is sympathetic to the assumption of liberal nationalists that well-designed integration policies can be beneficial to society as they can, amongst other things, promote strategies of nation building, nurture broader projects of communal democratic socialization, have emancipatory effects and stimulate senses of belonging. However, receiving states cannot demand the demonstration of degrees of 'integration' by family migrants and refugees as preconditions for obtaining increased legal status, in which the ('open-ended') standards of integration can be specified by the receiving state and must be delivered by these newcomers.

This firewall could be respected in EU Member States in two ways. The first option would be through legal reforms at the level of EU law. In this case, article 7.2 of the Family Directive and article 5.2 of the LTR Directive that grant Member States respectively the option to enact integration requirements as conditions for family migration and permanent residency should be amended or abolished. In addition, EU harmonization in the

436 To be sure, I do not argue that this firewall is a panacea for all societal challenges that come with incorporating (large influxes of) immigrants into society. But I do argue it is normatively desirable and practically helpful to install it. This is paramount for all receiving liberal democracies, but I believe of special interest for EU Member States given the ongoing refugee crisis.

437 Public integration trajectories such as language education can be made *mandatory*, also if they are not connected to access to certain rights. All liberal-democratic states in the world already have forms of education that involve mandatory school attendance, mostly by children, which are imposed by law. In general, most citizens agree and comply with such public systems. However, if needed, it is upheld through school attendance enforcement and municipal courts. Penalties for non-compliance can include fines and ultimately even jail sentences if administrative measures prove unsuccessful. A similar system is imaginable for monitoring the enforcement of mandatory integration measures for newcomers.

field of naturalization would be required, minimally to ensure that for Member States it would be prohibited to demand certain degrees of integration in order to become a citizen with equal rights.

The second option would not necessitate changing EU laws, but would involve the voluntary commitment of Member States to enact this firewall at the domestic level by disconnecting their integration policies from laws regulating the territorial and civic inclusion of refugees and family migrants. This is an alternative option, as both the Family and the LTR Directive do not insist that Member States should connect integration requirements to increased rights for TCNs, but only give the option to enact such policies. Hence, Member States could also opt out. Regarding naturalization, given that there is no EU harmonization in this policy field, Member States can also simply decide not to link integration requirements to citizenship. Obviously, the weakness of this second option is that the commitment to the firewall diminishes as soon as political parties come into power that are convinced that family migration, permanent residency and/or naturalization by refugees and family migrants should be earned, or prevented. Nonetheless, hypothetically, it would be possible, at some point in the future, that the firewall principle becomes established across the board, without the current EU legal framework being adjusted.

Yet either way, note that the firewall option would not radically transform the current legal obligations Member States have towards admitting individuals with bona fide claims to family migration or granting permanent residency to family migrants and refugees after five years of uninterrupted residency. These legal obligations rest upon EU and international law, with or without such a firewall installed. However, in relation to naturalization the firewall would limit the discretion of Member States to install integration requirements as conditions for access to citizenship.

3. The Problem-Solving Capacity of Disconnecting Rights from Integration Strategies

In this section, I will explain how this firewall proposal will address the four main problems I enumerated in section 1 of this chapter.

Counterbalancing Precarity

The firewall proposal entails the commitment to deliberately limit state powers towards family migrants and refugees, offsetting the structural risk of misuse that stems from the inherent unequal power relationship between the receiving European states and TCNs. More precisely, by making integration policies completely independent of laws that regulate the territorial and societal inclusion of family migrants and refugees, the firewall would simply curtail the possibility that Member States might take

advantage of the vulnerable position of these TCNs (through integration requirements).

This line of reasoning might sound radical, but it is in fact not unprecedented. In the migration literature, Joseph Carens for instance also proposes to create a firewall between, on the one side, the enforcement of immigration and deportation laws and, on the other side, social policies to secure fundamental human rights.[438] His firewall would make it possible for undocumented immigrants (who are in a highly vulnerable position) to seek healthcare, as it would forbid hospital officials to report them to immigration authorities. On that account, Carens mostly focuses on passing *information* about the identity of undocumented immigrants from doctors to immigration officials, to prevent that undocumented immigrants refrain from seeking medical care if they need it. The firewall solution I propose is more comprehensive and based on different considerations, but it rests on the same core idea. It involves that states purposely constrain their potential influence in certain policy fields, as part of the commitment to protect individuals who are in precarious positions.

Furthermore, it is worth considering a parallel legal principle illustrating that this proposal is not unprecedented, by considering an example from another part of the legal system. On an abstract level, the firewall for integration requirements is comparable with the 'presumption of innocence' principle as it exists in criminal law. I realize this is quite a tricky comparison, as it might seem to suggest that immigrants are comparable with persons who are accused of an offence or crime. This is by no means what I mean to imply. The comparison is relevant because *conceptually seen* the same *justification* applies to both institutional precautionary measures: the state should limit its procedural and political powers in contexts in which the power imbalance between the state and individuals is so extreme, that the risk of misconduct on the part of the state is impermissibly high. If we look more specifically at criminal proceedings, we see that liberal democracies decide to lay the burden of proof fully and unequivocally on the prosecution (i.e. the state). This means that the prosecution has the obligation to prove each element of the offense or crime beyond reasonable doubt. Moreover, it restrains the state from engaging in intrusive investigation and surveillance methods to find evidence of offences of crimes persons allegedly committed.[439] This is required, this principles holds, as individuals deserve protection 'against specific dangers inherent in being subject to the powers of the state in the criminal process'.[440] The presumption of innocence is deemed indispensable for fair trials, given the enormous power inequality that exists between the state and criminal suspects, together with the persistent latent possibility of the gradual installation of a police state or the orchestration of fake trials to single out people as scapegoats for political interests. On that account, just as my firewall solution, it provides a crucial institutional

438 Carens 2013, 133.

439 Shahidulla 2012, 160.

440 Weigend 2013, 204.

safeguard to prevent that public policies are put to wrong use. It neutralizes the risk that the virtually omnipotent state exploits persons who are placed in defenseless positions (for political interest or otherwise).

In addition, the comparison between my firewall proposal and the presumption of innocence also shows well, in line with my discussion of liberal nationalism in Chapter 3, that for normative assessments of state policies it is not always enough to establish whether these policies could *in principle* be legitimate. In the context of criminal proceedings, it is conceivable that these can have fair outcomes also in hypothetical situations in which the presumption of innocence is not an established principle. This could be the case, I imagine, if the law enforcement and judiciary in a specific country are trustworthy and the evidence (or the lack of it) in a particular case is evident. Nonetheless, this does not affect the normative core of arguments in favor of the presumption of innocence: it is a safeguard against the misuse of power towards individuals in those instances in which the intentions of the powerful state are not, or at least not fully, benign but rather biased, one-sided or even outright menacing towards newcomers.

Ergo, the argument in favor of the principle of innocence does obviously not implicate for liberal-democratic states that having a criminal system is problematic *as such.* Instead, the presumption of innocence is a remedy to prevent that state policies that are in principle legitimate and, if well-functioning, even highly beneficial or crucial to society, are not utilized for the wrong purposes. Analogously, my defense for the firewall solution does not imply that receiving states would *never* benignly stimulate family migrants and refugees to participate in language and civic education, if they link integration measures to the obtainment of rights. Nor does it imply that integration strategies are not valuable *as such.* Instead, the firewall is required to prevent that — in principle legitimate public policies — are not utilized for the wrong purposes, given that they are applied to individuals who are to an exceptional high degree subject to the discretionary powers of the state.

Counteracting the Reward Paradigm of Naturalization

The firewall will also form an antidote against the current European tendency that Member States inculcate standards of earned citizenship for immigrant citizens (with non-EU, non-Western backgrounds) through integration requirements. In Chapter 4, I already touched upon the argument that from a social equality perspective, arguably *any* integration requirement as a condition to obtain increased rights and citizenship could be qualified as a step in the wrong direction (see p. 125). Their mere existence will always reinforce the dissimilarity between nonimmigrant citizens who received their citizenship as a natural entitlement and immigrant citizens that obtained it later in life.

And indeed, considering social equality concerns, the firewall would limit the capacity of states to nurture, whether deliberately or accidently,

symbolic differences between those who gain citizenship as a birthright, and newcomers who became citizens later in life (which may also, as Blake reasoned, negatively impact citizens with the same backgrounds as newcomers that must earn their citizenship). If obtaining residency rights and citizenship for family migrants and refugees cannot be made contingent on integration conditions, states are pressured to explain that these TCNs do not have to 'earn' secure residency rights or civic rights based on standards of personal integration or merit. Rather, they must be transparent that their state powers in the context of these types of immigrants are to a degree 'self-limited' as Joppke described it (see p. 93). More precisely, states will have to explain that the allocations of these rights to these types of immigrants are based on questions of law (e.g. does this person have a right to family migration or a humanitarian status?) and time (e.g. has this refugee resided for the prescribed amount of years to obtain permanent residency or citizenship?).

In addition, if receiving states decide to make integration trajectories for refugees and family migrants mandatory, this duty to integrate is less stigmatizing if it is not connected to 'deserving' certain rights. Language education or civic classes for newcomers would become merely one example of mandatory education, in the same way that all citizens have been required to attend. Of course, a difference between the public education for nonimmigrant citizens and newcomers is that they are confronted with it at different points in their lives. Born citizens undergo public education in their younger years, and immigrant citizens shortly after their arrival. However, the public objectives and state justifications of these mandatory educational state programs are exactly the same. They involve facilitating desirable societal and emancipatory outcomes (not to measure 'who belongs?').

Moreover, the firewall will also make it more difficult to suggest through integration requirements that newcomers have to culturally embody the majority culture of their receiving country in order to have access to the universal values of the state. This is valuable, as when the entitlement to citizenship and universal rights are 'culturalized' (e.g. portrayed as 'our' values), they fail to provide a solid basis for a society grounded in social and political equality. That is, if receiving European states perceive and frame their equal citizenship and values increasingly as 'nativistic' notions, it is harder for persons with immigrant backgrounds to feel as 'real citizens' of the nation and it is also less likely that other citizens will perceive them as such. This is unfortunate, as in fact universal values have the power to function as common fertile grounds for cultivating a political community based on peaceful co-existence. Essentially, when the state is committed to these values, it enables citizens — regardless of their background, personal perspectives and life decisions — to commit themselves to them as equals, given their universalistic nature.

That said, it must be noted that the firewall is surely not a magic bullet to secure the value of equal citizenship (for immigrant citizens). The state and politicians in power can still stigmatize immigrant citizens through, for example, public statements (such as the statements of

Dutch prime minister Rutte discussed in Chapter 3, see p. 105). Furthermore, also within integration education that is disconnected from the obtainment of rights, the national culture or *Leitkultur* of the receiving country can be portrayed as intrinsically superior, unchangeable and/or fully coinciding with the 'universal' values underpinning the state. Nevertheless, to a degree, the firewall at least irrefutably restricts the ability of states to publically inculcate the idea that immigrants must *deserve* to legally belong (while this is not the case for nonimmigrant citizens). Both immigrant and nonimmigrant citizens do not earn or deserve their residency or citizenship based on certain characteristics, education levels, attitudes, etc. On the contrary, both are equal citizens *regardless* of those things, receiving their legal citizenship simply by virtue of being members of a society that strives to be a community of equals.

Enabling Naturalization

The firewall can serve to negate all potential exclusionary effects of integration requirements on the number of refugees and family migrants that eventually naturalize. On that account, the firewall is supporting the final analysis of Van Oers that I quoted in Chapter 1, in which she concluded that integration requirements such as citizenship tests are 'destined' to lead to lower numbers of citizenship acquisitions (see p. 40). Based on empirical research, she writes, it seems that integration requirements for citizenship simply always reduce naturalization numbers to a certain extent, compared to when they were not installed. For this reason, to recall, Van Oers observed that integration requirements such as citizenship tests have 'inherent limits to achieve the [...integration...] goals for which they are introduced'.[441] One such an inherent limit, I explored in depth in Chapter 3. There I highlighted that 'integration' is a problematic standard for citizenship, because the content of 'integration' that must be completed by newcomers is open-ended and arbitrary — especially if integration regimes become underpinned by individualized conceptualizations of integration (and politicians start to refer to naturalization as being 'too easy' or 'given away for free'[442]). The firewall will therefore be helpful in this regard, as it will make it impossible for states to use the notion of 'integration' to allocate citizenship rights.[443] As a result, it will necessitate Member States to use more neutral and objective requirements for citizenship that will have less selective or discriminatory effects, for which residency requirements seem most appropriate (if applicable, based on the European Convention on Nationality).

441 Van Oers 2013, 278.

442 Van Oers 2013, 249.

443 This reasoning also applies to the integration requirements abroad, which, moreover, also determine the number of family migrants that eventually obtain access to naturalization.

Avoiding Ineffective Integration Strategies

Seen from a more long-term and societal perspective, the firewall will also be valuable in preventing counterproductive integration outcomes that integration requirements for refugees and family migrants may have. It namely counteracts that EU states can treat these TCNs as being required to go through some sort of 'test phase' to demonstrate their personal integration, before they are perceived as deserving secure residency rights, citizenship and public concern. As a result, it will shift the focus of public integration measures away from questions of earning rights or belonging towards addressing public issues that are elicited by migration. After all, the firewall will preclude that states can organize their integration strategies based on the assumption that family migrants and refugees must personally 'fit' in to merit belonging. Therefore, it pressures EU states to rethink their conceptions of both integration and integration policies. If integration is *not* about individual belonging, then what is it about?

Most likely (and perhaps even inevitably) states will shift to redefining integration in terms of a set of desirable societal outcomes. With the firewall in force, states can namely not maintain that integration is only the sole problem of TCNs, pressuring *them* to integrate to avoid deportation. Instead, if policies that facilitate integration are totally disconnected from laws determining the residency and citizenship rights of refugees and family migrants, it is unconvincing to suggest that there is no public responsibility, or at least, public *interest,* to install integration policies that are measurably effective in achieving their policy objectives. If it is transparent from the start that family migrants and refugees in principle will have a right to permanent residency after five years, I contend that it will become clear that the EU societies receiving them should carefully invest in their incorporation process and actual inclusion.

On a more theoretical level, the firewall will therefore stimulate that integration will become understood in a more 'disaggregated' fashion such as described by Gary Freeman in his article *Immigration Incorporation in Western Democracies.*[444] This conceptualization does not hold that newcomers ('they') should integrate in a supposedly fully fixed and pre-existing real society ('we'). Instead, it works with an image of society that exists of 'ramshackle, multifaceted, loosely connected sets of regulatory rules, institutions, and practices in various domains [...] that together make up the frameworks within which migrants and natives work out their differences'.[445] Accordingly, this view on integration does not match with either 'holistic' integration as developed by functionalist sociologists that works with the fiction that societies can be fully integrated, or with 'individualized' integration as increasingly prevalent in Europe today. Rather, 'society' is perceived as fragmented and de-centered, with the result that the 'incorporation process must also be fragmented.'[446] It

444 Freeman 2004.

445 Freeman 2004, 946.

446 Freeman 2004, 947.

involves a complex interaction of several societal dynamics, such as economic, social and cultural processes, all interacting with each other.[447]

On that account, the firewall will prompt states to change *the order in which* issues of integration are approached. Currently, EU states increasingly *first* lump together all public challenges and potentially public issues that surround the arrival of newcomers in society under the unspecific diagnosis of 'integration problems' on the part of those who stand outside of society, and *then* install punitive measures to exclude those immigrants that supposedly cause them. The firewall will force receiving states to be more pragmatic. They must *first* acknowledge that, if family migrants and refugees arrive in society, the best strategy is to pro-actively specify the disaggregated issues that need public attention (considering liberal-democratic values) and *then* enact appropriate public (integration) policies to address these challenges. So, for example, if one worries about the language proficiency of newcomers, it is important to craft public policies that enhance these levels and evaluate them based on their actual outcomes. Additionally, in the face of migration, one could also be concerned with stimulating senses of belonging, democratic socialization, offsetting the increase of inequality in education, unemployment, social isolation, spatial segregation, hierarchies perceived in citizenship, and so forth. These are all potentially real issues that deserve public attention and well-crafted state policies. Yet, all things being equal, not much is gained if we conglomerate all these public concerns and problems together, in all their complexity, and then roughly label them as 'integration issues' that newcomers must solve (on their own) in order to deserve to belong. Instead, integration policies should be installed that have specific policy objectives to uphold specified societal outcomes, which can be evaluated based on whether they effectively promote the intended aims. For this reason, it is useful that the firewall will provoke that the benchmark for assessing the quality of integration measurements will no longer be testing whether individual TCNs *integrated enough* to belong and obtain secure and equal rights, but based on *comparing their measurable effects on the societal outcomes that are specified as their policy objective(s).*

At surface value, this benchmark strategy will have several beneficial effects on the effectiveness of integration policies. I will briefly highlight four.

First, it will presumably influence what proposals in the first stages of policy making are deemed as acceptable, for example during parliamentary and public debates. If we look at the Dutch case, for example, I think that if the firewall would have been in force in 2013, it would immediately have been obvious that it was an irresponsible proposal to provide refugees and family migrants with little or no public assistance during their first years of residency and to privatize integration education. In particular, if it would have been impossible for the Dutch government

447 European Research Centre for Migration and Ethnic Relations, Entzinger & Biezeveld 2003.

to promise that they could 'solve' integration issues by deporting TCNs or systematically thwart the possibility of the allegedly unintegrated to belong to society, it would have been (more) difficult to convincingly defend the lack of public supervision and support for newcomers. The foreseeable counterproductive outcomes of these policies would have been immediately recognized as a societal risk, as integration would have been understood as a (disaggregated) collective responsibility, requiring effective interventions of public policy.

Second, in the same vein, the firewall will also influence how integration requirements are evaluated retrospectively, if their policy outcomes turn out to be disappointing. In the Netherlands, we saw that of the refugees that arrived in 2013, only 30% completed their integration trajectories three years later.[448] In such situations, the firewall would prevent that the state or politicians can 'hide' behind the political narrative that this is the sole problem of the involved refugees, since they will not obtain full rights and eventually face expulsion from the territory. Given that integration is not about residency in the first place – and refugees and family migrants have rights to residency based on EU and international laws –, it is evident that the installed integration policies for new residents should be improved to attain better policy outcomes, that is, to more constructively facilitate achieving a set of desirable societal goals.[449]

Third, this disaggregated integration approach will also stimulate states to reconsider the relevance and impact of integration policies for those who do in fact complete them. For example, what to think of those questions in citizenship exams I referred to in the introduction of this dissertation, testing trivial and obscure things about the dominant culture of the receiving country? Are those tests genuinely facilitating integration or do they only form a formal check on whether or not someone is 'integrated', without genuinely assessing whether such integration measures indeed empower newcomers to participate in society? Also, in the Netherlands, recent research indicates that it is possible for TCNs to pass all language and civic requirements, while virtually never leaving home and being socially totally isolated (e.g. by preparing for the language and civic exams via the internet).[450] This is arguably not the purpose of an integration strategy. Moreover, research shows that since 2013 in the Netherlands refugees and family migrants do not strive to complete the highest possible language education, but decide to play it safe and structurally opt for the easiest options. [451] Seen from their perspective, this is understandable,

448 Algemene Rekenkamer, 2017, 25.

449 More particularly, with the firewall in place, I think that in the Dutch case, more attention would have been given to the implication of certain policy changes. For example, since the language and integration education has been privatized, a high number of fraudulent language schools entered the 'integration market'. These schools lure TCNs to buying over-expensive language education packages upfront (e.g. by promising free laptops) while the offered education is poor and does not sufficiently prepare them for their prescribed language exams and citizenship tests. See also Rekenkamer, 2017, 35.

450 UvA, De Lange *et al,* 2017, 7.

451 Algemene Rekenkamer 2017, 51.

as (the integration requirements trigger anxiety while requiring considerable effort, time and money) they are motivated to secure their rights and avoid fines. Yet from a disaggregated integration perspective, this demonstrates that punitive measures for the no fulfillment of integration requirements can lead to substandard societal outcomes — even if newcomers complete all official requirements.

Fourth, if integration is indeed seen as a multidimensional process in which both persons with and without immigrant backgrounds are involved, it becomes visible that not only policies that are formally labeled as 'integration' policies (and are specifically targeted at newcomers) influence whether the objectives of integration policies are realized.[452] Instead, to meaningfully facilitate and assess integration, other public and social institutions should be considered as well, such as the structure of the labor market, the educational system, cultural dynamics, etc. — together with how all these institutions interact with each other, as well as with the formal integration policies.[453] Accordingly, with this mindset, it becomes clear that specific integration measures for refugees and family migrants are only one piece of the puzzle of how to build and maintain a flourishing society, while receiving newcomers. Surely, it can be a very valuable piece, if it enables TCNs to participate more successfully (and more rapidly) in several societal spheres. Nonetheless, if integration measures are enacted, states should ensure that they are in line with the objectives of other state policies, and do not (unexpectedly) undercut general societal concerns. For example, in the Netherlands, it appears that for people with a refugee status, the strict language requirements at times make it *more* difficult for them to hold a stable job or to structurally participate in the labor market.[454] From a disaggregated perspective, it seems therefore most reasonable if states would be more flexible in such situations, for example by offering evening courses, in order to avoid that its language policies undermine participation in the labor market, instead of supporting it.

4. More Innovative Integration Strategies

In the previous section, I explored how the firewall would address the main negative effects and problems of the integration requirements in Member States under current EU and domestic laws, as analyzed in this study. However, I hold that if the disaggregated perspective would become more prevalent in Europe, it has the potential to also more generally lead

452 Entzinger 2000.

453 In this context, it could also be perceived as relevant that, for example, recent research suggests that obtaining citizenship is for refugees a resource for successful socio-economic integration. See Bakker 2015, 41-42.

454 UvA, De Lange *et al*, 2017, 60. In certain regions of the Netherlands, language schools only offer courses during working hours. For this reason, refugees are forced to quit their jobs or interrupt their participation in the labor market.

to a more enriched and constructive perspective on the potential of integration policies. If the benchmark for the quality of integration measures indeed becomes to compare the measurable effects of state policies on a number of societal outcomes, a variety of innovative and effective integration strategies become conceivable. This section presents some of the possible policy directions.

First, if integration policies are disconnected from laws distributing residency permits and citizenship rights to refugees and family migrants, the question arises why all newcomers should be provided or expected to complete *the same* integration trajectory. Within the current institutional configuration, when integration requirements are connected to the gaining access of increased rights (family migration, permanent residency and citizenship) they are bound to be the same for all. Any other arrangement would be unfair, as people should be able to obtain such rights under the same conditions. But this understandable concern with fairness limits and narrows our constructive thinking on possible integration strategies. Therefore, the firewall —disconnecting residency rights and integration — unlocks the possibility to explore the untapped potential of developing customized approaches to integration. This is advantageous, as research on the current integration requirements in Member States demonstrates that their exclusionary effects chiefly affect the more vulnerable groups of TCNs.[455] In her research, Van Oers therefore draws an 'integration spectrum'. On the one side, there is the 'Top End' existing of immigrants who are already highly educated or who have strong social networks. For this group, she writes, citizenship tests are 'insultingly easy' and 'belittling'.[456] On the other side, there is the 'Bottom End' that consists of 'elderly, low educated and illiterates, women in disadvantaged positions and traumatized refugees'.[457] For this group, it is often very difficult or simply impossible to pass integration requirements such as a citizenship test. As a result, they often abstain from applying for increased rights altogether, have to undergo the humiliation of multiple failed attempts to pass all requirements and/or fall under an exemption clause without actually improving their language skills.

By installing the firewall, the selective legal exclusion of these integration requirements for, in Van Oers' terminology, the 'Bottom End' could effectively be counteracted. This would address the concern that refugees and family migrants do not succeed in obtaining secure residency rights or naturalization. Yet, on top of that, it would also make it possible to provide refugees and family migrants with customized forms of integration education and supervision. For instance, in relation to language acquisition one could try to provide, say, three different trajectories, adjusted to the needs of specific immigrant groups and their didactical needs. There is simply no one who benefits from putting immigrants

455 E.g. Groenendijk & Van Oers 2010, 10.

456 Van Oers 2013, 270.

457 Van Oers 2013, 271.

who finished university degrees and those who are illiterate together in the same language class.

In this context, the UNHCR also gave two important recommendations in its report *A New Beginning; Refugee Integration in Europe.* Firstly, it recommends not collating integration policies for refugees and other TCNs such as family migrants, because they have different backgrounds, reasons for migration and (psychological) needs.[458] Secondly, however, it also warns to neither fully standardize integration policies for people entering the EU on humanitarian grounds, as the challenges that the influx of refugees pose can 'only be addressed if refugees are recognized as individuals, rather than as a homogenous group for whom the same interventions are envisaged'.[459] From this angle, the best approach to integration strategies seems to be built on a dialogue between the state and newcomers. [460] For example, a possibility could be that newcomers receive an allotted personal budget and can indicate what they think would be the most effective method to learn the language, culture, history, political system and become familiar with the labor market.[461] In any event, if integration policies are seen as a public responsibility and interest and meant to enable all members of society to participate to the best of their abilities (instead of being a personal condition to be achieved by individual immigrants to prove they deserve citizenship), a whole catalogue of possible customized integration strategies becomes realizable, most likely with much better outcomes than the current policies which are not customized to the specific needs and capacities of immigrants.

Second, if integration policies are indeed understood as facilitating a set of desirable societal outcomes, integration trajectories can also be provided as a response to internal EU migration. Within the currently growing individualized perspective on integration, under EU law fellow EU citizens cannot be obliged to complete integration standards in order to deserve belonging (e.g. obtain, renew and increase their residency rights). As a result, in Member States there is hardly any public attention for citizens from, for example, Eastern European countries that move to Western Europe to live and work: they are simply not perceived as an immigrant group that

458 In the Netherlands, family migrants indeed have fewer problems with fulfilling the prescribed integration requirements than refugees. See Algemene Rekenkamer 2017, 28.

459 The UN Refugee Agency, 2013.

460 In a sense, one could say that the firewall would thus also lead to 'individualized' integration approaches, but only in the sense that the provided education and supervision is customized to the personal needs of individual migrants. This customization is different than the individualized approach as described in Chapter 1, which entails that integration is a personal condition of TCNs that they must embody to deserve increased rights, secure residency and equal citizenship. To adjust the intervention requires acknowledging that integration is not an individual responsibility, but also a matter of innovation in public policy design.

461 Ballin & De Waal, 2016, 308. See also WRR, Engbersen *et al,* 2015.

should be offered integration or language education.[462] Nonetheless, the Dutch Scientific Council of Government Council (WRR) wrote in a report on internal EU migration that if Polish and Bulgarian immigrants that (most probably) settle are offered 'education, language training and labor market supervision', unemployment could be prevented.[463] In fact, literally *all* arguments in favor of (disaggregated) integration measures for refugees and family migrants, also apply to internal EU migrants. To be sure, if the firewall disconnects integration policies from laws distributing residency and citizenship rights to family migrants and refugees, this will not change the legal position of EU-citizens. As a result, it will remain impossible to make language courses mandatory for them. However, it will become possible to offer voluntary courses (at low prices).

Third, along the same line, the firewall might also lead to paying attention to the needs of *citizens* who are disadvantaged due to low language levels. For example, in the Netherlands over 12% of the population is functionally illiterate, which can be roughly defined as being ill-equipped to participate in society and particularly in the labor market due to being able to read or write only individual phrases but not a longer text. From a disaggregated integration perspective, illiteracy under citizens is problematic for the same reasons as low language levels on the side of newcomers. For this reason, if the firewall would abolish the current individualized integration perspective in EU countries that only perceives integration as a pressing issue in relation to assessing the belonging of persons with (non-EU and non-Western) immigrant backgrounds, this might lead to the installment of (customized) language courses for all residents in society, citizen or not, that might benefit from them. In addition, one could think of other measures such as public funding for an (online) TV channel continuously offering (free) lessons on the national language.

Fourth, the disaggregated integration perspective also casts new light on the best institutional treatment of asylum seekers who must wait (often in the context of isolated camps) for the outcomes of their individual procedures. In virtually all European countries, these individual procedures are periodically subject to tremendous delays due to a sudden influx of migrants who apply for asylum, leading to a bureaucratic backlog. Over the last years, this happened in several Member States because of the destabilization in the Middle East, but also as a consequence of increased arrivals of asylum seekers from Balkan countries (who virtually never actually receive asylum). In 2015, the average waiting time for asylum seekers in the Netherlands, for example, was 15 months. Nonetheless, during this period, the newcomers were only permitted to participate in the labor market to a limited degree (on a volunteer basis). Moreover, they could only start with their integration and language trajectories *after*

462 In addition, it is striking how integration *discourses* barely address internal EU immigrants (who do not have non-Western backgrounds). So whereas integration discourses are (even) applied to born citizens of Member States with non-EU and non-Western backgrounds, they are only incidentally applied to internal EU migrants.

463 WRR, Holtslag *et al* 2012, 10.

their humanitarian permits were granted. The political reasoning behind this legal arrangement is, I presume, that receiving states do not want to invest in persons, or let persons participate and merge into society, who eventually have no entitlement to stay. This is to a degree understandable. However, research shows that if asylum seekers must wait and are 'forced to do nothing' for prolonged periods of time, this is harmful for their mental health. Also, if they eventually do receive a permit, this prolonged period of forced inactivity negatively impacts on their motivation for building up a new life.[464] For this reason, if their individual legal procedures take time, asylum seekers should in the meanwhile be allowed to engage in activities, such as language lessons, education and participate in civil society.

On that account, if the firewall would be installed, it could still be reasonable to limit public integration trajectories and participation to qualified refugees, yet *only if* asylum procedures are efficient and short. Then rejected asylum seekers can be sent back to their countries of origin and the accepted refugees can quickly start building up their life in their new country. Nevertheless, if asylum procedures become clogged, it is crucial that receiving states are willing to open up their integration strategies for asylum seekers to prevent that they do not suffer due to enduring inactivity (particularly not if these asylum seekers are, for example, from Syria or Eritrea and will almost certainly eventually receive a refugee status anyhow). However, existing integration policies do not allow for this flexibility, due to the individualized perception on integration. This perspective makes it counterintuitive to already enable and support asylum seekers to start with their integration trajectory, as it is unclear whether they deserve a 'test phase' at all. Yet from a disaggregated perspective, this is the wrong approach: for matters of integration, there is no problem if asylum seekers have participated in integration education, the labor market or civil society for a period of time and are still rejected, if this risk overall facilitates desirable societal outcomes in the long term.[465] Indeed, this actually gives the state *more* power to intervene in the integration of newcomers at an early stage, while at the same time benefitting society at large by preventing the harmful conditions of long waiting times that are counterproductive for integration. [466]

5. Possible Counterarguments against the Firewall

Despite the different arguments in favor of the firewall presented in the previous sections, there are, as I see it, at least four possible arguments against it. The first is that it would be too costly, the second is that it removes the punitive powers that receiving states can use to force refugees and family migrants to integrate, the third is that it will be detrimental

464 WRR, Engbersen *et al* 2015.

465 The UN Refugee Agency, 2013 September, 118.

466 Ballin & De Waal, 2016, 308.

to the symbolic value of naturalization and the fourth is that it is reasonable to demand of immigrants a minimal degree of civic knowledge and language levels before they are given political membership. I will discuss these possible counterarguments below.

Limitations to Public Spending

One could argue that my firewall proposal and all the integration trajectories that would follow from it would simply be too costly. It could then be said that it is financially unrealistic to increase public spending on integration by 1) providing integration trajectories that are customized to the needs of individual newcomers; 2) offer language courses to citizens and internal EU immigrants that might benefit from them; and 3) give asylum seekers access who did not (yet) receive a residency permit access to integration courses. And of course, there are limits to the public resources available for integration strategies such as language education, in the same way that funding for all public policies is limited. In this chapter, I therefore mainly explored what the potential is of installing such a legal firewall, henceforth adopting a more functional perspective on the purposes of disaggregated integration policies.

However, it should be emphasized that from an economic perspective, it could also be argued that is in fact most sensible to invest adequately in integration strategies for newcomers (and citizens) as this prevents negative societal consequences and hence public costs in the future. Essentially, it is better for everyone if (new) residents are not banished to the margins of society, resulting in increased welfare dependency, unemployment, crime (etc.), which may potentially cause tremendous costs for society. For this reason, it seems that to install measurably effective integration trajectories for different (new) groups in society is in fact economically most lucrative and the best strategy for society as a whole. I return to this point in the Conclusion of this dissertation.

Enforcing Integration

Another possible argument is that the firewall would dangerously remove the 'big stick' that receiving states can yield, compelling refugees and family migrants to integrate and to forcing them to, for example, learn the national language and the basics of the political system. In weighing the importance of this argument, it is important to remember that the integration requirements for these groups formally do not serve to select their *eligibility* for migration or residency rights. Furthermore, if refugees and family migrants do not complete integration requirements, this virtually never leads to their physical removal from the territory. For this reason, the main effect of the current integration requirements in Member States is, as established in Chapter 1, that these TCNs remain within society in positions of 'prolonged provisionally' with limited packages of rights, and

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

Nonetheless, as long as the firewall is lacking, the formation and structure of the integration requirements in Member States remain heavily based on the assumption that the alleged 'unintegrated' family migrants and refugees can be removed from the territory, if it turns out (after years) that they cannot or do not want to integrate. As a result, the integration strategies for refugees and family migrants are surprisingly less pro-active and enabling than they could (or should) be, considering that refugees and family migrants will most probably remain permanent members of society based on EU law.[467] The main effect of the connection between residency rights and integration policies in the context of refugees and family migrants in Europe is therefore that it obscures the purpose of these integration requirements and leads to less adequate public policies to monitor the arrival and incorporation of newcomers.

The Ritual of Becoming a Citizen

Still, one could argue that the firewall should be rejected, because the connection between integration standards and access to rights for refugees and family migrants is important for more symbolic reasons. For example, Randall Hansen argues that a citizenship test enhances the 'transformative nature' of integration requirements and naturalization. If citizenship is obtained too easily, he writes, 'it means little' as human beings throughout their lives 'take pride in accomplishments for which we have prepared and on which we have been tested.'[468] In response to this claim, I would say that the idea that ceremonies and rituals can indeed have transformative effects and can matter to people has merit. For this reason, this argument has a kernel of truth, but its weakness is that it claims that the *only* way to give integration and naturalization meaningful symbolic weight is by installing integration requirements such as citizenship tests, potentially connected to the non-obtainment of rights or the imposition of fines. This seems unwarranted to me. European states are powerful institutions and possess many alternative tools for promoting education, celebrating citizenship, nation building and cultivating a sense of belonging. Therefore, many publically supported strategies, initiatives, (mandatory) courses, TV-shows, national holidays, ceremonies and websites are imaginable to make it possible for immigrants to learn how things work in their new country, to hear about the national traditions

467 To be sure, if newcomers turn out unwilling to integrate, this is a problem and should be addressed (see footnote 438). Yet I hope to demonstrate the response to this problem should not result in opening up the opportunity for states to withdraw the residency, social or citizenship rights of refugees and family migrants.

468 Hansen 2010, 26.

and ways of life, the nation's history and traditions and its languages, and ultimately, to feel welcome and be able to fully participate in society. Seen this way, it is even doubtful whether the current integration requirements in Europe have the best symbolic effects on both newcomers and the receiving societies (form the best 'ritual'), as they tend to be punitive and hostile instead of enabling and welcoming.

Having the Competency to Vote

A final possible argument against the firewall is that it is most reasonable to ask newcomers (basic facts) about the political system and to expect minimal language levels on their side, before they should be allowed to naturalize and, with that, to vote and thereby influence the political system. In this context, a citizenship test for obtaining political rights is often compared to obtaining a driver's license. What is wrong (or discriminatory) with demanding certain knowledge and competences before being allowed to drive on the highway or to participate in the political realm?

This argument is not convincing for a number of reasons. First, throughout history, additional requirements for voting rights have often been used as mechanism of racial exclusion and disfranchisement. For example, in the American states of Mississippi and Connecticut a literacy test was put into practice in the mid-19th century to specifically disfranchise African Americans.[469] Similarly, in the Canadian province British Columbia immigration from China, Japan and India was effectively curbed under the slogan 'White Canada Forever' through, amongst other things, literacy tests.[470] Moreover, in Australia[471] during the White Australia policy comparable forms of racial exclusion took place. The shared strategy behind all these tests was to demand exactly those levels of knowledge and literacy of which it was anticipated that it would be impossible for specific certain (racial) groups to pass in order to acquire admission, civic membership or suffrage. It is therefore not unreasonable to conclude that testing competences for political membership risks having discriminatory effects and therefore does not deserve recommendation.

Nonetheless, from a more principled and theoretical point of view, such historical examples do not conclusively establish that all tests for political rights are wrong. For this reason, it is also important to consider that the link between democratic and political membership and standards of knowledge is not invoked in relation to nonimmigrant citizens. Indeed, if the rights of 'native' citizens would be made contingent on, say, passing public or high school exams, this would certainly result in revoking the voting rights major portions of (the more vulnerable) citizens in society. Hence, this would be unequivocally criticized as compromising universal suffrage. Seen this way, the firewall importantly erases an institutional

469 See e.g. Kostakopoulou 2010a, 201.

470 Backhouse 1996, 322.

471 Willard 1967.

double standard. It prevents that completing certain (mandatory) public (integration) education becomes a *prerequisite* of political membership for members of society with immigrant backgrounds, while this is not the case for nonimmigrant citizens who may also not meet certain basic standards of (political) capabilities.

Of course, in response to this argument, it could be pointed out that instead of opening up the right to vote to newcomers, we should move in the opposite direction, also requiring nonimmigrant members of society to complete civic and language tests to exercise their citizenship and have voting rights. To fully address this argument leads beyond the scope of this study. In brief, I believe it fails because it rests on an impoverished and narrow conceptualization of citizenship. Liberal-democratic states (committed to individual freedom, equality, the rule of law, etc.), are, first and foremost, inclusive and protective political projects. This means that their core ambition is to offer individuals maximum protection in terms of rights, even if their individual characteristics and competences do not coincide or even contrast with those of the majority. The best understanding of citizenship is therefore that certain levels of knowledge, skills, language levels and dispositions are unquestionably important to *factually exercise* citizenship. On that account, the state has the crucial task to facilitate and enable citizens to acquire these competences, *inter alia,* through providing public education. However, it is undesirable and unjust if certain competences or skills *serve as tools for selecting* whom the state recognizes as citizens in the first place. Otherwise, if the notion of citizenship would indeed only be granted to individuals who are able to live up to certain (idealized) standards required to contribute to democratic deliberations, this would immediately dangerously affect the political membership of many more citizens than only newcomers.[472]

Lastly, a more practical argument is that being allowed to vote actually promotes engagement in public discourse. If individuals (including immigrants) are given political responsibility, they are stimulated to think about civic matters and to follow public debates. In this sense, inviting people into the political realm is in fact an educational opportunity to engage in a better understanding of a particular political community. Put differently, granting citizenship and voting rights can (better) be used as an instrument to *promote* integration, not a reward for having already done so.

472 See e.g. Wong 2009. Moreover, this analysis relies on and resonates with recent citizenship theories that focus on the rights of the disabled (see e.g. Silvers & Francis 2005) and animals (see e.g. Donaldson & Kymlicka 2011). Within this scholarship, it is argued that the idea of citizenship is deeply committed to the full political agency of citizens — such as the capacity to rationally deliberate and to speak and understand the national language — but that degrees of political agency indeed should not *determine* who is a citizen. From this theoretical angle, approaches have been explored to enable the citizenship of all members of society through 'dependent', 'assisted' or 'interdependent' agency (Silvers & Francis 2005). This may sound as applying only to exceptional cases, but in fact all citizens throughout life go through stages in which they are in need of assisted agency, for instance in childhood, due to temporary illness or often increasingly with old age, *without* their national citizenship being questioned.

6. Conclusion

In this chapter, I have suggested that EU Member States should install a firewall between laws that regulate residency and citizenship rights for refugees and family migrants and public policies that promote integration. I have argued that this approach has several normative and pragmatic benefits. On the one hand, it counteracts the most prominent issues of the current integration requirements as conditions to attain increased rights in Member States as analyzed in the different chapters of this book. These risks and problems involve 1) the potential exploitation of the precarious legal and political of TCNs; 2) susceptibility of jeopardizing the ambition of European states to uphold 'community of equals'; 3) a decrease in newcomers who have access to naturalization and 4) proclivity to lead to ineffective or even counterproductive integration outcomes, from a long-term societal perspective (which results in integration requirements contradicting EU laws). On the other hand, I explained that the firewall solution would also lead to an improved perspective on the purpose and possible applications of integration trajectories and make a number of innovative, flexible and demonstrably effective integration strategies conceivable that are worth giving consideration. Amongst other things, it makes customized integration strategies imaginable that address the specific needs of members of society including family migrants and refugees, but also internal EU-migrants, disadvantaged citizens and asylum seekers.