Benchmarking Integration in the EU

Analyzing the debate on integration indicators and moving it forward

BertelsmannStiftung

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Abbreviations

AFSJ	Area of Freedom, Security and Justice
CBPs	Common Basic Principles
COM	European Commission
DG	Directorate-General
DG JFS	Directorate-General for Justice, Freedom and Security
EC	European Community
ECJ	European Court of Justice
EESC	European Economic and Social Committee
EIF	European Integration Fund
EMMI	European Modules for Migration Integration
EP	European Parliament
EU	European Union
JHA	Justice and Home Affairs
INTI	Preparatory Actions for Integration of TCNs (EU program)
MPG	Migration Policy Group
NAPs	National Action Plans
NCPI	National Contact Points on Integration
NGO	Non-Governmental Organization
OMC	Open Method of Coordination
TCNs	Third-Country Nationals
TEC	Treaty establishing the European Community
TEU	Treaty on European Union
TFU	Treaty on the Functioning of the European Union
UK	United Kingdom

Foreword

> We live in one world. We need to understand
> and respect each other, live peacefully together and
> live up to the best of our respective traditions.
> That is not as easy as we might like it to be.
> But that is all the more reason to try harder,
> with all our tools and all our will.
> Kofi Annan
> 7 December 2004

Europe is a continent of immigration. It must, therefore, also be a continent in which integration policies bolster social cohesion. Yet this is currently not the norm in Europe. Too often, European member states struggle to incorporate newcomers into society and to provide their children with equal life opportunities. Successful integration can induce a chain reaction spanning successive generations. Effective integration policies can be path-setting in a positive way because well integrated adults can help young people navigate society and give them a healthy sense of belonging to it. If integration fails, however, social exclusion can be compounded from one generation to the next. Therefore, integration policies can have an exponential impact on society and must be carefully formulated. Policy-makers at the EU and subsidiary levels have a heightened interest in better understanding how the present kaleidoscope of integration programs impact society and how societies 'perform' with regard to social integration. "Benchmarking integration" are new buzz words in policy-making.

Currently, integration policies are evolving rapidly and in contradictory directions across the EU. A wide variety of policies on fostering and managing integration processes have emerged around the continent. Germany is one of many European Union countries which has recently reformed its immigration and integration laws. At the EU level, immigration and integration issues are at the top of the common freedom, security and justice agenda of member states. For example, the German EU Presidency in 2007 expanded the mandate of the NCPI to improve integration policies through enhanced open coordination among EU member states. The French EU Presidency has made immigration issues a priority by putting the EU Pact on Immigration and Asylum high on its Presidency's agenda in 2008. The EU has been trying to improve migration and integration policies for some time. For example, it put forward Common Basic Principles on Integration in 2004, in an attempt to harmonize what member states mean by integration and what integration should achieve.

In the past few years a wide range of benchmarking methods has emerged in Europe. These developments have great potential to improve integration policy; but integration benchmarking architectures have yet to mature into a set of effective policy-making tools. Yet integration policies could greatly benefit from such tools to benchmark integration. With that in mind, the Bertelsmann Foundation commissioned this study on benchmarking integration to untangle the key issues within the debate and to move it forward. This innovative study, authored by Sergio Carrera and supervised by Elspeth Guild, analyses the legal and policy context in which benchmarking integration is taking place. It exposes weaknesses in current benchmarking methods. Furthermore, it distils the components of these policy tools that need to be improved, and makes policy recommendations on how to move the benchmarking debate in the EU forward in an effective way.

We are confident that this study will make a positive contribution to the important debate now underway on benchmarking integration in Europe.

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Introduction

Integration policies regarding third-country nationals (TCNs) in the European Union (EU) have been subject to multifaceted normative developments and policy processes since 1999. At that time, member states began transferring certain responsibilities for immigration policies to EU institutions. The member states have often considered integration policy a strategic priority for the area of freedom, security and justice (AFSJ) and for the establishment of a common immigration policy in the EU. Yet, the principle of subsidiarity has prevailed in this policy area. The member states perceive immigration policies to be at the heart of national sovereignty and their exclusive authority. This intergovernmental logic has led to the emergence of an alternative policy framework. The alternative framework fosters the Europeanization and convergence of policy through means different from those already provided by the traditional Community method of cooperation. The EU framework on integration now makes use of non-legislative policy-making and soft-law governance techniques. They are based on knowledge-sharing, policy coordination and the exchange of information. Benchmarking and indicators are central tools thereof.

Since the end of 2002, the EU framework on integration has developed slowly but progressively. It is now composed of several substantive and institutional mechanisms. These include a set of common basic principles on integration (CBPs), two *Handbook[s] on Integration for Policy-makers and Practitioners*, three *Annual Report[s] on Migration and Integration*, the National Contact Points on Integration (NCPI), a forthcoming European integration forum, an integration website, as well as the European integration fund (EIF). The common EU framework on integration constitutes innovative, multilevel governance in the field of integration concerning TCNs at the EU level. It comprises a package of non-coercive regulatory tools and diversified supranational networks. The result is a quasi-open method of coordination (OMC) for policy-making in integration.

In this context, benchmarking has been presented as one of the main elements upon which the EU framework on integration is supposed to operate and further develop in the years to come. The Justice and Home Affairs (JHA) Council meeting of 19 November 2004 included benchmarking in the CBPs. CBP 11 on the European criteria for indicators and benchmarks states that these can be used to "adjust policy, evaluate progress on integration and to make the exchange of information more effective".[1] The JHA Council Conclusions on Strengthening Integration Policies in the European Union by promoting Unity in Diversity of 12–13 June 2007 gave the political mandate for the European Commission to promote the development of common indicators and indices. Member states can use these on a voluntary basis to assess their own policies. **Benchmarking integration constitutes one of the key future policy priorities of growing importance in the EU. This is especially true for the EU framework on integration and common immigration policy.** The Commission Communication on a

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[1] See Council of the European Union, 2618th Meeting of the Justice and Home Affairs Council, 14615/04, Brussels, 19 November 2004.

Common Immigration Policy for Europe: Principles, Actions and Tools of 17 June 2008 reasserted the importance of using benchmarking as a policy tool. **It identified the development of benchmarking, common indicators, adequate statistical data, mutual learning and exchange of best practices as among the crucial political priorities guiding common European immigration policy in the near future.** It is, therefore, an ideal time to examine the conceptual premises and practical methodologies through which benchmarking the integration of TCNs at the EU level is being conducted. It is also important at this time to evaluate the current deficits and prospects for new benchmarking architectures and techniques.

This study assesses the nature, scope and implications of benchmarking integration by looking at the current deficits of soft-law policies and the potential for new supranational architectures for fostering social inclusion. This study has six chapters: Chapter One looks at European normative approaches to the integration of TCNs. It analyzes the integration concepts that have been embedded in EU laws and policies since the 1999 Amsterdam Treaty and the Tampere Program. Special attention is paid to regulatory components of integration in EU immigration law and the EU framework on integration. Chapter Two looks at the policy context within which benchmarking is being carried out in the EU. It focuses on the relationship between the OMC and integration policies. This chapter also evaluates the ways in which integration has been benchmarked in selected projects carried out by civil society, academia and local authorities. Chapter Three evaluates integration benchmarking techniques concerning TCNs in the EU. Chapter Four examines some of the weaknesses inherent in benchmarking. It does so by cross-referencing current normative European approaches to integration with the state-of-the-art integration benchmarking methods, presented in Chapter Two. Chapter Five explores the potential benchmarking tools could have if their architecture could be improved. Finally, Chapter Six puts forward a set of policy recommendations.

1 The Normative Framework on Integration in the EU: Toward a Common European Approach?

From the very beginning, integration has been at the core of EU policies. One of the main rationales of the European integration process has been the establishment of an internal market.[2] Integration in this context was understood as a process facilitating the mobility of EU-national migrant workers across the internal borders of member states, in which they also enjoy equality, non-discrimination, family reunification and a secure juridical status.[3] **The EU has significantly modified its understanding of integration while developing a common EU framework on integration concerning TCNs as part of its AFSJ**. **Integration has become a component of migration management, describing a condition under which TCNs have access to rights, security and social inclusion.**

Certain member states have consistently opposed the development of a common EU immigration policy. They have attempted to keep a high degree of sovereignty and discretional power over policy in this area. The EU has brought convergence to member states' migration policies to some extent; yet its principle of subsidiary stands in opposition to this convergence. Hence, **two separate normative processes have emerged on integration: EU immigration law and the EU framework on integration**. Since 1999, there has been a fundamental transformation in how the EU and its member states conceive integration in these two processes. **This transformation has major repercussions for how benchmarking is, or could be, conducted at the EU level.**

1.1 EU Immigration Law

After the Amsterdam Treaty entered into force, the European Council held a meeting in the city of Tampere on 15–16 October 1999. The Presidency Conclusions, referred to as the Tampere Program, presented a roadmap of policy priorities and a package of overarching objectives guiding the latter.[4] The Council called for the adoption of certain tenets to guide the EU's approach to integration. These are referred to as the **EU fair and near-equality treatment paradigm**. They comprise the following:

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[2] C. Barnard and J. Scott (eds), *The Law of the Single European Market: Unpacking the Premises*, Oxford: Hart Publishing, 2002; see also P. Craig and G. de Búrca, *EU Law: Text, Cases and Materials*, Sixth Edition, Oxford: Oxford University Press, 2007.

[3] Groenendijk (2006) has argued that "[i]n the first regulation on the free movement of workers…the right to family reunification and the equal access of family members to education and employment…were explicitly recognised, with the aim of assisting the integration of the worker". See K. Groenendijk, "Integration Policy and Community Law", in S. Carrera (ed.), *The Nexus between Immigration, Integration and Citizenship in the EU*, Collective Conference Volume, Centre for European Policy Studies, Brussels, April 2006(a), pp. 9–11; see also K. Groenendijk, "Access of Third-Country Nationals to Employment under the New EC Migration Law", in F. Julien-Laferriere, H. Labaye and O. Edström (eds), *The European Immigration and Asylum Policy: Critical Assessment Five Years after the Amsterdam Treaty*, Brussels: Bruylant, 2005, pp. 141–74.

[4] European Council, Presidency Conclusions of the Tampere European Council of 15–16 October, SN 200/1/99, Brussels, 1999.

fair treatment toward legally-resident TCNs, the development of a vigorous integration policy that grants legal TCNs rights and obligations comparable to EU citizens,[5] and the defining of long-term residents' rights that are "as near as possible" to those of EU citizens.[6]

The European Commission put forward a package of legislative proposals according to the Tampere vision of integration. The Council Directives 2003/109 on the status of long-term residents who are TCNs of 25 November 2003 and 2003/86 on the right to family reunification of 22 September 2003 represent the most relevant legal acts so far adopted in the area of legal immigration (i.e. conditions for the legal admission and stay of TCNs). These two instruments form part of a European-wide framework limiting the degree of member states' discretion over migration and provide a ceiling of common standards and EU-wide rights/guarantees.[7] They also constitute a legal framework of 'mini-mums', leaving wide discretion to member states concerning their national implementation.

During Council negotiations, the content of these Directives and the concept of integration contained in them evolved significantly. Compared with the Tampere Program, these Directives contain more restrictive understandings of integration. **The Council substantially changed the concept of integration contained in the first versions of both initiatives.** A group of member states pushed for the framing of integration in line with their respective immigration systems. Integration was conceived as another regulatory mechanism at the EU level. Through integration measures, states could manage a foreign national's access to a residence permit and protection against expulsion. **Hence, the meaning and function of integration in EU law diverged from the way it was conceived in the Tampere Program.**

The Directive on the right to family reunification 2003/86[8] sets out the common standards and criteria for TCNs residing lawfully in the territory of a member state to be reunited with their family members.[9] The Council agreed on the Directive's content in February 2003, and adopted it in December of the

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[5] Para. 18 states that "[a] more vigorous integration policy should aim at granting them rights and obligations comparable to those of EU citizens. It should also enhance non-discrimination in economic, social and cultural life and develop measures against racism and xenophobia."

[6] Para. 21 reads as follows: "The legal status of third country nationals should be approximated to that of Member States' nationals. A person, who has resided legally in a Member State for a period of time to be determined and who holds a long-term residence permit, should be granted in that Member State a set of uniform rights which are as near as possible to those enjoyed by EU citizens."

[7] K. Groenendijk, "Citizens and Third Country Nationals: Differential Treatment or Discrimination?", in J.Y. Carlier and E. Guild (eds), *The Future of Free Movement of Persons in the EU*, Collection du Centre des Droits de L'Homme de la'Université Catholique de Louvain, Brussels: Bruylant, 2006(b), pp. 79–101.

[8] Council of the European Union, Council Directive 2003/86/EC of 22 September 2003 on the right to family re-unification, OJ L 251/12, 3.10.2003.

[9] K. Groenendijk, R. Fernhout, D. Van Dam, R. Van Oers and T. Strik, *The Family Reunification Directive in EU Member States: The First Year of Implementation*, Nijmegen: Wolf Legal Publishers, 2007; see also H. Oosterom-Staples, "The Family Reunification Directive: A Tool Preserving Member State Interest or Conducive to Family Reunification Unity?", in A. Baldaccini, E. Guild and H. Toner (eds), *Whose Freedom, Security and Justice? EU Immigration and Asylum Law and Policy*, Oxford: Hart Publishing, 2007, pp. 451–88; and also K. Groenendijk, "Family Reunification as a Right under Community Law", *European Journal of Migration and Law*, Vol. 8, No. 2, 2006(c), pp. 215–30.

same year.[10] The outcome of the Council negotiations (mainly owing to pressure by Germany, the Netherlands and Austria) led to the following innovative approaches to integration in Articles 4.1 and 7 of the Directive. According to Article 4.1,

> [w]here a child is aged over 12 years and arrives independently from the rest of his/her family, the Member State may, before authorising entry and residence under this Directive, verify whether he or she meets a *condition for integration* provided for by its existing legislation *on the date of implementation of this Directive*. (emphasis added)

Integration is conceived as a legal measure and a means for member states to control migration. In this context, integration is a condition on the EU right to family reunification and other related rights. A similar understanding of integration is contained in Article 7.2:

> Member States may require third country nationals to comply with *integration measures*, in accordance with national law. With regard to the refugees and/or family members of refugees referred to in Article 12 the integration measures referred to in the first subparagraph may only be applied *once the persons concerned have been granted family reunification*. (emphasis added)

Since integration measures apply to refugees and their family members only *after* they have been granted family reunification, it implicitly allows for integration measures to apply to all other TCNs even *before* they have been granted this right (i.e. when they are still abroad in their country of origin).[11] This concept of integration transforms it into a policy tool that affects prospective immigrants in their countries of origin. **The prospective TCN is obliged to fulfill integration criteria set by the member state in which they want to live (knowledge of language and values/way of life), even before actually entering the EU.**

Directive 2003/109 considers long-term residents to be those TCNs who have legally resided in a member state for five years. It establishes a set of rights and freedoms[12] for long-term TCNs and grants them the right to move and reside in a second member state.[13] The Council discussed the Directive at length before it was adopted on 25 November 2003. The final version of the Directive was significantly diluted compared with the original version. The same group of member states that shifted

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[10] European Commission, Proposal for a Council Directive on the Right to Family Reunification, COM(1999) 638 final, Brussels, 1 December 1999.

[11] This possibility is confirmed when looking at the implementation of the Directive in some member states. See the Loi relatif à la maîtrise de l'immigration, à l'intégration et à l'asile n° 2007-1631, version consolidée 21 novembre 2007 (retrieved from http://www.legifrance.gouv.fr).

[12] Council of the European Union, Council Directive concerning the status of third-country nationals who are long-term residents, 2003/109, OJ L 16/44, 23.1.2004; see also European Commission, Proposal for a Council Directive concerning the status of third-country nationals who are long-term residents, COM(2001)127 final, Brussels, 13 March 2001.

[13] K. Groenendijk, "The Long-Term Residents Directive, Denizenship and Integration", in A. Baldaccini, E. Guild and H. Toner (eds)*, Whose Freedom, Security and Justice? EU Immigration and Asylum Law and Policy*, Oxford: Hart Publishing, 2007, pp. 429–50.

the integration paradigm in Directive 2003/86 pushed for a concept of integration in line with their immigration laws and political agendas in Directive 2003/109 as well. The final version of the Directive included two articles making reference to integration as a "condition" or "measure".[14] Article 5.2 states that "Member States may require third-country nationals to comply with integration conditions, in accordance with national law".[15] The Directive leaves member states the authority to implement mandatory integration programs for TCNs before granting them a residence permit. Article 5 does not include a definition of "integration conditions". In addition, the member states maintain wide discretion to test and scrutinize whether TCNs are 'successfully integrated'.[16]

In both Directives 2003/109 (Article 5.2) and 2003/86 (Article 4.1), the term "**integration conditions**" **allows member states to make integration measures obligatory for TCNs. In the case of non-fulfillment, member states could deny TCNs EC long-term resident status, the EC right to family reunification and/or all the other related rights.** The term "integration measures" conveys less authority to member states, and relates to policies such as expecting long-term TCN residents 'to make a certain effort' regarding integration by participating in language or integration courses.

1.2 The EU Framework on Integration and Policy Coordination at the EU Level

Since 2001, there has been a common understanding at the EU level that integration policies governing TCNs should be made primarily by national and local authorities. The principle of subsidiarity has taken preference over attempts to Europeanize this policy. The failure of the Communication on an Open Method of Coordination for the Community Immigration Policy (COM(2001) 387) of July 2003, whose content is analyzed in Chapter Two, encouraged the Commission to develop an alternative EU framework on integration. Similar to EU immigration law, **the concept of integration as contained in the EU framework on integration has experienced a substantial paradigm shift**.

The concept of integration has evolved dynamically since the beginning of the EU framework on integration, owing to the increased exchange of national experiences, programs and policies among the member states. This development also stems from the work of the NCPI and expert exchanges at the European level that feed into the handbooks on integration. **This evolution becomes apparent when one examines the CBPs, the European Commission's publications and the EIF.**

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[14] Article 15.3, provides that that "Member States may require third-country nationals to comply with integration measures, in accordance with national law. This condition shall not apply where the third-country nationals concerned have been required to comply with integration conditions in order to be granted long-term resident status, in accordance with the provisions of Article 5(2). Without prejudice to the second subparagraph, the persons concerned may be required to attend language courses."

[15] See Council Directive 2003/109, op. cit.

[16] S. Carrera, "Integration as a process of inclusion for migrants? The case of long-term residents in the EU", in H. Schneider (ed.), *Migration, Integration and Citizenship: A Challenge for Europe's Future*, 2005, pp. 109–38.

The meeting of the Justice and Home Affairs Council of 14–15 October 2002 represented the first occasion in which the Council decided to move the EU framework on integration forward.[17] Great importance was given to the exchange of information, which could lead to the establishment of 'best practices'. The Commission fostered the process by presenting the Communication on Immigration, Integration and Employment (COM(2003) 336) on 3 June 2003, which called for a "more coherent European framework for integration" that would reinforce "policy coordination".[18] The following understanding of integration was provided:

> Integration should be understood as a *two-way process* based on mutual rights and corresponding obligations of legally resident third country nationals and the host society which provides for full participation of the immigrant. This implies on the one hand that it is the *responsibility* of the host society to *ensure that the formal rights* of immigrants are in place in such a way that the individual has the possibility of participating in economic, social, cultural and civic life and on the other, that *immigrants respect the fundamental norms and values of the host society and participate actively in the integration process*, without having to relinquish their own identity.[19] (emphasis added)

The European Council at Thessaloniki of June 2003 called for the development of a policy on integration that would focus on granting TCNs rights and obligations "comparable" to EU citizens, and proposed the development of a set of "common basic principles for integration of immigrants".[20] These Conclusions meant that integration had reached the EU's policy agenda.[21] They were a strong political statement from the Council for the Commission to advance European cooperation in this area.

1.2.1   The NCPI and the Handbooks on Integration

The establishment of the NCPI was one of the first outputs of the JHA Conclusions of October 2002. The European Commission created this transnational forum of experts from member states' national ministries responsible for integration (more specifically, Ministries of Interior,[22] Ministries of Labor and Social Affairs[23] and Ministries of Integration[24]). The Commission (DG for Justice, Freedom and Secu-

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[17] Justice and Home Affairs and Civil Protection, 2455th Council Meeting, 12894/02, Luxembourg, 14–15 October 2002.

[18] European Commission, Communication from the Commission to the Council and the European Parliament on Immigration, Integration and Employment, COM(2003) 336, Brussels, 3 June 2003.

[19] Ibid.

[20] European Council, Presidency Conclusions of the Thessaloniki European Council of 19–20 June 2003, SN 11638/03, Brussels, 1 October.

[21] H. Urth, "Building a Momentum for the Integration of Third-Country Nationals in the European Union", *European Journal of Migration and Law*, Vol. 7, No. 2, 2005, pp. 163–80.

[22] This pertains to, among others, Austria, Cyprus, Germany, Italy, Slovakia, Slovenia, the UK (Home Office) and Romania (Ministry of Administration and Interior).

[23] This includes Finland, Poland, Spain, Lithuania and Bulgaria.

[24] This relates to Denmark, Belgium (Cabinet for Minister for Public Office, Social Integration, Big Cities' Policy and Equal Opportunities), France, Latvia, Estonia, Luxembourg, the Netherlands (Ministry of Justice), Sweden

rity (JFS)) chairs the network. The first NCPI meeting took place in Brussels in March 2003. Since then the tasks of the network have become more consolidated. These tasks encompass exchanging information, monitoring integration progress nationally and strengthening policy coordination ('best practices') at the national and EU levels. They have contributed to the most relevant tools of the EU framework on integration, such as the handbooks on integration.

1.2.1.1 *The Handbook on Integration for Policy-Makers and Practitioners*

The Migration Policy Group (MPG) elaborated the first edition of the *Handbook on Integration for Policy-Makers and Practitioners* on behalf of the European Commission (DG JFS) in November 2004.[25] The book's objective was "to act as a driver for the exchange of information and best practices between the Member States".[26] It was carried out in close cooperation with the NCPI and was based on the outcomes of a number of seminars. Policy-makers and practitioners participated in the seminars. They exchanged information on orientation programs for immigrants, immigrant civic and political participation and integration indicators. The handbook is structured in three chapters and deals with those issues. The document explains the way in which the MPG (which issued discussion papers and drafted the conclusions of the seminars) and the NCPI (which provided examples of best practices and promising initiatives on integration from their own countries) also provided substantial input to the final text.

The two kinds of integration programs from which the handbook draws best practices are the orientation courses for newly arrived immigrants and immigrant civic-participation initiatives. It also explores the use of integration indicators and benchmarks, identifies priority areas and best practices at the national level, and presents a set of policy recommendations ('catalogue of inspiring ideas') on integration policies. These are designed to aid policy-makers and practitioners. Best practice was defined as "approaches that have been shown, through research and evaluation, to be effective and sustainable and produce outstanding results, and that can be applicable in and adapted to a different situation".[27] Concerning the use of indicators, they aim at measuring "the real situation of immigrants and identifying the extent to which integration is progressing".[28] The handbook goes on to state that "a successful use of indicators builds on appropriate data collection and on the careful selection of indicators in line with the overall targets of integration".

(Ministry of Justice), Ireland (Reception and Integration Agency), and Hungary (Ministry of Justice and Law Enforcement).

[25] J. Niessen and Y. Schibel, *Handbook on Integration for Policy-makers and Practitioners*, DG Justice, Freedom and Security, European Commission, Brussels, November 2004.

[26] Ibid.

[27] Ibid., p. 11.

[28] Ibid., p. 54.

1.2.1.2   The Second Edition of the Handbook

The second edition of the handbook was published in May 2007.[29] It contains 'good practices' and 'lessons learned' from the experience of policy-makers and practitioners in Europe. The introduction starts by making reference to the important role the handbook plays in initiating "a larger policy process in the field of integration in the European Union, notably the development of the European framework on integration".[30] The introductory section of the handbook starts as follows:

> Integration is not easy to plan: it is a long-term process, and it is non-linear. An international political event or a criminal act can set back integration processes significantly. Integration is also multi-faceted, demanding a capacity for adaptation…including [by] immigrants themselves.

It then poses the question: What does integration mean? It advocates setting aside conceptual debates[31] and focusing on a more pragmatic approach to understanding integration by looking at its "outcomes in terms of social and economic mobility, education, health, housing, social services, and societal participation".[32] The following are considered key for improving what it calls "immigrant's outcomes": 1) the elimination of inequalities through civic citizenship for legal residents, and 2) the acquisition of skills ("learning to learn") through language proficiency and training/education ("empowerment also reinforces knowledge").

Chapter Four of the handbook's second edition, entitled "Integration Governance", looks at the structures, mechanisms, processes and forms of collaboration that comprise a framework for integration policies and practices. It argues that general policy goals can only be implemented through careful planning[33] and evaluation of the appropriateness and quality of integration policies. Creating "good governance indicators" rather than "attempting to measure the 'degree of integration' of individuals or immigrant groups, which remains a challenge" is the way to achieve this.[34] Finally, Annex 1 of the handbook, entitled "Praxis-based Policies – the Translation of Practices into Policies", presents the

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[29] J. Niessen and Y. Schibel, *Handbook on Integration for Policy-makers and Practitioners*, Second Edition, DG Justice, Freedom and Security, European Commission, Brussels, May 2007.

[30] The book's drafting took place following a similar methodology as the 2004 edition. Here also, the MPG, in cooperation with the NCPI, prepared the document following the outcomes of technical seminars, which dealt with mainstreaming integration (Chapter 1), housing (Chapter 2), economic integration (Chapter 3) and integration governance (Chapter 4). It is interesting to see how it addressed the authorship: "National Contact Points on Integration and MPG are seen as the editors, preparing a conceptual framework for the seminars, *taking stock of the information gathered at each seminar, selecting practices, and supplementing them with additional research*" (emphasis added).

[31] It argues that "[t]he question might be expected to trigger familiar debates about assimilation or multiculturalism, but participants at the technical seminars preparing the handbook hardly used these terms".

[32] See J. Niessen and Y. Schibel (2007).

[33] It states that objectives should be SMART, which the handbook defines as specific, measurable, accepted, realistic and time-dependent. See also European Commission, Impact Assessment Guidelines, SEC(2005) 791, 15 June 2005, pp. 20-22.

[34] See p. 77 of J. Niessen and Y. Schibel (2007).

following policy recommendations:[35] first, measuring the quality of integration projects and programs by studying their relevance, efficiency, effectiveness, sustainability and impact; and second, appraising projects and programs by comparing them with each other, identifying actors, formulating policy options and assessing their impact ("exchanging and learning from good practices" – see Annex 6 of this study). A third edition of the handbook is planned for publication in 2009.

1.2.2   The CBPs, the European Commission and the EIF

The policy processes of exchanging information on integration, identifying best practices and delivering content for the handbooks on integration have introduced several innovative features to the classical configurations characterizing the European approach(es) to integration. Recent policy documents on the CBPs published by the DG JFS and the EIF contain these.

1.2.2.1   The CBPs

The European Council adopted The Hague Program on 4–5 November 2004, which provides a new legislative policy roadmap in the AFSJ for the period 2005-2010.[36] The Program describes integration as a highly relevant policy area.[37] The 19 November 2004 JHA Council Conclusions adopted the CBPs.[38] First, these principles assist member states in formulating integration policies. The CBPs are a simple, non-binding guide through which member states can assess their policies. They serve as a basis for the EU to develop existing EU instruments on integration. Second, they serve as a basis for increased interaction among the EU, national, regional and local authorities, so that they may develop and implement integration policies. Third, the CBPs assist the Council in creating EU-level mechanisms and policies that support national and local integration policy efforts, particularly through EU-wide learning and knowledge-sharing. The 11 CBPs are the following:

1. Integration is a "dynamic, two-way process of mutual accommodation" by all immigrants and residents of the member states.

2. Integration implies respect for "the basic values of the EU". This principle involves the obligation that "every resident in the EU" needs to adapt and adhere closely to the basic values of the Union

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[35] Ibid., pp. 89–91.

[36] T. Balzacq and S. Carrera, "The Hague Program: The Long Road to Freedom, Security and Justice", in T. Balzacq and S. Carrera (eds), *Security versus Freedom: A Challenge for Europe's Future*, Aldershot: Ashgate Publishing, 2006, pp. 1–34; see also T. Balzacq and S. Carrera, *Migration, Borders and Asylum: Trends and Vulnerabilities in EU Policy*, Centre for European Policy Studies, Brussels, July, 2005; and also A. Baldaccini, E. Guild and H. Toner (eds), *Whose Freedom, Security and Justice? EU Immigration and Asylum Law and Policy*, Oxford: Hart Publishing, 2007.

[37] Brussels European Council, Presidency Conclusions, 4 and 5 November 2004, 14292/1/04, Brussels, 8 December 2004, OJ C53/1, 3.3.2005; see also S. Bertozzi (2007), *Integration: An Ever Closer-Challenge*, CEPS Working Document No. 258, February 2007, Centre for European Policy Studies, Brussels.

[38] See "Common Basic Principles on Immigrants Integration" in Council of the European Union, 2618th Meeting of the Justice and Home Affairs Council, 14615/04, Brussels, 19 November 2004.

and the laws of the member states. Also the member states have to ensure that all residents "understand, respect, benefit from, and are protected on an equal basis by the full scope of values, rights, responsibilities, and privileges established by the EU and Member State laws".

3. Employment is a key part of the integration process and participation of immigrants.

4. 1) Basic knowledge of the host society's language, history and institutions is indispensable for integration; 2) enabling immigrants to acquire this basic knowledge is essential for successful integration.

5. Efforts in education are crucial for preparing immigrants, and particularly their descendants, to be more successful and more active participants in society.

6. Access for immigrants to institutions, as well as to public and private goods and services, on a basis equal to national citizens and in a non-discriminatory way is critical.

7. Frequent interaction between immigrants and EU citizens is a fundamental mechanism for integration. Shared fora, intercultural dialogue, education about immigrants and immigrants' culture, and stimulating living conditions in urban environments enhance the interactions between immigrants and member state citizens.

8. 1) The practice of diverse cultures and religions is guaranteed under the Charter of Fundamental Rights and must be safeguarded, 2) unless such practices conflict with other inviolable European rights or national law.

9. The participation of immigrants in the democratic process and in the formulation of integration policies and measures, especially at the local level, support their integration.

10. Integration is to be mainstreamed in all relevant portfolios and levels of government and public services.

11. Clear goals, indicators and evaluation mechanisms are to be developed to adjust policy, evaluate progress on integration and make the exchange of information more effective. [39]

The Annex of the 2004 JHA Council Conclusions specifies that

> [t]he purpose of such evaluation is *to learn from experience*, [as] a way to avoid possible failures of the past, adjust policy accordingly and [of] showing interest for each others efforts. When Member States share information about their evaluative tools at European level and, where appropriate, develop *European criteria* (indicators, benchmarks) and gauges for the purposes of comparative learning, the process of knowledge-sharing will be made more

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[39] Ibid.

effective…Exchanging information provides for taking into account the different phases in which Member States find themselves in the development of their own integration policies and strategies. [40] (emphasis added)

CBPs 2 (respect of the basic values of the EU) and 4.1 (basic knowledge of the host society's language, history and institutions is indispensable for integration) alter how integration is conceived in the EU framework on integration. They are difficult to reconcile with the two-way process principle (CBP 1).

1.2.2.2   The European Commission

Among the various policy measures adopted by the European Commission since 2003 in the EU framework on integration there have been three Communications that should be highlighted: the Communication on a Common Agenda for Integration – Framework for the Integration of Third Country Nationals in the European Union (COM(2005) 389), the Communication on the *Third Annual Report on Migration and Integration* (COM(2007) 512) and the Communication on a Common Immigration Policy for Europe: Principles, Actions and Tools (COM(2008) 359).

The Communication on a **Common Agenda for Integration** (COM(2005) 389) of 1 September 2005 put forward concrete measures for strengthening the implementation of the CBPs.[41] It also identified a series of "suggested actions or a road map" to help implement the CBPs at the national and European levels. The Commission clarified that the package of actions was only "indicative and not exhaustive". Member states were "to set priorities and select the actions". Yet those of the common agenda for integration should be considered the "main elements of all national and EU integration policies". Furthermore, these actions built on the handbook on integration and financial Community instruments that focused on the integration of TCNs. The following three proposed actions are particularly significant. First, concerning CBP 2, "Integration implies respect for the basic values of the European Union", the Commission called for "[e]mphasising civic orientation in introduction programs and other activities for newly arrived third-country nationals with the view of *ensuring that immigrants understand, respect and benefit from common European and national values*"[42] (emphasis added).

Second, regarding CBP 4.1, (basic knowledge of the host society's language, history, and institutions is indispensable to integration), it suggested orientation programs for newcomers, as well as pre-departure information and courses to acquire "previous knowledge of the country". The Communication called for

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[40] Ibid.

[41] European Commission, Communication on a Common Agenda for Integration – Framework for the Integration of Third Country Nationals in the European Union, COM(2005) 389, Brussels, 1 September 2005; see also C. Collet, *One Size fits All? Tailored Integration Policies for Migrants in the European Union*, EPC Working Paper No. 24, European Policy Centre, Brussels, 2006.

[42] See the European Commission's (2005) Communication COM(2005) 389, op. cit.

[s]trengthening the integration component of admission procedures, e.g. through *predeparture measures* such as information packages and language and civic orientation courses in the country of origin…[o]rganising introduction programs and activities for newly arrived third-country nationals to acquire basic knowledge about *language, history, institutions, socioeconomic features, cultural life and fundamental values.*[43] (emphasis added)

Third, it also called for a coherent EU-level approach. "Cooperation activities, exchange of information, mainstreaming and evaluation" through the implementation of CBPs 10 and 11 should be the basis of this coherent approach.[44] The Communication on a Common Agenda for Integration refers to CBP 11 and the necessity for governments to first, increasingly monitor and assess national policies; second, make better use of statistical data in devising integration policy; and third, evaluate policy and improve their understanding of what effects compulsory integration programs have.

The JHA Council Conclusions on Strengthening Integration Policies in the European Union by promoting Unity in Diversity of 12–13 June 2007[45] invited the NCPI and the European Commission to explore expanding the 'European approach' to integration by promoting the development of common indicators and indices for member states to use "on a voluntary basis" to assess their own policies. **The Third Annual Report on Migration and Integration** (COM(2007) 512) was published on 11 September 2007.[46] With it, the Commission assessed the development of a common immigration policy and mapped EU-wide migration data.[47] The report offers an overview of perceived migration trends in the EU, as well as current migration and integration policy at the national and EU levels. It places recent integration policies in relation to the CBPs on integration. It states that "[m]ost concepts present in Member States' integration policies are codified by the Common Basic Principles and they are, to different extents, reflected in their integration strategies".[48] The summary report on integration policies in the EU-27 determined that the CBPs have had an impact on integration policies in some member states. It also confirmed the spread of mandatory integration programs as a trend in the EU.[49]

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[43] The Annex states that as "managed migration schemes are established, and within the context of developing a European approach to the admission of labour migrants, there is scope for paying more attention to pre-departure measures which can improve the integration process on arrival. Such measures can be part of comprehensive migration and development strategies."

[44] See the European Commission's (2005) Communication COM(2005) 389, op. cit.

[45] Council of the European Union, 2807th Meeting of the Justice and Home Affairs Council, Press Release, 10267/07, Luxembourg, 12-13 June 2007.

[46] European Commission, Communication on the *Third Annual Report on Migration and Integration*, COM(2007) 512, Brussels, 11 September 2007.

[47] See also the two previous versions: European Commission, Communication on the *First Annual Report on Migration and Integration*, COM(2004) 508, Brussels, 16 June 2004, and European Commission, *Second Annual Report on Migration and Integration*, Commission Staff Working Document, SEC(2006) 892, Brussels, 30 June 2006.

[48] See the European Commission's (2007) Communication COM(2007) 512, op. cit.

[49] Page 13 states that "[i]ntroduction programs are established in most Member States and they are compulsory in some countries, i.e. Austria, Belgium, Denmark, France, Germany, Greece and the Netherlands".

Further developing the Common Agenda, the Commission has introduced the concept of European modules for migrant integration (EMMI). These would be "based on existing good practice to develop guidelines on various aspects of the integration process (introductory courses, promoting participation of immigrants and other citizens in local life, etc.)".[50] The modules would include introductory courses and provide common standards for integration courses. They would use "the experience gathered in the drafting of the Handbook on Integration".[51] The EMMI system would include common indicators and indices to evaluate integration programs and "to provide benchmarks for comparative analysis".[52] The Commission is planning to publish another Communication on integration by October 2008, which will include benchmarking.

The Communication on a **Common Immigration Policy in Europe: Principles, Actions and Tools** (COM(2008) 359) of 17 June 2008 contains the European Commission's new political vision for developing a common EU immigration policy.[53] The Communication identifies 10 principles upon which the common immigration policy should be based. It groups these under three main headings: prosperity, security and solidarity. It places integration under the heading of "Prosperity: The Contribution of Legal Migration to the Socio-Economic Development of the EU", and more particularly in subsection 3 entitled "Prosperity and Immigration: Integration is the Key to Successful Immigration". One of the 10 common principles (the third one) reads as follows:

> The integration of legal immigrants should be improved by *strengthened efforts* from host Member States and contributions from immigrants themselves ("two-way process"), in accordance with the Common Basic Principles on Integration adopted in 2004. Immigrants should be provided with opportunities to participate and develop their full potential. *European societies should enhance their capacity to manage immigration-related diversity* and enhance social cohesion.[54] (emphasis added)

Among the set of concrete actions that the Communication proposes, the following are particularly significant. First, the 'mainstreaming approach' of the EU framework on integration should be strengthened. This would be done mainly within the European Commission in order to 'globally' cover elements related to civic participation*,* social inclusion, anti-discrimination, equal opportunities, access to employment, education, intercultural dialogue*,* etc. Second, action is to be taken to develop "mutual learning and exchange of best practices to strengthen the ability of host countries to manage their increasing diversity" along with "common indicators and adequate statistical capacity…to evaluate integration policy outcomes". [55] Third, action is proposed "to support integration programs for newly arrived immigrants" and emphasize the

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[50] See the European Commission's (2007) Communication COM(2007) 512, op. cit.

[51] The modules would be developed by 'experts', under the guidance of the NCPI. See F. Frattini, "A Common Approach for European Policy on the Integration of Migrants – European Debate", Speech/07/295, Informal Meeting of EU Integration Ministers, Potsdam, 10 May 2006.

[52] The report concluded by making reference to how the European Commission "will present a new concept [for the Annual Report] to provide a more comprehensive information and monitoring tool".

[53] European Commission, Communication on a Common Immigration Policy for Europe: Principles, Actions and Tools, COM(2008) 359 final, Brussels, 17 June 2008.

[54] Ibid.

[55] Ibid.

> [p]ractical intercultural skills needed *for effective adaptation* as well as the *commitment* to *fundamental European values*; this could be further explored by identifying the basic rights and obligations for newly arrived immigrants, in the framework of *specific national procedures* (e.g. *integration curricula, explicit integration commitments, welcoming programs, national plans for citizenship and integration, civic introduction or orientation courses*). [56] (emphasis added)

Finally, the Communication called on the European Council to adopt the set of principles as the basis upon which the common immigration policy could be taken forward. The Commission proposed that this process occur through "coordinated and coherent action" by the EU and its member states. These should set up a "common methodology" to transform the principles into common objectives and indicators and ensure their implementation. The European Commission would evaluate these in the member states as part of the Commission's annual report on migration and integration.[57] Each Spring European Council would monitor member states' implementation of concrete actions. This would entail a "political assessment of the situation at European and national levels"[58] and put forward recommendations. The Communication can be seen as a **re-launching of the 2001 Commission initiative to establish the OMC on immigration in the EU** (see Section 2.1 below).

1.2.2.3   The EIF

In April 2005, the Commission presented a Communication on the first Framework Program on Solidarity and Management of Migration Flows for 2007-2013.[59] This Communication proposed funding integration programs in the EU with €1.7 billion. After the Council's amendments and the European Parliament's Opinion, the European Fund for the Integration of TCNs was formally adopted on June 2007 (Council Decision 2007/435/EC). The financial commitment made was €825 million.[60] The EIF devolves €768 million to member states for national programs through a distribution key, which considers the number of legally resident TCNs in each member state. The EIF foresees €57 million for Community actions. The UK and Ireland took part in adopting the EIF.[61]

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[56] Ibid.

[57] According to p. 15 of the Communication, "[t]he agreed common objectives and indicators will be factored into national immigration profiles…These profiles will ascertain the national labor market situation and immigration patterns and help to strengthen the evidence base for immigration policies that effectively address the priority needs of the Member States. They will bring together all relevant information needed and their scope will cover both immigrants already in their territory and potential immigrants. These profiles will look at the skills composition of the immigration population and identify future labor needs."

[58] See the European Commission's (2008) Communication COM(2008) 359 final, op. cit.

[59] European Commission, Proposal for a Decision establishing the European Integration Fund for the period 2007-2013 as a part of the General Program "Solidarity and Management of Migration Flows", COM(2005) 123 final, Brussels, 6 April 2005.

[60] Council of the European Union, Council Decision 2007/435/EC of 27 June 2007 establishing the European Fund for the Integration of Third-Country Nationals for the Period 2007 to 2013 as part of the General Program "Solidarity and Management of Migration Flows", OJ L 168/18, 28.6.2007.

[61] M.A. Kate and J. Niessen, *Locating Immigrant Integration Policy Measures in the Machinery of the European Commission*, Migration Policy Group, Brussels, 2007.

The objective of the EIF is to enhance member states' national efforts to enable TCNs "to fulfill the conditions of residence and to facilitate their integration into European societies, in accordance with the CBPs".[62] Article 2.2 of the EIF emphasizes that it should promote national integration strategies for TCNs taking into account the two-way process principle. The specific objectives of the fund are first, to facilitate the development and implementation of admission procedures supportive of integration. Second, the fund seeks to develop the integration of newly-arrived TCNs in the member states. The third objective is to increase member states' capacity to develop, implement, monitor and evaluate policies and programs for the integration of TCNs, and the fourth goal is to exchange information, best practices and enhance cooperation among member states.

The EIF primarily co-finances concrete programs that support the integration of "newly-arrived third country nationals".[63] Non-nationals who are in a third country and who are complying with "pre-departure measures and/or conditions set out in national law, including those relating to the ability to integrate in the society of this member state fall under the scope of this Decision".[64] Article 19 states that the criteria for allocating financial resources to the member states should take into consideration the total number of TCNs legally staying in their territory and the total number of immigrants newly admitted over a given period. Article 12 says that €500,000 will be allocated each year from the EIF.[65]

The European Commission has developed strategic guidelines and set up a framework for intervention in integration policy. The Commission will promote the CBPs and develop "a common approach to the integration of third-country nationals in the EU".[66] The Commission's Decision on setting up the **specific priorities that will be covered by the EIF between 2007 and 2013 includes "the development of indicators and evaluation methodologies to assess progress, adjust policies and measures and to facilitate co-ordination of comparative learning", as well as the development "of common models and standards at EU level"**.[67] Possible actions that member states could initi-

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[62] See Recital 10 of the Preamble and Article 2.1 of the Decision.

[63] The Decision states in recital 13 of the Preamble that "[r]eference could be made in this context to Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents". The following categories are excluded: seasonal workers, those admitted for the purposes of studies, pupil exchange, unremunerated training or voluntary service, and those admitted for scientific research, those who have received a renewal of an authorization issued by a member state or a change of status, including those falling within the scope of the Council Directive 2003/109/EC.

[64] See Article 1.2.

[65] The remainder of the available annual resources will be broken down among the member states as follows: 40% in relation to the average of the total number of legally residing third-country nationals over the previous three years, and 60% in proportion to the number of immigrants with authorization to reside on its territory over the previous three years.

[66] European Commission, Decision Implementing Council Decision 2007/435/EC as regards the adoption of strategic guidelines for 2007/2013, 21 August 2007.

[67] The Decision elaborates this strategic guideline as Priority 2, in the following manner: "The integration of third-country nationals is a dynamic area of expertise and practice. Its evolving character is a crucial element which can enhance success in this area. One of the main success factors is constant measuring and monitoring of policies and activities so that they bring the results which are intended. Development of clearly-defined objectives and assessment instruments is of the utmost importance in order to be more effective. Such instruments should be encouraged at all levels of integration governance, i.e. national, regional, local and European. They are also important for the development of common models and standards at EU level."

ate along these lines are supporting research on integration indicators and benchmarking, and developing monitoring tools and evaluation methods. Such tools could also be developed to assess immigrant orientation programs. On the basis of the Commission's strategic guidelines, the member states must present draft multi-annual programs. Member states will transpose these through annual programs,[68] which will need to be approved by the Commission. In preparing their draft multi-annual programs, member states should include at least three integration priorities identified by the Commission. Actions designed to put the CBPs into practice (priority 1) and develop **indicators and evaluation mechanisms (priority 2) are mandatory**.[69] The European Commission published the first call for project proposals in December 2007.[70]

1.2.3   Key Actors in the EU Framework on Integration

The EU framework on integration has created a multilevel system of integration governance. It substantially impacts the interaction of European institutional actors and influences their respective status and roles as determined by the Community method and the Treaties. As Hatzopoulos (2007) has pointed out, the consequence of this institutional resettlement is that the traditional role of European institutions has been altered, as equally have been the premises of the EU.[71] As regards the institutional dimension of the EU framework on integration, the Council and the European Commission remain the key players. The Commission (DG JFS) has promoted the development of the policy framework while reassuring the Council about its role. As discussed in Chapter Three, the Commission has funded research projects on benchmarking integration, mainly through the program on Preparatory Actions for Integration of TCNs (INTI), which was replaced in 2007 by the EIF.[72] The involvement of the European Parliament in integration policy has been weak. This has been the case for instance in the adoption of the CBPs, which were only adopted by the Council and government representatives of the member states. The position of the European Parliament has been ad hoc and has

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[68] Article 19 states that "2. The Commission shall provide the Member States, by 1 July of each year, with an estimate of the amounts to be allocated to them for the following year from the total appropriations allocated under the annual budgetary procedure, calculated as provided by Article 12. 3. Member States shall submit to the Commission, by 1 November of each year, a draft annual program for the following year." Article 20 provides for the Mid-Term Review of the Multi-annual Program.

[69] Other priorities include priority 3, "Policy capacity building, co-ordination and intercultural competence building in the Member States across the different levels and departments of government"; and priority 4, "Exchange of experience, good practice and information on integration between the Member States". See pp. 4–5 of the Annex of the Decision implementing Decision 2007/435/EC.

[70] European Commission, "Integrating Third Country Nationals: The Commission launches the 2007 Call for Proposals under the New Community Actions of the European Fund for the Integration of Third Country Nationals", Press Release IP/07/1882, Brussels, 10 December 2007. A total of €4,503 million was allocated for the Community actions during 2007.

[71] V. Hatzopoulos, "Why the Open Method of Coordination is Bad for You: A Letter to the EU", *European Law Journal*, Vol. 13, No. 3, May 2007, pp. 309–42.

[72] In 2005, a total of 15 research projects were funded by the DG FSJ through INTI, 14 of which dealt with "[s]upporting of networks and exchange of information and best practices" and received a total of €4,276,345. In 2006, a total 12 projects were funded and received a total of €3,894,220. See European Commission, *INTI Report: Integration of Third-Country Nationals, 2003-2004 Projects*, DG Justice, Freedom and Security, Brussels, June 2006.

lacked impetus.[73] Meanwhile, the European Economic and Social Committee (EESC) has become a very active player in making conceptual progress on defining integration and creating policy tools within the EU framework on integration.[74]

The institutional landscape of the EU framework on integration can only be understood by considering **the networks** that have been or are in the process of being developed. The NCPI network (made up of representatives from member state ministries in charge of the integration of TCNs) has become a very influential forum. Its members influence the formulation of current integration policy priorities. By way of illustration, they provided content for the three annual reports on migration and integration published by the Commission, as well as for the handbooks on integration. The exchanges between the NCPI and the Council are increasingly considered "necessary and in need of promotion".[75] The NCPI members appear to have a degree of independence from their fellow government representatives, who participate in the Council working groups.

The NCPI network has established itself as a forum with great potential. It currently bridges European institutions and member states (national, regional and local levels of government). It works closely with the European Commission and civil society organizations (such as the MPG). The nature of this network makes its effects difficult to measure. Its governance is non-linear (sometimes bottom-up, while top-down at others), but it supports a rapidly evolving web of competing strategies at multiple levels of government. **The NCPI network has provided a supranational platform, identifying certain integration policies, programs and practices at the national level as 'the best' and disseminating these across the EU.**

The European Commission has placed clear priority on involving a wide range of stakeholders in developing the EU framework on integration. The Communication on a Common Agenda for Integration (COM(2005) 389)[76] calls for a European integration forum to be established. The forum should bring together at the EU level the main stakeholders active in the area of integration. The EESC was formally asked by the European Commission to submit an Opinion concerning the establishment of the

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[73] H. Ceri Jones, C. Pineda, F. Pissart and T. Timmermans, *Beyond the Common Basic Principles on Integration: The Next Steps*, European Policy Centre, Brussels, 2005. It needs to be underlined, however, that the JHA Council Meeting of June 2007 did acknowledge the European Parliament's *Report on Strategies and Means for the Integration of Immigrants in the European Union,* 2006/2056/INI, A6-0190/2006, Committee on Civil Liberties, Justice and Home Affairs, Rapporteur: Stavros Lambrinidis, 17 May 2006.

[74] EESC, *Immigration: The Role of Civil Society in Integration*, Foreword by Franco Frattini, Luxembourg: Office for the Official Publications of the European Communities, 2007. For more information see the website of the SOC Section of the EESC (http://www.eesc.europa.eu/sections/soc/index_en.asp?id=1001socen).

[75] See para. 11 of the JHA Council Conclusions of 12–13 June 2007, which provided that "[t]he Council invites incoming Presidencies and the Commission to proactively develop the Common Agenda for Integration and to promote the principles set out in paragraph 1. The Commission is further invited to report in particular to the [2008] Ministerial Conference on Integration on the results of the tasks assigned to the NCPI network, as described in point 9 of these Conclusions. This report should be the starting point for discussion on future priorities" (see footnote 45 above).

[76] European Commission, Communication on a Common Agenda for Integration – Framework for the Integration of Third Country Nationals in the European Union, COM(2005) 389, Brussels, 1 September 2005.

forum, which was adopted on 9 July 2008.[77] The forum will include a maximum of 100 members and meet twice a year. One-third of the forum's members will come from EU umbrella organizations working in the area of integration and on social issues. The remaining members will come from consultative bodies of the member states (with each member state sending between one and four representatives).[78] As regards its functions, the EESC has proposed that the forum would have the authority to elaborate official opinions, recommendations and reports concerning integration policies at the EU level. The forum could make proposals and recommendations. It has also been proposed that it could contribute to the conferences that feed into the handbooks on integration and at times contribute to NCPI meetings. The CBPs will act as a roadmap for its activities and agenda. The forum will also have the capacity to "assess the objectives and programs of the EIF, as well as the other instruments provided for under European integration policy". The Opinion also stipulates that *"[e]xchanging technical know-how and good practice* should be one of the forum's main tasks, to be carried out in cooperation with the network of National Contact Points" (emphasis added).

Finally, the group of "integration actors and stakeholders" would not be complete without **the European networks of local and regional authorities**. On 5 November 2007 the European Commission together with Eurocities[79] signed the Milan Declaration.[80] The Declaration recognized the key role of cities in integration policies and the need to strengthen their voices in shaping the EU's agenda on integration. It also launched the so-called 'integrating cities process' as a platform for fostering the dialogue between cities on the CBPs at the local level. The process consists of an annual event and a research project (INTI Cities, "Benchmarking Local Integration Governance*")* as discussed in Chapter 3.5 below.[81]

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[77] EESC, Elements for the Structure, Organization and Functioning of a Platform for the Greater involvement of Civil Society in the EU-level promotion of policies for the integration of third country nationals, Opinion, SOC/281, Brussels, 9 July 2008.

[78] Para. 3.6.5 of the Opinion clarifies that "[i]n this way, the forums, platforms, councils and similar institutions that exist in the Member States – especially those involving immigrant organisations – will also be represented in the European Forum. In those Member States where no such organisations exist, the economic and social councils (or similar institutions) could have a place in the Forum." It continues by stating in para. 3.6.6 that "immigrants' organisations, most of which are organised on national lines and do not have European networks, must be encouraged to become involved in the European Integration Forum; the Member State forums, platforms, councils or ESCs should, therefore, nominate delegates from the most representative immigrants' organisations".

[79] Eurocities is a network of major European cities. Founded in 1986, the network brings together the local governments of more than 130 large cities in over 30 European countries (www.eurocities.org).

[80] The Milan Declaration, "Integrating Cities", was signed by the former Vice President of the European Commission and Commissioner responsible for Freedom, Security and Justice, Franco Frattini, and Letizia Moratti and Ivo Opstelten – the Mayors of Milan and Rotterdam respectively. The Declaration can be retrieved from the INTI Cities website (www.inticities.eu/upl/1/default/doc/47.pdf). See also the announcement in the *Eurocities Flash*, No. 72, November 2007, p. 3. The first "Integrating Cities (European Policies, Local Practices)" Conference took place in Rotterdam on 8–10 October 2006 (http://www.integratingcities.nl/introduction.php). Refer also to the website of the second "Integrating Cities" Conference in Milan, which took place on 5–6 November 2007 (http://www.integratingcities.it/index.html).

[81] There are other umbrella organizations of local authorities, such as ERLAI, a Brussels-based network of regional and local officers on asylum and immigration, who are also active players in the debate on benchmarking

2 The Growing Interest in Benchmarking Integration as a Policy Tool in the EU

The method of benchmarking needs to be understood within the context of the OMC. The OMC constitutes a way of cooperating at the EU level that falls outside the classical configurations of the Community method, which uses coordination, exchange of information and benchmarks/indicators as the main tactics and tools for fostering Europeanization. In this Chapter, we first address the relationship between the OMC and the area of immigration. Then we evaluate the extent to which the EU framework on integration can be considered a 'quasi-OMC'.

2.1 The OMC and Immigration

The literature on the origins of the OMC and its current application to different EU policies is extensive.[82] It is worth recalling that while a version of this method had already been applied since the mid-1990s in the scope of the European monetary union, the actual term 'open method of coordination' only made its first appearance in the Lisbon Presidency Conclusions of 23–24 March 2000. The Lisbon strategy identified a new strategic goal for the Union: to achieve "greater social cohesion". This strategy would specifically aim at modernizing "the European social model, investing in people and combating social exclusion", and its implementation would be facilitated by the application of a new OMC "as the means of spreading best practice and achieving greater convergence towards the main EU goals".[83] The new method would involve the following elements:

1. fixing guidelines (common objectives) for the Union combined with specific timetables for achieving the goals with the member states set in the short, medium and long terms;

2. establishing, where appropriate, quantitative and qualitative indicators and benchmarks (common indicators) against "the best in the world", tailored to the needs of different member states and sectors as a means of comparing "best practice";

3. translating these European guidelines into national and regional policies by setting specific targets and adopting measures, taking into account their differences; the translation of the common ob-

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integration in the EU. For more information see the website (www.emiliaromagnasociale.it/wcm/emiliaromagnasociale/home/immigrazione/Erlai/Presentation.htm).

[82] For a 'state of the art' perspective, see V. Hatzopoulos, "Why the Open Method of Coordination is Bad for You: A Letter to the EU", *European Law Journal*, Vol. 13, No. 3, May 2007, pp. 309–42.

[83] European Council (2000), Presidency Conclusions of the Extraordinary Lisbon European Council of 23–24 March, SN100/1/00, Brussels.

jectives into national policy plans provided by the member states to the European Commission in the form of National Action Plans (NAPs); and

4. periodic monitoring and peer review by the Council and the Commission on the performance of the member states organised as "mutual learning processes".[84]

Since then, the OMC has been used in various EU policies,[85] for example in the areas of employment, social inclusion, pensions and health.[86] In the framework of the OMC, benchmarking has been defined by de la Porte (2002) as

> [e]valuating performance on the basis of a benchmark, which can be conceived as a yard-stick against which reality can be measured diachronically and comparatively. In the framework of the OMC, it is the means by which to assess the success of the application of the method, and to put pressure on the EU Member States participating in the process to converge towards commonly defined goals. It consists of defining standards or reference points with respect to different aspects, objectives and effects of certain work methods, measures, or policies.

The application of the OMC to immigration and integration was first proposed by the European Commission in the Communication on an Open Method of Coordination for the Community Immigration Policy (COM(2001) 387) of July 2001.[87] The Commission recognized that the development of a common immigration policy required the adoption of a "coordinating method" following the one already applied in the context of employment.[88] In the view of the Commission, "while the Member States remain responsible for a number of significant issues with respect to the admission of economic migrants and for developing and implementing integration policy",[89] the OMC would be complementary to the enactment of the ordinary legislative framework. Its implementation would be the most appropri-

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[84] Ibid.

[85] For a study of the various areas where it currently applies see E. Szysczak, "Experimental Governance: The Open Method of Coordination", *European Law Journal*, Vol. 12, No. 4, 2006, pp. 486–94.

[86] See for instance M. López Santana, "The Domestic Implication of European Soft-Law: Framing and Transmitting Change in Employment Policy", *Journal of European Public Policy*, Vol. 13, No. 4, June 2006, pp. 481–99; J. Zeitlin and P. Pochet (eds), *The Open Method of Coordination Action: The European Employment and Social Inclusion Strategies*, Brussels: PIE-Peter Lang, 2005; R. Dehousse, *L'Europe sans Bruxelles? Une analyse de la Methode Ouverte de Coordination*, Paris: L'Harmattan, 2004; C. De la Porte, "Is the Open Method of Coordination Appropriate for Organising Activities at European Level in Sensitive Policy Areas?", *European Law Journal*, Vol. 8, No. 1, March 2002, pp. 38–58.

[87] European Commission, Communication on an Open Method of Coordination for the Community Immigration Policy, COM(2001) 387, Brussels, 11 June 2001.

[88] See J. Niessen, "Consultations on Immigration Policies", *European Journal of Migration and Law*, Vol. 4, No. 1, 2002, pp. 79-83, and also by the same author, *The Management and Managers of Immigration*, Migration Policy Group, Brussels, 2000, in which a clear proposal was made about the applicability of the cooperation under 'the Luxembourg Process' to immigration policy. The proposal included the annual adoption of guidelines for the Member States' employment policies, recommendations for their implementation in the national arena, the elaboration of national action plans for employment by the member states and the production of a joint employment report.

[89] See p. 5 of the European Commission's (2001) Communication COM(2001) 387, op. cit.

ate way to stimulate the gradual development of common responses through coordination and experimentation of national policies. Furthermore, the Commission would support the OMC by putting forward initiatives for "European guidelines, ensuring coordination of national policies, exchange of best practice and evaluation of the impact of the Community policy".[90] The OMC would also foster discussion on migration-related issues with the aim of promoting the "progressive convergence" of national policies and practices, and in the long term the establishment of common standards and harmonized objectives.

How would the OMC work in practice?[91] Under the proposed system, the Council would produce "Multi-annual Guidelines for the Union" that would be accompanied by specific timetables for the achievement of a set of common goals. The member states would implement these guidelines in "National Action Plans",[92] which would be subject to an evaluation (peer review) and adaptation on an annual basis. The European Commission would prepare "Synthesis Reports" on common problems and concerns, and would also identify those fields where common "European solutions" are needed. This would then facilitate Community legislation. The Commission would play a central role in the OMC. In addition to putting forward proposals on the bases of the Amsterdam Treaty and the Tampere Program, and monitoring their implementation to ensure consistency, it would also prepare initiatives for European guidelines. It would promote cooperation, the exchange of information and best practices, and evaluation and monitoring.[93] These steps would be accompanied by wide consultations, and the Commission could even set up "committees and working groups", with senior officials, experts, social partners, local and regional authorities, etc.

One of the fields identified by the European Commission for the application of the OMC was "the integration of third country nationals".[94] While the Communication (COM(2001) 387) was never taken forward by the Council, the area of integration has been subject to a non-formalized or quasi-OMC in the context of the EU framework on integration.

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[90] Ibid., p. 6.

[91] S. Velluti, "What European Strategy for Integrating Migrants? The Role of the OMC Soft Mechanisms in the Development of an EU Immigration Policy", *European Journal of Migration and Law*, Vol. 9, No. 1, 2007, pp. 53–82; see also A. Caviedes, "The Open Method of Coordination in Immigration Policy: A Tool for Prying Open Fortress Europe", *Journal of European Public Policy*, Vol. 11, No. 2, April 2004, pp. 289–310; and also B. Bogusz, "Modes of Governance for an EU Immigration Policy – What Role for the Open Method of Coordination", in B. Bogusz, R. Cholewinski, A. Cygan and E. Szyszczak (eds), *Irregular Migration and Human Rights: Theoretical, European and International Perspectives*, Leiden: Martinus Nihjoff, 2004, p. 224.

[92] The NAPs would present two sections: a first section offering statistics on third-country nationals; information on cooperation among different authorities, social partners, non-governmental organizations (NGOs) and migrants' organizations; information about the interaction of parallel legislative measures on migration, resources used, "interesting experiences and good practices" and problems encountered; and information on the implementation of EC directives. The second section of the NAPs would provide the actions that they would like to take at the national, local and regional levels for the implementation of the guidelines for the next phase. Refer to Point 4.1 of the Communication, p. 12.

[93] Refer to Point 4.2 of the Communication, under the heading "Developing and Evaluating the Community Immigration Policy", pp. 13 and 14.

[94] See Guideline No. 6, entitled "Ensuring the development of integration policies for third country nationals residing legally on the territories of the Member States".

2.2 The OMC and Integration

The nature, methods and tools of the EU framework on integration fall within the category of soft law, and their implementation shows a peculiar version of the OMC. The way in which the EU framework operates involves a major transformation of, and to some extent a challenge to the classical foundations substantiating the Community method of cooperation. It diversifies the usual ways through which the EU legal system functions. The framework can be perceived as a new multi-level setting of governance. It comprises a package of non-coercive regulatory tools and active transnational networks. It is characterized by the interplay of strategies and politics exercised by the Council, the European Commission, the member states and other European institutions, as well as key stakeholders. These strategies and politics mutually influence and reinforce each other (top-down and bottom-up). Yet they are driven by a complex web of heterogeneous premises and goals. The EU framework on integration illustrates a way in which the OMC is being implemented at the EU level. The similarities with the OMC become transparent when making a brief comparison between the two.

The framework complements EU legislative frameworks on immigration. It aims at influencing member states' national policies and programs on integration through informal discussions, the exchange of information and transnational coordination. Furthermore, in the 2001 version of the OMC, the Council was supposed to present "Multi-annual Guidelines for the Union". The relationship between the CBPs and the EIF may potentially have similar effects on the member states. Institutions that receive funding from the latter will need to implement policies in compliance with the CBPs as stipulated in the Decision establishing the EIF (2007/435/EC). The Commission's publication of the handbooks on integration and annual reports, in cooperation with the NCPI, aims at synthesizing trends in national and European policies. These works also act as a driver for the exchange of information and best practices, and put forward policy recommendations. Finally, the Commission's evaluation (benchmarking and indexing) of integration practices makes the framework similar to the OMC.

Still, the EU framework on integration and the OMC are distinct in some ways. The framework does not formally aim in the long term at any legislative harmonization.[95] Also, the functions and powers enjoyed by the Commission are more limited and blurred. This is the case concerning its role in ensuring member states' compliance with the CBPs. The Commission has proposed broad and rather general actions for the member states to implement the CBPs. Under the OMC, the member states would need to formally present NAPs, allowing the Commission and the Council to review their activities (and the identification of problems encountered and lessons learned/best practices).

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[95] This has been confirmed by the new Article 79.4 TFU of the Treaty of Lisbon. Article 79.4 states that "[t]he European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member State".

3   State of the Art in Benchmarking Integration in the EU

This chapter examines the state of art in benchmarking integration in the EU. It looks at a selected group of **reports and projects conducted by civil society, academia and local authorities**. The analysis focuses on the rationale, the personal and territorial scope, the conceptual setting and the methodology for benchmarking. This chapter provides the empirical data necessary to ascertain the most important tensions and dilemmas characterizing the benchmarking technique in the field of integration in the EU.

3.1   The Study on Benchmarking Immigrant Integration

The *Benchmarking Immigrant Integration* study was conducted by the European Research Centre on Migration and Ethnic Relations of the University of Rotterdam and was funded by the European Commission (DG JFS) in 2002.[96] The rationale of the study was

> [t]o explore some aspects of *the concept of integration* and to assess how these aspects can be *measured in a way that enables comparisons between the Member States*, groups of immigrants and also over time...it can…contribute to a better monitoring of immigration and integration processes and to greater effectiveness of policies in this field.[97] (emphasis added)

The study identifies three possible types of comparisons that could take place in benchmarking: among TCNs, member states and across time. As regards the conceptual setting, it differentiates between the term "integration" (relating to the structural dimension/institutional participation, i.e. ways of promoting immigrant participation in the major institutional arrangements of society such as the labor market, education and health care systems), and that of "acculturation" (relating to the cultural dimension/cultural orientation and identification – the "phenomenon that immigrants gradually take over certain major elements of their surrounding cultural environment"). Although a clear distinction is made between these two terms, "for reasons of efficiency" the report later advises against distinguishing between these two concepts and every time it refers to integration it also includes acculturation.[98]

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[96] H. Entzinger and R. Biezeveld, *Benchmarking Immigrant Integration*, Report written for the European Commission, Contract No. DG Jai-A-2/2002/006, European Research Centre on Migration and Ethnic Relations, Erasmus University of Rotterdam, 2003 (retrieved from http://ec.europa.eu/justice_home/funding/ 2004_2007/doc/study_indicators_integration.pdf); see also H. Entzinger and R. Biezeveld, "Benchmarking in Immigrant Integration", in R. Süssmuth and W. Weidenfeld (eds), *Managing Integration: The European Union's Responsibilities towards Immigrants*, Gütersloh: Verlag Bertelsmann Stiftung, 2004, pp. 123–36.

[97] See p. 5 of Entzinger and R. Biezeveld (2003).

[98] Ibid., p. 11.

From a methodological point of view, it is argued that while there is substantial diversity when comparing member states' approaches and policies on the integration of TCNs, they do present some similarities and points of convergence allowing for comparison and therefore for benchmarking.[99] It is also mentioned that in a meeting with the NCPI the following core elements of integration were agreed: "respect for fundamental values in a democratic society, and rights comparable with corresponding obligations".[100] The study then differentiates among three major "dimensions of integration", which are socio-economic, legal–political and cultural, and attributes a number of indicators to each of them as outlined below.

1) Socio-economic integration would include the following indicators: participation in the labor market/employment, income level, representation in low-skill jobs, the average finding employment in accordance with education, use of social security, levels of education and training, language skills, quality of housing and residence patterns (segregation).

2) Legal–political integration would refer to issues such as the EU values of "granting equal rights to all citizens and to third-country nationals residing in their territory", and the concept of "civic citizenship". Civic citizenship would comprise "a common set of rights and obligations" that the TCNs would acquire gradually over a period of legal residence without the need to be naturalized.[101] Indicators within this dimension include the numbers of TCNs naturalized or who obtain a secure residence status; the number of those holding dual citizenship; participation in the political decision-making, politics and civil society; family reunification; "and even more so, the right to marry someone from a third country".[102]

3) Indicators forming part of the cultural dimension of integration would include for instance attitudes toward basic rules and norms of the host country, frequency of social contacts, choice of spouse, language skills and delinquency.

In addition to these three integration dimensions, the study gives importance to "the attitudes of recipient societies", and refers to the two-way process principle (which has since become CBP 1), and indicators such as reported cases of discrimination, perceptions of immigrants in the receiving society, institutions that are sufficiently accessible to immigrants, an increase in awareness of diversity among police, the incidence and effects of diversity policies and the role of the media. In this respect, the study raises the following question: What exactly constitutes the core of society, its basic values and rules? The study argues that "of certain values it can be said that they are shared by virtually everyone in the European Union, such as the rule of law, respect for democracy, equality of men and women, and the separation of church and state". Then it refers to the tensions that exist between "two oppos-

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[99] J. Niessen, *Diversity and Cohesion: New Challenge for the Integration of Immigrants and Minorities*, Strasbourg: Council of Europe Publishing, 2001.

[100] See p. 18 of Entzinger and R. Biezeveld (2003).

[101] The first time that this concept appeared in EU policy was in the Commission Communication on a Community Immigration Policy, COM(2000) 757, 22 November 2000. It was later supported and promoted by the EESC Opinion on Immigration, Integration and the Role of Civil Society, CES 365/2002, Brussels, 21 March 2002. For an overview of the use of this concept see the table provided in Annex 2 of this paper.

[102] See pp. 22 and 34 of Entzinger and R. Biezeveld (2003).

ing ideologies" with regard to the cultural integration dimension, and "whether migrants are expected to assimilate fully [in]to the host society or whether they may keep their own cultural identity". It acknowledges that there are major differences in integration approaches taken in the member states and in "the desirability of certain degrees of acculturation".

3.2 The European Civic Citizenship and Inclusion Index

The European Civic Citizenship and Inclusion Index (the 2005 index) was developed thanks to a partnership between the MPG, the British Council and the Foreign Policy Centre.[103] What is the rationale behind the 2005 index? According to the executive summary of the report, it intends

> [t]o fill a knowledge gap on civic citizenship policies and inclusion at a European level. It is important for Member States to think about issues of immigrant inclusion in a European perspective, in order to keep up with the reality of EU-level policymaking, and the rapidly emerging EU Common Space of Justice, Freedom and Security. This is the first attempt to present the EU's policies governing civic citizenship and inclusion in a *concise and comparable format.*[104] (emphasis added)

The goals are first, to present integration data (as of October 2004), comparing member states' legislative frameworks based on "EU averages"; and second, to enable monitoring and evaluation of how member states implement "civic citizenship and inclusion agreed by all of them" in law and policy. A third goal is to point out cases of best practice among member states. Finally, the index should allow the comparison of these elements over time. The index maintains that civic citizenship should constitute "the cornerstone" of "common standards of inclusive citizenship, which gradually extends the responsibilities and entitlements of EU citizenship to all legally resident". Moreover, it presents equality and access as two of the key tenets that should guide European immigration and integration policies. Following this understanding, TCNs should progressively become "active and full citizens".[105] The concept of civic citizenship is then linked to that of "immigrant inclusion". The latter is described as encompassing labor market inclusion, family reunification, secure residence status (long-term residence), naturalization and anti-discrimination. The first edition of the index only addresses persons who are "legally residing third-country nationals",[106] and evaluates legal provisions and policy. It does

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[103] A. Geddes and J. Niessen (with A. Balch, C. Bullen and M. J. Peiro), *European Civic Citizenship and Inclusion Index*, British Council, Foreign Policy Centre and Migration Policy Group, Brussels, 2005.

[104] Ibid.

[105] The conceptual framing is more developed in J. Niessen, M.J. Peiro and Y. Schibel, *Civic Citizenship and Immigrant Inclusion – A Guide for the Implementation of Civic Citizenship Policies*, Migration Policy Group, Brussels, 2005.

[106] The following groups are not included: asylum-seekers and refugees, and "ethnic minorities who hold EU citizenship. For example, immigrants who have naturalised or subsequent generations of migrants who are given EU citizenship at birth are not covered in the Index." See p. 9 of Geddes and Niessen (2005).

not address the outcomes of these laws and policies in terms of their effectiveness in practice.[107] Furthermore, it does not assess "cultural integration" or political participation. It instead evaluates policies and laws regarding civic citizenship and the labor market in the EU-15.

How should one understand and read the index? The member states' policies and regulations[108] are measured based on a normative framework created by the MPG. Points are awarded in accordance with how easily national laws allow TCNs to access 1) the labor market, 2) family reunification, 3) long-term resident status, 4) naturalization, and 5) anti-discrimination protections. The index deems these five areas as key for fostering "migrant inclusion". For each of these five areas, the index assesses four dimensions "of the statuses and protections that immigrants enjoy": dimension 1, eligibility/scope;[109] dimension 2, conditions for acquisition/remedies;[110] dimension 3, security of status/equality agencies/integration measures;[111] and dimension 4, rights associated/proactive policies.[112]

The index is based on a common/practical normative framework that the MPG established. The index assesses and quantifies "the policy conditions [that] are more favourable to immigrant inclusion", and which the authors consider "the best direction" for fostering civic citizenship and immigrant inclusion. The common framework compares national policy frameworks with EU legislation, international conventions and NGO proposals on immigration and integration. In particular, the following instruments form the base of the index: the Council Directives 2003/109 on the status of third-country nationals who are long-term residents and 2003/86 on the right to family reunification, the Council Directives 2000/78 and 2000/43 on non-discrimination,[113] the Council of Europe Convention on Nationality (1997), the MPG and ILPA's Amsterdam proposals and the Starting Line Group.[114] The index makes a

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[107] Page 25 of Geddes and Niessen (2005) states that "it does not reflect how well immigrants are actually included into Europe's economies and societies…They are about law and the options are legal options. They are not about practices and how the law is (not applied)."

[108] Once the data have been compiled by national experts following the completion of a questionnaire, "[i]n order to be able to compare Member States and to establish whether civic citizenship measures are put in place, a list of almost 100 measures with each [of the] three options was sent as a questionnaire to independent experts who determined for all measures which option applies for their country". For a list of the experts who took part in the index, see the Annex of Niessen, M.J. Peiro and Y. Schibel, *Civic Citizenship and Immigrant Inclusion – A Guide for the Implementation of Civic Citizenship Policies*, Migration Policy Group, Brussels, 2005.

[109] "What are the eligibility requirements for the status? What is the scope of anti-discrimination legislation? How easy is access to the labour market?"

[110] "What are the conditions that immigrants need to fulfill to access the status? What are the remedies available in cases of discrimination? How secure is employment?"

[111] "How secure is the status? How strong are the equality agencies which monitor anti-discrimination? What labour market integration measures exist to facilitate migrants' inclusion?"

[112] "What are the rights associated with the status? What are the pro-active policies in place to combat discrimination?"

[113] Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, OJ L 303, 2.12.2000; Council Directive 2000/43/EC of 19 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJ L 180, 19.7.2000.

[114] Immigration Law Practitioners' Association (ILPA) and Migration Policy Group (MPG), *The Amsterdam Proposals: The ILPA/MPG proposed directives on immigration and asylum*, prepared by Steven Peers and coordinated by E. Guild, S. Rowlands and J. Niessen, ILPA and MPG, London and Brussels, 2000. See for in-

two-pronged comparison. First it compares member states' integration legislation with "the framework of desirable policy". Second, it compares how each member state's integration legislation measures up to that of the other member states.

The benchmarking envisaged by the index can only work with a set of indicators. Annex 1 of the index presents its list of indicators that apply per strand and dimension of integration. Overall, it makes use of 100 indicators related to specific policies in each of the strands, "based on the existing commitments of member states to give immigrants rights and obligations comparable to EU citizens" and "whether they are living up to their commitments at EU level", which they call "promises of equality". On the basis of the purported normative framework, "the choice and wording of the indicators are [also] inspired by NGO proposals, EU legislation and international conventions". The authors of the index state that the indicators do not tell whether inclusion has been successful or not. The index only measures whether the legal and policy frameworks are "favorable". For instance, it is interesting to note that the index qualifies as "unfavorable" or "worse practice" the use of "integration conditions" as provided by both the Directives it references as its assessment baseline. The index also values conditions going beyond a language test as "unfavorable".

The use of indicators is intended to measure the favorable or unfavorable nature of a particular policy option for "immigrant inclusion". This measurement is calibrated using three markers: favorable (which equates to best practice), less favorable and least favorable conditions (which equates to worst practice). Favorable describes "more liberal provisions and interpretations" assessed in the context of the normative framework explained earlier in this chapter. The other two elements of measurement reflect more restrictive regulations on integration. For each indicator, member states are given a score of 1–3, with 3 being the most favorable score, 2 less favorable and 1 the least favorable.[115] If a member state had no legislation at all then a score of 1 was given. The index carries out a numerical exercise calculating "averages" and "indices": "A strand average per country is calculated as the average of all the indicators in the strand…The dimension average per country per strand is calculated as the mean of all the indicators in the dimension, in the strand…For each strand, the EU average is calculated as an arithmetic mean of the 15 scores."[116] The index presents member states' scores in two forms: score values (comparing member states' integration policies with the European normative framework, measuring how favorable policies are to "immigrant inclusion") and index values (comparing member states with each other). Score values can vary greatly among countries, as the 1–3 scale values a set

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stance I. Chopin, "The Starting Line Group: A Harmonized Approach to Fight Racism and to Promote Equal Treatment", *European Journal of Migration and Law*, Vol. 1, No. 1, 1999, pp. 111–29; see also I. Chopin and J. Niessen, *Proposals for legislative measures to combat racism and to promote equal rights in the European Union*, co-published by the Starting Line Group and the British Commission for Racial Equality, London, 1998; and also I. Chopin, "Possible Harmonization of Anti-Discrimination Legislation in the European Union: European and Non-Governmental Proposals", *European Journal of Migration and Law*, Vol. 2, Nos. 3-4, 2000, pp. 413–30.

[115] The report explains that in the anti-discrimination strand, the score depended on the number of areas covered by a particular normative measure (a rating of 3 was given when the act included race/ethnicity, religion/belief and nationality; 2 when it covered two areas, and 1 when it only included one or no discrimination grounds. See footnote 10 of Geddes and Niessen, 2005).

[116] Ibid.

of 100 indicators. The score calculation is given to two decimal places, "which allows for a more nuanced reading". Concerning the index values, the 1–3 range is converted into a standardized base that uses 100 as equivalent to the EU average. If a country scores more than 100, this means that the country is performing above the EU average.

3.3 The Migrant Integration Policy Index

The Migration Policy Group and the British Council also produced the second edition of the index (henceforth, MIPEX).[117] This time it was co-funded by the European Commission (DG JFS, INTI Program).[118] The main objective of the MIPEX is

> [t]o improve migrant integration policies in Europe, by providing *objective, accessible and comparable data* for scrutiny and debate…it is therefore vital that the integration policies of European governments are *scrutinized and monitored*. MIPEX is intended as a 'mirror' that can be held up to Member States for them to see *how they are performing on migrant integration policy.*[119] (emphasis added)

The MIPEX evaluates integration policies in the EU-25, as well as in Canada, Switzerland and Norway as of 1 March 2007. It covers six areas that "shape a migrant's journey to full citizenship: labour market access, family reunion, long-term residence, political participation, access to nationality and anti-discrimination".[120] "Best practice" in each policy indicator is equalized at the highest "European standard", which it defines in a similar way as the 2005 index. The MIPEX normative framework then describes "European standards" as the best practice against which to test member states' policies. The standards assessed by the MIPEX are those relevant to TCNs legally residing in an EU member state. The focus is on government policy and its legal/policy framework. The MIPEX defines integration as "equal or mutual opportunities and responsibilities for all, both in socio-economic and civic terms". Furthermore, it defines benchmarking as "[a] tool for policy improvement based on the identification of key areas of improvement, setting standards and indicators, searching for best practices that meet those standards, and adapting policies from lessons learned to meet and exceed these standards".[121]

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[117] J. Niessen, T. Huddleston and L. Citron (in cooperation with A. Geddes and D. Jacobs), *Migrant Integration Policy Index*, British Council and Migration Policy Group, Brussels, 2007 (www.integrationindex.eu); see also J. Niessen, "Integration, Citizenship and the Benchmarking of Integration in the EU", in S. Carrera (ed.), *The Nexus between Immigration, Integration and Citizenship in the EU*, Collective Conference Volume, Centre for European Policy Studies, Brussels, April 2006, pp. 33–37.

[118] See the website http://ec.europa.eu/justice_home/funding/2004_2007/inti/funding_inti_en.htm.

[119] See Niessen, Huddleston and Citron (2007).

[120] Integration programs, access to housing, education and health care are cross-cutting issues.

[121] See p. 6 of Niessen, Huddleston and Citron (2007).

The MIPEX methodology is also similar to that of the 2005 index. In each strand or policy area, it measures best practice based on the European standards it constructs.[122] Each strand is divided into the same four dimensions as in the index. The report adds that

> [a] country receives a 1-3 score on each indicator…the indicator scores in each dimension are averaged together to give a dimension score. Each strand therefore has four dimension scores. The average of the four dimension scores in each strand produces a strand score. Each country therefore has six strand scores. The six strands are then averaged together to give an overall score for each country. Other averages (EU25/15/10) are calculated as a simple mean score of the given countries. The initial 1–3 scale is converted into a 0–100 scale for dimensions and strands, where 100% is best practice. Rankings and comparisons can then be made on the basis of these scores.[123]

The MIPEX assesses 140 policy indicators, which are presented in Annex 4 of this study.[124] Their evaluation is based on the same baseline as the 2005 index. Yet the policy indicators are more finely tuned and there are more of them. According to the report, "[t]he indicators were designed through a series of expert consultations and later scrutinised and approved by MIPEX's Scientific Advisory Committee".[125] Each of the 140 indicators relates to a specific policy area in one of the six strands. It is said that "they have been designed to benchmark laws and policies against these highest European standards".[126]

3.4   Study on Setting up a System of Benchmarking to Measure the Success of Integration Policies in Europe

The study on *Setting up a System of Benchmarking* was carried out by the MPG and funded by the DG for Internal Policies of the Union (Policy Department C) of the European Parliament.[127] Its objectives are to explore the extent to which the technique of benchmarking "can be transferred from the

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[122] It is said that "[s]ome of these standards are contained in EC Directives, which EU Member States are obliged to transpose into their national laws. Others come from Council of Europe Conventions that ratifying States have committed to implement. Where Directives and Conventions only provide minimum standards or allow numerous derogations, MIPEX turns to higher standards of best practice: EC Presidency Conclusions, proposals for EC Directives put forward by European-wide stakeholders, or the policy recommendations of comprehensive comparable European research projects" (Niessen, Huddleston and Citron, 2007, p. 5).

[123] Ibid., p. 6.

[124] It is important to highlight that each of the indicators constitute the set of questions sent to the national experts in the form of a questionnaire. They are presented in Annex 2 of the MIPEX "List of Indicators".

[125] See Niessen, Huddleston and Citron (2007).

[126] Ibid.

[127] J. Niessen and T. Huddleston (with N. Verbruggen and M.A. Kate), *Setting up a System of Benchmarking to Measure the Success of Integration Policies in Europe*, PE 378.288, Policy Department C, Citizens Rights and Constitutional Affairs, European Parliament, January 2007.

private sector and be used in the public sector", [128] to propose an organized and targeted European system for benchmarking integration policies and to put forward a set of policy recommendations relevant to benchmarking the effectiveness of a future integration framework for the EU. The study starts with an in-depth analysis of benchmarking. After assessing its origins in the private sector,[129] where this method has been used to ensure a "continuous and systematic search for and implementation of best practices, which lead to superior performance", the following elements are identified as features of this technique: 1) identifying key areas to be improved, 2) setting standards according to "best/good practice", 3) examining how actors meet the standards, and 4) adapting and applying "lessons learned" to meet or exceed the standards. As regards the conceptual setting, the European Parliament study introduces a working definition of benchmarking, founded on a "citizens-based approach". It advocates a common definition of integration driven by a "European framework concept of integration", which

> should situate integration policies within the broader context of sustainable economic development and social cohesion. Integration policies must encourage immigrants and nationals alike to become *active citizens*. It *must promote solidarity and equality* among all members of society.[130] (emphasis added)

The understanding of integration as including civic citizenship is discussed in Chapter Seven of the study. The study's authors (similar to those of the 2005 index and the MIPEX) base their definition of integration on their interpretation of the European framework and the Council of Europe's understanding of immigration and integration.[131] In particular, as regards the European framework they refer to the 1999 Tampere Program. They point to European citizenship and equality based on anti-discrimination as "the optimal standard". They state that "the EU Framework definition of integration is characterized by its gradual 'comparable rights and obligations' approach, which aims to be comprehensive, multidimensional, voluntary and as follows collaborative among many levels of governance".[132] Successful integration is considered to include the active participation of all residents, the respect and exercise of "comparable rights and responsibilities", and the acquisition of "intercultural competencies".[133]

The scope of the study exclusively covers the integration of legally resident TCNs or "newcomers". In Chapter Five, "From Integration Impediments to Areas of Improvement", the study explains the benchmarking system's methodology. It intends to provide "benchmarkers" with the necessary instruments for measuring "immigration integration debates" and to pinpoint "integration impediments and

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[128] Ibid.

[129] For instance, they quote and make use of the publication by the European Foundation for Quality Management (EFQM), *Excellence Toolbook for Benchmarking*, EFQM, Brussels, 2003 (see www.efqm.org).

[130] See Niessen and Huddleston (2007), p. 59.

[131] See M. Coussey, *Framework of Integration Policies*, Council of Europe, Directorate General III – Social Cohesion, Directorate of Social Affairs and Health, Strasbourg: Council of Europe Publishing, 2000.

[132] See Niessen and Huddleston (2007), p. 67.

[133] Ibid., p. 146.

areas of improvement". The study starts by explaining how "the decision to benchmark" is based on a preliminary assessment of the situation, which "informs the decision to benchmark, focuses the benchmarking and makes it relevant for the ongoing policy debates".[134] The preliminary assessment consists of identifying a number of "ongoing discussions" or "integration debates" in the EU.[135] The assessment would aim at distinguishing a number of "impediments", which are defined as "policies (or the lack thereof) and societal realities that hamper the ability of a diverse society to ensure the long-term well-being of all its members".[136] The search for impediments could result in some bases for benchmarking and in turn launch research to identify standards, targets, best practices and indicators.

Chapter Three introduces four "dimensions of well-being" intended to offer a comprehensive picture of these qualities in a diverse society: 1) non-discrimination, 2) dignity, 3) development, and 4) participation. They are then applied to "four areas of life" subject to public policies, which include citizenship, economic inclusion, social cohesion (housing and health care services)[137] and education. Therefore, using "the technique of impediment searching", the natural step would be to identify specific obstacles in each area of life by dimension of well-being. The subsequent step would be to transform the impediments into "areas of improvement" or "action-oriented policy goals". The study elaborates as follows:

> The identification of impediments permits benchmarkers to develop policies and services that turn impediments into clear-cut and constructive areas of improvement…benchmarkers may then enter the benchmarking exercise's analysis by undergoing policy assessments on their current policy response, identify standards and search for and study best practice on this specific area of improvement.[138]

The focus on turning impediments into areas of improvement would need to follow the "ideal standard" (standard-setting) or normative framework outlined by the study,[139] which consists of eliminating the specific impediment "in order to encourage the well-being of all members of society, with a focus on active participation, the acquisition of competences and the granting of comparable rights and responsibilities". According to the model, for the purpose of "analysis" and "implementation" benchmarkers would develop "quantitative or qualitative" indicators related to the processes of policy formulation or

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[134] Ibid., p. 99.

[135] It is interesting to note that among those mentioned is the issue of "shared values" (and integration as an immigration control mechanism), yet then the decision it made not to "benchmark" it (ibid., p. 101).

[136] Ibid., p. 104.

[137] See also Annex 1 of the study entitled "*Migrant-Friendliness Quality Questionnaire*", in which a set of questions are presented to measure whether hospitals are "migrant-friendly" (pp. 247–52).

[138] See Niessen and Huddleston (2007), p. 130.

[139] Annex 4 entitled "Normative Framework of European Civic Citizenship and Inclusion Index" (pp. 264–73) states that "[e]quality and access are cornerstones of European immigration integration policies. Equal treatment of immigrants is often a condition for their admission in terms of working and living conditions and they acquire more rights and assume more responsibilities over time in this way gradually becoming full and active citizens. Policies can set favourable integration conditions and they include securing residence, facilitating family reunion, encouraging naturalisation and combating discrimination. These areas, taken together, promote civic citizenship."

the outcomes (efficiency, effectiveness and sustainability). Chapter Six argues that "integration can be measured in terms of successes and failures and integration policies in terms of strengths and weaknesses", and the use of indicators serves as the instrument for assessing success and effectiveness. The following indicators are presented, with the option for "the benchmarker" to choose those more appropriate: 1) context indicators (including for instance a situational context, such as the number of immigrants in the receiving population); 2) governance indicators (the normative situation in the country with respect to international and European laws and policies); 3) global/outcome indicators (relating outcomes and impact to general policy goals in a long-term perspective); 4) output indicators (concerning specific policy goals with a short-term outlook); 5) operational/input indicators (operational objectives in terms of goods and services); and 6) process/performance indicators (relevance, efficiency, effectiveness and sustainability).

The European Parliament study uses graphs similar to those provided by the MIPEX to represent integration policy in an area of life. In fact, the second part of the study constitutes a sort of update of the MIPEX, following the same conceptual and methodological patterns precisely.[140] Finally, we come to the phase of policy intervention, which is to consist of "the goals set by the 'areas of improvement' [that] are amenable to a combination of public interventions".[141] The study notes that it aims at combining the Council of Europe's approach on measuring integration by looking at processes ("process approach")[142] with the MIPEX methodology ("normative approach").

3.5 Benchmarking Integration at the Local and Regional Levels

This subsection assesses some examples of the increasing practice of benchmarking integration at the local and regional levels in the EU. In particular we look at: 1) the integration policy in Berlin, 2) the INTI Cities project ("Benchmarking Integration Governance in European Cities"), and 3) the Migrants' Integration Territorial Index (MITI project).

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[140] In addition, Annex 5 of the study presents a list of research reports by country that were consulted by the national experts when responding to a questionnaire very similar to the one used in the MIPEX (see pp. 274–83).

[141] In this way, the study establishes "four cross-cutting levels of policy intervention" in each of the "areas of life": 1) the existence of law and policy framing, 2) implementation and service delivery, 3) beneficiaries (the situation of immigrants), and 4) climate in the receiving society.

[142] Council of Europe, *Measurement and Indicators of Integration*, Community Relations Series, Strasbourg, 1997; see also Council of Europe, *Proposed Indicators for Measuring Integration of Immigrants and Minorities with a View to Equal Rights and Opportunities for all*, MG-IN, Strasbourg 2003. The study states that "[w]hereas the Council of Europe started the discussion on indicators with a view to promote the societal integration of immigrants, the European Union used the development of indicators as a means to measure progress in the achievement of the Lisbon goals. While the Council moved from specific immigrant integration indicators to more general social inclusion indicators, the European Union started with general social, economic and educational indicators and is now beginning to add to those specific immigrant integration indicators."

3.5.1   Integration Policy in Berlin 2007-2011

The Commissioner for Integration and Migration of the Senate of Berlin published a report in 2008 entitled *Encouraging Diversity – Strengthening Cohesion, Integration Policy in Berlin 2007-2011*,[143] which presents an overview of its current policy strategies for integration. The report describes one of the essential aspects of the policy as being a "better understanding for better governing", adding that Berlin is the first state government in Germany to introduce "a system of integration monitoring".[144] The conceptual understanding of integration that it advocates is as follows:

> 'Diversity means strength' – this fundamental principle for a modern corporate culture suits especially Berlin…besides encouraging cultural diversity, integration in the view of such [a] pressing background should first and foremost guarantee equal opportunities for individuals or entire groups to participate in social life and articulate their own interest, as well as to be protected from individual and collective marginalization. Therefore, integration policy concerns primarily the establishment of equal opportunities.[145]

Furthermore, concerning the personal scope of the initiative, the report makes this point:

> The statistical differentiation between German and foreigner is not sufficient to serve as a foundation for integration monitoring. It is, furthermore, not adequate to reveal the social reality in the immigration city of Berlin. Therefore, the Senate aims at a gradual replacement of the criterion 'nationality' through the criterion 'immigrant background' in the data collection.[146]

The "Berlin integration policy" has been structured around seven fundamental strategies, each of them presenting general and specific objectives, a set of indicators and related projects. The strategies and general objectives are the following:

1. to develop the international appeal and vision of the cultural diversity of the city;

2. to guarantee that immigrants receive the same access to vocational training and employment (integration through participation in the labor market);

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[143] Commissioner for Integration and Migration of the Senate of Berlin (ed.), *Encouraging Diversity – Strengthening Cohesion, Integration Policy in Berlin 2007-2011*, Der Beauftragte für Integration und Migration, Berlin, 2007.

[144] See section 1 of the report, under the heading "The essentials of the integration policy of Berlin 2007-2011", which identifies the following eight: 1) one city – many lifeworlds; 2) an occupational perspective for everyone; 3) recognize and develop talents; 4) adjustment and responsibilities; 5) the Berlin Senate departments deliver services to all the citizens; 6) activation and participation; 7) against exclusion; and 8) better understanding stands for better governing.

[145] See in particular section 3 of the report, under the heading "Guiding Theme and Strategic Reformation in the Integration Policy of Berlin", p. 16. It also states that "Berlin is a city with strong ability for integration. The living together of people from various social, cultural and religious backgrounds becomes the scene of urban normality. This attitude of placid openness for the different and the new is a cultural treasure of Berlin with a distinctive long history."

[146] See p. 8 of the report.

3. to align the attainment of language proficiency in all the stages of education among students and to equalize the participation of adult immigrants in opportunities for vocational and further training (integration through education, and recognition and promotion of every talent);

4. to stabilize those quarters with social distress and concentrations of immigrant families, to strengthen urban cohesion and to improve equal opportunity (integration through the strengthening of urban cohesion);

5. to ensure equal access to services, infrastructure and quality (integration through intercultural opening);

6. to foster political participation, protection against discrimination and equal treatment (integration through participation and the strengthening of civil society); and

7. to ensure that both refugees and asylum seekers receive protection and prospects of integration (prospects for the integration of refugees).

As an illustration, the report identifies the following subset of objectives as regards the sixth strategy (on "integration through participation and the strengthening of civil society"): increase the number of persons naturalized in Berlin; further develop the State Advisory Board for Integration; improve the possibilities for political participation through the establishment of advisory boards and committees of immigrants; extend the prevention and intervention measures in the protection against racist, anti-Semitic and gender-related discrimination or violence; and enhance the work with young male immigrants. It then outlines a selection of indicators and their significance for reviewing the objectives, which include the shares of persons with a municipal voting right, of representatives with an immigrant background in the House of Representatives, of bi-national marriages and registered partnerships, of "victims of criminal offences of foreigners compared with the number of German suspects", of "suspects in all burglary offences from non-German and German" backgrounds, and of registered racist or anti-Semitic violence in relation to the resident population (see Annex 3 of this study). The report does not offer any further information as to how achievement in each of the spheres/strategies for action will be measured.

3.5.2 INTI Cities: Benchmarking Integration Governance in European Cities

The INTI Cities project is co-funded by the INTI program of the European Commission (DG FSJ). It is coordinated by Eurocities in collaboration with the MPG and the 'ethics etc.' consultancy group.[147] The network is composed of 12 cities: Amaroussion, Belfast, Barcelona, Düsseldorf, Genoa, Helsinki, Lyon, Malmö, Milan, Rotterdam, Tampere and Utrecht. The rationale of the project is "to assist cities in developing and improving their integration policies and linking the local level to policy-makers at national and European level" and "by assessing (their) integration policies by using the method of peer

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[147] See the consultancy group's website (http://ethicsetc.co.uk).

review".[148] This project therefore does not intend to measure or benchmark the integration of TCNs per se, but rather assess "integration governance structures" in those selected European cities. It constitutes a benchmarking technique for evaluating cities' policies and strategies in this policy domain. Among the specific objectives, the project seeks "to develop a benchmarking model for multi-dimensional integration governance intending to overcome fragmentation of policy-making and service-delivery and actively involving immigrants", and to help cities to develop and improve their services and policies.[149] It assesses three aspects of governance: structures and their effectiveness in administrative cooperation, policies in support of individual migrant empowerment, and policies creating and supporting partnerships with civil society and immigrant associations.

The INTI Cities project uses a benchmarking model to determine best practice through

> a peer review approach which will go beyond a simple good practice collection to deliver expert-validated comparative knowledge on integration practices in European cities as well as on the necessary supportive policy environments at local, national, and European levels.[150]

Concerning the methodology, six of the twelve participating cities were asked to self-assess their progress toward "ideal performance in integration governance" against a set of "INTI Cities benchmarks".[151] The assessment aims at incorporating quantitative as well as qualitative data. Each city was asked to report in relation to five dimensions: municipality profile, general governance, individual empowerment, administrative cooperation and working in partnership. These dimensions have been attributed a number of indicators covering the following elements: ambition, leadership, resources, implementation and evaluation.[152] For example, as regards individual empowerment the indicators cover

> (1) the provision of multi-dimensional active citizenship skills to individual migrants, ranging for instance from language classes and skills and competencies recognition to information about opportunities for voluntary services (such as serving on school councils), political participation, etc.; and (2) direct and facilitated access to mainstream services.[153]

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[148] See the project leaflet available at the website www.inticities.eu/en.

[149] See the presentation "Strategic thinking on equality and mobility" delivered by Jan Niessen at the second INTI Cities Conference of 5–6 November 2007 in Milan (retrieved from http://www.migpolgroup.com/events/3836.html).

[150] Ibid.

[151] See the "Guidance on How to Prepare the Initial Report", INTI Cities Project, Brussels, 2008 (retrieved from www.inticities.eu/en). They have included six cities: Düsseldorf, Genoa, Helsinki, Lyon, Malmö and Rotterdam.

[152] This is the case for all of the dimensions, exception for "municipality profile", which is being tested against a specific set of indicators: location, structure and services, decision-making, strategies and plans, implementation, resources and provenance (ibid).

[153] Ibid., see also point 2.3 in Chapter 3 of the study, on "Individual Empowerment".

Concerning the dimension of working in partnership they include "the establishment of specific, formal and informal, structures designed to enhance working partnerships with civil society organisations (local NGOs, religious communities, media, etc.), private sector organisations, interest groups and migrant associations".[154]

Finally, concerning the dimension of general governance the project argues that "the 'ideal municipality' has a strategic and city-wide approach to its integration policy".[155] (See also Annex 7 of this study for the list of indicators used to measure general governance).

A group of peer-reviewers are evaluating the self-assessment reports of the cities against the 'ideal municipality' and the set of INTI Cities benchmarks through a "desk review" of the reports[156] and visits to all six cities (gathering evidence and conducting interviews with key stakeholders).[157] This "standardised peer review method" aims at providing "feedback on successes and potential improvements or gaps between the actual performance of the city partner and the benchmark" and coming up with a collection of "good practices" destined for what the project calls "the European integration community" as "guidance on innovative integration governance".[158]

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[154] See the "Guidance on How to Prepare the Initial Report", INTI Cities Project, Brussels (retrieved from www.inticities.eu/en), 2008.

[155] Ibid.

[156] The *Training Manual* distinguishes two kinds of possible "gaps": evidence gaps, which consist of the differences between the meaning of the words in the benchmark and those in the report, and performance gaps, which constitute differences in the achievements of the city compared with the benchmark (see p. 8 of the *Training Manual*). The peer review reports will have the following structure: "[c]larity and appropriateness of the policy objectives and the extent to which they reflect a commitment to move towards the principles of integration governance as set out in the benchmark; [t]he nature and extent of stakeholder involvement in agreeing these objectives; [t]he appropriateness of the institutional arrangements (joint working and strategies) that have been put in place to achieve the objectives and whether they are, or are likely to achieve their objectives; [t]he appropriateness of the actions being taken to achieve the objectives; and [a]dequacy of the finance committed to achieve the objectives" (see p. 25 of the *Training Manual*).

[157] For this purpose the project has created a set of operational guidelines for implementing peer reviews that include detailed instructions on their content, organization and related training (practical application of the methodology). See INTI Cities Project, *Peer Review Methodology: Training Manual*, Workpackage 2b, INTI Cities Project, 2008 (retrieved from www.inticities.eu/en). The training was carried out by the consultancy group 'ethics etc…' to assist and support the six peer review teams.

[158] See footnote 154 above.

3.5.3   The MITI Project: Migrants' Integration Territorial Index

The MITI project was co-financed by the INTI program of the European Commission (DG FSJ).[159] The project involved a partnership drawn from five member states: the Centro Studi e Ricerche IDOS (Rome), the Centre d'Etudes et de Recherches (CERI) (Paris), Middlesex University (London), Asso-ciation Salud y Familia (Barcelona) and the International Organization for Migration (IOM) (Lisbon). It aimed at overcoming the lack of comparative data on integration by providing a comparative assess-ment of the different degrees of "socio-economic integration" of TCNs across various geographical areas. The territorial scope included regions and major metropolitan areas – the capital cities of the partners' member states with the exception of Spain, which studied the case of Barcelona.[160]

The project developed its own working concept of integration as the premise upon which the identifica-tion and assessment of indicators was conducted: "Integration is the condition (and process) of feeling a full and active member of the society in which one lives, having the means and opportunities to par-ticipate, as far as one chooses, in the wider social and cultural context."[161]

It is interesting, however, to note the way in which the French report (for example) went deeper into the conceptual issues of integration (described by the authors as "the question of integration in French research") and departed somehow from the shared theoretical framework.[162] While the personal scope exclusively covered TCNs, it stated that "only when the available data does not allow [disaggregation

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[159]   The   MITI   project   leaflet   is   available   at   the   Middlesex   University   website (http://www.mdx.ac.uk/hssc/research/centres/sprc/projects.asp).   and   also   http://www.dossierimmigrazione.it/ miti.htm). The project started in September 2006, with a timeframe of 18 months. See C. Withol De Wenden et al., *Measuring Integration: The French Case – Regional indices of social and labour market inclusion of third country nationals*, Final Report, Sciences Po, CERI, Paris, March 2008 (retrieved from http://www.ceri-sciences-po.org). Refer also to E. Mendez et al., *Measuring Integration: The Spanish Case – Regional indices of social and labour market inclusion of third country nationals*, Final Report, Asociación Salud y Familia, Barcolena, 2008 (retrieved from http://www.saludyfamilia.es/projectes/miti.htm).

[160] The specific objectives of the project were as follows: to set up an international network to promote discus-sion on immigrants' integration and exchange best on practice research; to identify and discuss definitions, characteristics and indicators of integration throughout Europe; to collect and analyze comparable statistics from the participating countries, in their regions and in selected metropolitan areas; and to explore ways to measure some aspects of immigrants' integration from the analysis of available data at national and regional levels. Refer to the MITI project leaflet (http://www.mdx.ac.uk/hssc/research/centres/sprc/projects.asp).

[161] See p. 10 of the report by C. Withol De Wenden et al. (2008). The project argued that "[t]o facilitate this proc-ess it is necessary to provide conditions such as rights – both formal access to social, civil and political rights, and substantive access to rights (e.g. nondiscrimination, freedom from harassment); the ability to act independ-ently – based on the knowledge of language/structures of society (e.g. how to access services); the material resources to participate in all aspects of life within the community (e.g. adequate housing, employment appropri-ate to skills/qualifications, access to education and health); extensive local networks (social/emotional and instrumental); a sense of belonging and trust (with the ability to choose to maintain, adapt and reject aspects of cultural traditions from country of origin/host country, and with the presence of national/ethnic groups 'taken for granted' and visible within the mainstream)" (ibid.).

[162] It is also interesting to note that the report on the French case used as the working definition the conceptions advocated by Dominique Schnapper in *Qu'est-ce que l'intégration?*, Folio Actuel 125, Paris: Gallimard, 2007 (see pp. 20–22 of the report).

of] this specific section of the population, was the general 'foreign' population used".[163] The bench-marking exercise was based on a comparison between the situation of TCNs and that enjoyed by EU citizens or "the national population…in order to understand the gaps" between these two groups in each of the areas specified by using a common list of indicators.

As regards the methodology, the MITI project identified three main areas for the analysis of integration at both the national and regional levels in each member state under study:

> 1) 'Index of absorptive capacity': measuring the capacity of a local area to attract and keep a sizable foreign population); 2) 'Index of social stability': measuring the level of social inclusion and adaptation in each local area; and 3) 'Index of labour market': measuring the level and type of inclusion of migrants in the local labour market.[164]

Concerning the scales of indicators, the report explained that

> [f]or each indicator of the main grid, a ranking was drawn up comparing regions of each country on the basis of their relative values (numerical or percentage) starting from the maximum value at the top to the minimum at the bottom. The values were standardised using a method which is known in the academic literature as conversion to 'percentage score': this consists [of] organising the regional data for each indicator into a same predetermined scale (scoring from 1 to 100)…In this way it is possible to bring different kind[s] of data, related to different phenomena, into a common scale. In order to facilitate the interpretation of the scale, each was subdivided into 5 levels of intensity on the basis of point scores: 1 to 20, minimum; 21 to 40, low; 41 to 60, average; 61 to 80, high; 81 to 100, maximum.[165]

According to the report, the 'percentage score' method used to standardize the values of indicators involves

> converting the data for each indicator into the same score scale, from a minimum of 1 to a maximum of 100, distributing scores for intermediate absolute values in proportion to the distance of these absolute values in the ranking; and, above all, independently of the fact that the original ranking may consist of all positive, or all negative values or a mixture of the two.[166]

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[163] The French report also stated that "[f]or the purpose of comparability, we concentrated on foreign populations. However, for some indicators, newly French populations or second generations had to be taken into account. This is even truer as [French] statistics generally tend to grasp immigrant population by groups, without necessarily distinguishing between their nationalities, rather than by foreigners as is the case in States with recent immigration" (C. Withol De Wenden et al., 2008, p. 23).

[164] Ibid.

[165] Ibid., p. 14.

[166] The report described the standardization procedure as consisting of two phases: the first places the original absolute gaps, on which the rankings for each indicator are constructed, in relation to the mean square devia-

It is finally worth underlining that when looking at the actual results of the French report, there is at this stage not any evident use of the purported common methodology of measurement of the statistical data according to 'the percentage score' and the indicators.

4 Moving the Debate on Benchmarking Integration Forward: Current Deficits

This section assesses some of the inherent vulnerabilities in benchmarking the integration of TCNs in the EU. On the basis of the assessment carried out in Chapter Three, the main weaknesses can be grouped under the following overarching headings: the lack of a common approach, the lack of neutrality, difficulties in relation to the personal and territorial scope, and defects in the methodology.

4.1 A Common Approach on Integration in EU Law/Policy?

A key premise for enabling any benchmarking exercise to take place is **the existence of a common conceptual understanding of or guiding approach to integration**. The approach will determine the focus and direction given to each of the phases that make up the monitoring and evaluation of benchmarking. There is, however, **a conceptual deficit in relation to the constructed category of integration in the EU, in both the academic and policy domains**.[167] This deficit is not so much linked to the need for a precise definition of what integration actually means,[168] but rather to the difficulty of achieving a shared understanding on integration that is commonly accepted in a diverse,

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tion, transforming these into standardized gaps (score 1); and the second applies a specific formula to the standardized gaps in order to transform them into percentage scores (score 2) (ibid., p. 16).

[167] There are as many definitions and conceptualizations of 'integration' as scholars dealing with this and other related themes all across the various academic disciplines of the social sciences. Among other see G.R. De Groot, "Reflections on Integration and Access to Nationality/Citizenship through Naturalization: A Comparative Perspective", in S. Carrera (ed.), *The Nexus between Immigration, Integration and Citizenship in the EU*, Collective Conference Volume, Centre for European Policy Studies, Brussels, April 2006, pp. 21–27; S. Carrera, "Integration as a process of inclusion for migrants? The case of long-term residents in the EU", in H. Schneider (ed.), *Migration, Integration and Citizenship: A Challenge for Europe's Future*, Maastricht: Forum Maastricht, 2005, pp. 109–38; M. Pajares, *La Integración Ciudadana: Una Perspectiva para la Inmigración*, Barcelona: Icaria Antrazyt, 2005; R. Penninx, "Integration of Migrants: Economic, Social, Cultural and Political Dimensions", in M. Macura, A.L. MacDonald and W. Haug (eds), *The New Demographic Regime: Population Challenges and Policy Responses*, New York/Geneva: United Nations, 2005, pp. 137-52; K. Groenendijk, "Legal Concepts of Integration in EU Migration Law", *European Journal of Migration and Law*, Vol. 6, No. 2, 2004, pp. 111–26; A. Favell, *Philosophies of Integration: Immigration and the Idea of Citizenship in France and Britain*, London: Macmillan, 1998; and S. Castles, and M.J. Miller, *The Age of Migration: International Population Movements in the Modern World,* Basingstoke: Palgrave MacMillan, 2003.

[168] Berliner Beiträge zur Integration und Migration, Indikatoren zur Messung von Integrationserfolgen: Ergebnisse des Transnationalen Projekts, Senatsverwaltung für Integration, Arbeit und Soziales, Berlin, 2007. It is said that "the concept of integration should be precisely defined for the monitoring of integration in order to make it applicable" (see pp. 86 and 87).

supranational governance setting such as the EU.[169] As a Council of Europe report (1997) rightly argued,

> the evaluation or measurement of integration has to begin with a definition of the basis terms…what exactly is meant by the term "integration" is of great importance. Without common standards as to what is meant by "migrant" and by "integration" all attempts to measure migrants' integration in different countries are likely to be of little meaning.[170]

Is there any identifiable, common European approach to integration in EU law/policy? As analyzed in Section 1 of this report, the classical features characterizing the European approaches to integration adopted at the Tampere Program of 1999 have greatly evolved in the last few years, in both the scope of EU immigration law and the EU framework on integration. It would therefore be difficult to argue that there is one (or several) predominant and clearly-identified approach(es) to integration in EU law and policy. Its meanings and functions are highly dynamic and constantly changing. Integration is subject to malleable framing in EU law and policy. Instead of closely following the tenets of equality, citizenship, the two-way process and the EU paradigm on fair and near-equality treatment, there is a tendency to use **integration as a condition for granting TCNs access to security of residence, family reunion and social inclusion.** This approach appears to prevail not only in some provisions of Directives 2003/109 and 2003/86, but also in the EU framework on integration.

Annex 2 of this report illustrates how the interpretation of integration used by some of the studies examined above is unfortunately not the predominant at the official EU level. On the contrary, **the meanings attributed to integration in EU law and policy have shifted toward the management of immigration and an "acculturation dimension" within and outside the EU.** This trend is also representative of some of the current policies and immigration laws at the national level.[171] The shift of paradigms in the normative understandings of integration in the EU creates tension between what is at times referred to as a 'citizen-centered approach' and a 'migration-control approach'. This issue points to one of the main vulnerabilities in benchmarking: the importance of the driving conceptual and ideological focus/approach/understanding of integration. Some studies distinguish a series of integration dimensions, such as socio-economic, legal–political and cultural ones.[172] Nevertheless, the actual

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[169] At the local level this deficit might prove to be less relevant.

[170] Council of Europe (1997), *Measurement and Indicators of Integration*, Community Relations, Directorate of Social and Economic Affairs, Strasbourg: Council of Europe Publishing, 1997, p. 5.

[171] S. Carrera, "Integration of Immigrants versus Social Inclusion? A Typology of Integration Programs in the EU", in T. Balzacq and S. Carrera, *Security versus Freedom? A Challenge for Europe's Future*, Aldershot: Ashgate, 2006(a), pp. 87–112; see also S. Carrera, "Programas de integración para inmigrantes: una perspectiva comparada en la Unión Europea", Revista Migraciones, N. 20, Universidad Pontificia de Comillas, Madrid, 2006(b), pp. 37–73.

[172] Other instances include B. Schulte, "The Open Method of Coordination as a Political Strategy in the Field of Immigrant Integration Policy", in R. Süssmuth and W. Weidenfeld (eds), *Managing Integration: The European Union's Responsibilities towards Immigrants*, Gütersloh: Verlag Bertelsmann Stiftung, 2004, pp. 137–45; and Caritas Europa, *Integration: A Process Involving All, Advocacy Paper on the Integration of Migrants and Refugees*, Caritas Europa, Brussels, August 2007. In the latter, after explaining that the definition of integration advocated by Caritas Europa includes the respect for fundamental rights, equality and participation (p. 6), it dis-

measurement of each of them will greatly depend on the theoretical framing or working definition of integration.

Although the CBPs intend to offer an initial, harmonized background defining the main principles for integration in the EU,[173] they rather encapsulate a certain number of perceived shared features that are too broad in nature to provide any clear vision and concise response to the deficit. The CBPs represent a non-binding guide of broad principles allowing for the implementation and development of any sort of understanding, interpretation and ideology about integration. At the same time, they also reveal the tensions that currently exist in the evolving EU approaches to integration. These frictions become evident when attempting to relate CBPs 2 and 4.1 with the one on the two-way process paradigm. These two basic principles undermine any equilibrium between the rights and responsibilities of TCNs on the one hand, and those of EU citizens on the other. **The obligations on the part of immigrants make integration a one-way process, in which the burdens are not at all shared by EU citizens.**

Moreover, the **technique for benchmarking integration at the local level** shows an even larger and more varied setting for approaches to and strategies for integration, which do not necessarily match those pursued at the state or EU levels.[174] The activities and programs carried out by some of the local and regional authorities,[175] such as the program advocated by Berlin, tend to favor a social inclusion and services approach instead of one driven by an immigration-control logic.

4.2 Benchmarking as Neutral Tool?

Entzinger and Biezeveld (2003) have pointed out the inherent difficulties in benchmarking stemming from "the differences in ideological outlook and political priorities".[176] They state that

> [d]ifferences between the Member States in their interpretation of 'integration' may lead to different objectives of their integration policies. However, even if every Member State inter-

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tinguishes among the following dimensions considered relevant when developing indicators of integration: legal integration (elimination of legal barriers to integration and the establishment of equal rights for all members of society), socio-economic integration (equal access to the labor market, access to training and to the housing market), and socio-cultural integration ("knowledge of language(s) is a key and a powerful vehicle for integration…language tuition should be an essential part of any integration policy and should be accessible, affordable and available as soon as possible after the migrants' arrival") (see p. 18).

[173] S. Pratt, "Immigration, Integration and Citizenship: Latest Developments and the EU's Role", in S. Carrera (ed.), *The Nexus between Immigration, Integration and Citizenship in the EU,* Collective Conference Volume, Centre for European Policy Studies, Brussels, April 2006, pp. 12–15.

[174] See EESC, *Immigration in the EU and integration policies: Cooperation between regional and local governments and civil society organizations*, SOC/219, Rapporteur: L.M. Pariza Castaños, Brussels, 13 September 2006, particularly Appendix 2 presenting the conclusions of the hearing on immigration and integration cooperation between regional and local governments and civil society organizations, organized by the EESC, the Generalitat de Catalunya and the Barcelona City Council.

[175] Committee of Regions, *Local and Regional Authorities and the Immigration Challenge*, CoR Studies, Luxembourg: Office for Official Publications of the European Community, December 2005.

[176] See p. 5 of Entzinger and Biezeveld (2003).

preted "integration" in exactly the same way, integration policies would still differ in their objectives, as *the ideal society* that governments envisage will not be the same everywhere and at all times.[177] (emphasis added)

There is indeed a strong bias in benchmarking toward a certain ideological setting embracing what integration means and how it should or should not be deemed successful. There is a **lack of neutrality** underlying the entire exercise and wide discretion by whoever is doing the benchmarking to determine its focus and scope, and to decide how the results are presented. The guiding conceptual approach and the standards could also shift easily and include any ideological direction. Such a change in ideology would not, however, prevent the benchmarking from working effectively. Therefore, benchmarking could end up being instrumentalized to justify any sort of ideology or political tendency with respect to integration. Furthermore, there is a substantial degree of subjectivity and many value judgments in the identification of "impediments" or "the preliminary assessment of the situation",[178] the categorization of favorable (best) or the opposite (worst), the use of the indicators and the way in which the results are presented. This aspect has been recognized by, for example, the 2005 index: "The normative framework is, of course, based on certain value judgements. This is necessary to create a common framework to score policies. The normative judgements are based on mainstream arguments in the inclusion discourse about equal treatment and inclusion" [*sic*].[179]

Moreover, Entzinger and Biezeveld (2003) also highlight that setting a standard for an "ideal integration process of immigrants is simply impossible given the wide variety of factors influencing immigration and integration, the immense diversity of migrants and the huge differences in approach of these matters across the EU".[180] Questions arise about the determination of 'ideal', 'best' or 'good'. What do these terms mean when assessing a policy or how it is implemented? **'Best' and 'ideal' are malleable adjectives often attributed according to a certain ideology on 'the common standard' against which to test the norm, practice or public authority.** What are the highest European common standards for determining whether a policy can be called the best or worst? What is the precise content of these common standards? The answer to these questions will equally depend on the reading and interpretation of the alleged standards. As Bruno, Jacquot and Mandin (2006) have argued,

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[177] Ibid., p. 10.

[178] For instance, the 2007 European Parliament study states that the sources from which they derived their "impediments" were inspired, among others, from the technical seminars organized under the auspices of the NCPI and the European Commission, which is in fact the framework under which the *Handbook on Integration for Practitioners and Policy-Makers* is undertaken. The influence of the handbook exercise is also obvious in p. 140 of the report: "Participants at one of the EU Handbook on Integration's technical seminars recognised the value of indicators in policy formation, implementation and review. They recommended a cautious use of indicators, with a warning to avoid a simplification of the integration process into targets for a limited period of time – between two elections for example."

[179] What they call "mainstream arguments" include for instance R. Süssmuth and W. Weidenfeld (eds), *Managing Integration: The European Union's Responsibilities towards Immigrants*, Gütersloh: Verlag Bertelsmann Stiftung, 2004; K. Groenendijk, E. Guild and R. Barzilay, *Study on the Legal Status of Third-Country Nationals who are Long-Term Residents in a Member State of the European Union*, Centre for Migration Law, Radboud University of Nijmegen, 2000.

[180] See p. 5 of Entzinger and Biezeveld (2003).

benchmarking is not neutral.[181] It needs to be understood as carrying implications for strong political action through the setting of norms for disciplining national politics, policies and eventually laws. European integration takes place not only through norms, but also on the basis of figures, graphs and matrices presented as unquestionable, whose nature may actually justify any sort of purported strategy or politics. Concerning the labeling of a practice as best or worst, it is interesting to note that the 2007 European Parliament study states that "[a] government's lower investment in a particular type of program may be intentional and therefore would not be judged as a deficiency in need of remedy".[182]

Also, the clear-cut attribution of best or worst will be exceptional in practice. In a majority of cases there will be a wide and blurred range of practices and policies/rules falling between the two extremes, whose qualification as less or more favorable will depend to an even greater extent on values and opinion, and not so much on objective and value-free criteria.

4.3 The Personal and Territorial Scope

Another problem associated with benchmarking is the target group and it relates to the question of who is an immigrant. Most of the reports presented in Section 3 look at a limited group of non-EU citizens, i.e. those qualified as legally resident TCNs or 'newcomers'. What about all the others who, while not holding the nationality of a member state, still do not fall within this narrow category? It seems that the personal scope presented in some of the reports is inspired by that advocated by the European Commission (DG JFS). Yet, the personal scope of integration policies at the EU level usually does not address the situations of refugees or asylum seekers,[183] for instance, or those deemed irregular immigrants. Also, by solely focusing on legally-residing TCNs, there are underlying assumptions that i) it is possible to know and identify who they are, and ii) there is a homogeneous group of persons who are clearly distinguishable and undoubtedly covered by this constructed legal term. The category encompassing TCNs is far from homogeneous, hermetic and static. TCNs themselves are heterogeneous, diverse and dispersed. Those individuals labeled as TCNs include nationals from all over the world with widely differing backgrounds, prospects and links with their countries of nationality and residence.

Furthermore, into what is this group asked to integrate? There appears to be another presumption about the existence of a 'host society' and 'nation' that is already well-integrated, cohesive and ho-

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[181] I. Bruno, S. Jacquot and L. Mandin, "Europeanization through its Instrumentation: Benchmarking, Mainstreaming and the Open Method of Coordination…Toolbox or Pandora's Box?", *Journal of European Public Policy*, Vol. 13, No. 4, 2006, pp. 519–36; see also I. Bruno, « Généalogie du Benchmarking. Itinéraire d'une technique de gouvernement », P. Laborier et J. Vogel (dirs.), *Les Sciences Camérales. Activités Pratiques et Histoire des Dispositifs Publics*, Paris: PUF, 2007, pp. 97–107.

[182] See Neissen and Huddleston (2007).

[183] For a study suggesting a set of indicators to assess how far refugee integration for both individuals and communities has been achieved, see A. Ager and A. Strang, *Indicators of Integration: Final Report*, Home Office Development and Practice Report, Home Office, London, 2004.

mogenous. The perception (or rather ideological and political pretension), which also underlies the two-way process principle, about the existence of two identifiable and distinctive sides (the immigrant and the nation) is false, and it constitutes one of the core weaknesses in the scope of benchmarking integration in the EU.

Some of the benchmarking exercises call for the necessity of the member states to collect as much data as possible about those qualified as 'naturalized immigrants' holding the nationality of the state, but who are still viewed as 'non-integrated' ('foreign citizens' or 'nationals with different ethnic origins'). This call might be blinded by the need to have more statistics for comparison, and it fails to duly take into account the ethical issues embedded in such an exercise. It needs to be emphasized that within the context of benchmarking, the collection of data not only serves as a necessary element allowing for comparison, but as an instrument for 'monitoring' or 'managing' integration. How can the emergence of a control-oriented logic underlying the collection and storage of ethnic-origin data be prevented? In addition to the ethical issues this exercise might entail in terms of fundamental rights and non-discrimination, other questions could be posed: When are these persons no longer going to be considered immigrants or foreigners, but equal citizens? Is this an issue to be discussed under the heading of TCNs' integration? Or is it rather a matter related to social inclusion, social protection and citizenship?

Moreover, there are questions concerning **who/what entity will be the benchmarker.** Is it going to be the EU, the member states or the national and local/regional authorities? There is an implicit danger in **the flexibility surrounding the designation of the benchmarker**. If the benchmarking community is not clearly identified, the member states might see in benchmarking more of an opportunity for evaluating the individual's performance on integration than comparing and monitoring their own achievements on social inclusion and social (in)cohesion. This prospect seems more likely in view of the hesitations expressed by a majority of the EU member states toward evaluating their own policies and public strategies on immigration, social inclusion and diversity. Projects such as INTI Cities may come up with interesting results on how to apply the benchmarking technique to appraise the public services and policies of local authorities, improve their quality and engage with "migrant communities" on issues of social inclusion.

On this question of who will make up the benchmarking community, what would be the implications if governments were to take a leading role here? The transfer of benchmarking from the private to the public sector might facilitate its use in the management of integration or as a coercive managerial approach for disciplining behavior through the norm. A shift in the conceptual and ideological setting of standards makes benchmarking a dangerous tool of governance. By becoming part of a state policy, the benchmarking exercise could become a victim of its own purpose and methods. **The continual active involvement of civil society and immigrant organizations in any benchmarking and evaluation exercise** is not only essential for ensuring that their interests and rights are protected in the processes of policy-making and that no particular ethnic community is stigmatized through the choice of data for measurement – their involvement is also necessary to help prevent the use of benchmarking as a technique of governance.

Concerning **the territorial scope**, the extent to which a particular practice or policy can at all be considered 'best' across the entire EU is uncertain. Is the technique of benchmarking appropriate for an EU of 27 member states? When taking into account the lack of a common theoretical and ideological understanding of integration in EU law, and the difficulties raised as regards the personal scope, it would be hard to sustain that benchmarking could cope with the diversity and heterogeneity of the different member states' histories, public philosophies, legislations and politics about immigration and diversity. In fact, what might be considered an 'ideal' practice in Germany or France could well become the worst when applied in Hungary, Spain or Latvia.[184] Few would disagree with the fact that there are issues and policies that are mostly (or sometimes only) relevant for particular member states and not for the rest. The problem in this respect is exacerbated when moving to the local and regional levels.

4.4 The Methodology

4.4.1   Benchmarking and Interdisciplinarity

Most of the benchmarking exercises tend to look at the normative dimension of integration. They map the legal and policy setting and compare it with other states. Some of the reports have a prevailing regulatory perspective that at times fails to consider implementation or informal practices surrounding access and participation. This characteristic is a **disciplinary weakness in current benchmarking techniques.** It is no secret that the law says little about how optimally the norms actually work on the ground in terms of social inclusion. What might initially look favorable, good or best from a purely legal standpoint could prove inadequate when analyzing how the norm is implemented and its effectiveness in practice.

Furthermore, the tasks of **measuring, monitoring and evaluating social issues from a qualitative perspective are always challenging**. Indeed, from a strictly methodological point of view, the use of indicators and benchmarking might be easier to apply to a legal exercise, as is the case for checking whether the laws on family reunification and long-term residence are more or less liberally transposed in the member states. Still, a purely legal focus is not exempt from further weaknesses either. For example, the use of the same indicators to examine the legal framework in the EU-27 will naturally confront situations in which the national law of some member states does not correspond to the questions or indicators, or in which the indicator chosen by the benchmarker is not relevant to the law of a particular state.[185] Such incoherence would be all the more prevalent when trying to apply 'European'

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[184] See for instance J. Tóth, "Ethnic Citizenship – Can it be obtained and tested?", 2007 (unpublished manuscript); see also G.R. De Groot, "A Clarification of the Fundamental Rights Implications of Stateless and Erased Persons", Briefing Paper, DG Internal Policies, European Parliament, November 2007.

[185] This point is acknowledged in the 2005 index, which states that "the normative judgments are based on mainstream arguments in the inclusion discourse about equal treatment and inclusion…In some countries, cer-

indicators on integration to various levels of governance in the EU, such as those practiced by different local and regional authorities. Also, by way of illustration, using naturalization as a dimension or indicator of integration implicitly attributes a certain value to TCNs having access to the nationality of the nation-state for their inclusion – something that remains open to debate.[186] Finally, concerning issues related to political participation, if we were take as an indicator the existence of consultative bodies, matters such as whether and how they really operate and the extent to which they truly guarantee access should be also addressed.

That notwithstanding, the legal framework often determines the ranking of those member states that are viewed as performing best or worst according to the chosen standards. For instance, the MIPEX ranks countries by which is doing better on migrant integration policy. It seems that Latvia, Cyprus, Austria, Greece and Slovakia are among the worst, while Sweden, Portugal, Belgium and the Netherlands are among the best.[187] One would expect this ranking to change when moving beyond a purely legal measurement, but also when looking at the impact, implications and efficacy of these norms and policies. The legal framework might be perfect, but what actually matters is the way in which it is implemented. This point is particularly important as regards issues of anti-discrimination.

4.4.2   Indicators

The OMC cannot live without benchmarking and the latter cannot survive without a set of homogenous indicators allowing for the identification of a number of sectoral areas to be assessed. Yet, what exactly do the indicators indicate? What is their function? The indicators are used as a measuring tool to pinpoint a specific issue related to a policy or law and to examine whether that policy or law is in compliance with the approach set by 'the ideal standard'. In this respect, we might refer to the 2007 European Parliament study, which acknowledges that it is a normative exercise including "the identification of beneficiaries, the choice of what process to measure and a selection and agreement of benchmarking partners". The study goes on to state that

> [i]ndicators must be designed to facilitate nuanced and reasoned assessments. This use of
> indicators becomes even more risky when policy-makers draw general conclusions about
> the level of integration in society as a whole. They should make explicit the reasons behind
> a choice of certain indicators in order to give context to their meaning in the political de-

tain aspects of the normative framework may not fit with the public philosophy of integration" (Geddes and Niessen, 2005, p. 15).

[186] For instance the Council of Europe's report of 1997 stated that "in reality statements concerning the development of naturalization rates over time or comparisons of naturalization rates in various countries are of limited use when serving as indicators of integration. Can a recent rise in naturalizations really be explained with a growing inclination to integrate? Or is it the result of the host country's decision to tolerate dual citizenship when naturalizing foreigners? In other words: changing naturalization requirements can have an influence on naturalization rates. But does it influence the individual's degree of integration?" (Council of Europe, *Measurement and Indicators of Integration*, Community Relations, Directorate of Social and Economic Affairs, Strasbourg: Council of Europe Publishing, 1997, p. 12).

[187] See p. 3 of the MIPEX report (Niessen, Huddleston and Citron, 2007).

bate. Subordinating indicators to perceptions in public debates causes serious consequences for integration.[188]

Indeed, the use of indicators is not straightforward from a methodological point of view.[189] As recognized by an INTI research project funded by the Commission, "indicators are not 'aseptic' tools. Indicators also reflect different approaches and integration models; they reflect different elements, areas and priority actions."[190] In light of the reports reviewed in Section 3, **considerable diversity is likely to be encountered when identifying, classifying, selecting and constructing a list of indicators at the various levels of governance in the EU. This heterogeneity increases substantially when bringing into the picture indicators developed by and for local authorities.**

The challenging task of agreeing on a common set of indicators at the EU level would become even more complicated when attempting to develop a comprehensive and coherent system of indicators at national, local and regional levels across the member states. Moreover, assuming that these dilemmas are successfully overcome, the question then arises about **how these indicators would be used to conduct a qualitative and quantitative evaluation in a reliable and accurate manner**. What would be the units and sources of measurement? Would all the indicators have the same 'value' and relevance when benchmarking integration? Would the indicators measure integration or social exclusion? For instance, how would the attitude toward basic rules, norms and shared values of the receiving country be measured? Would these indicators be based on facts or perceived wisdom? Would they constitute reliable instruments? Concerning the ambiguity involved in the use of indicators, Entzinger and Biezeveld (2003) have said that

> [m]ore ambiguities can be distinguished in other potential indicators. In fact, such ambiguities reflect differences in policy objectives and contradictions between the course of integration processes in different domains. An integration policy that aims implicitly or even explicitly at assimilation will define its objectives in terms that are quite different from those of a policy that aims at recognizing and facilitating migrant cultures; they may still use the same indicators, but, when it comes to interpreting the effects of their efforts, they may draw opposite conclusions.[191]

A similar critical stance was taken by the Council of Europe (1997):

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[188] See pp. 142–46 of Niessen and Huddleston (2007).

[189] This was for instance acknowledged by the report of C. Withol De Wenden et al. (2008), which stated on several occasions that most of the indicators used by the project were ambiguous and thus vague for a clear presentation of the situation. It was also stressed that the results of such research should be taken with caution, as they represent an indicative value in measuring the phenomenon rather than an exhaustive objective measure. See for instance pp. 7, 41, 43, 46 and 59 of the report.

[190] INTI-Project 13 Indicators on Immigrant Integration (June 2005–June 2006), *Immigrant Integration Indicators: Proposal for Contributions to the Formulation of a System of Common Integration Indicators*, Research & Documentation Centre (WODC), Ministry of Justice, The Hague, 2006, p. 14 (retrieved from http://english.wodc.nl/publicaties).

[191] See Entzinger and Biezeveld (2003), p. 41.

Apart from language skills, which are relatively easy to evaluate, it seems almost impossible to find indicators for cultural integration everybody can agree with. The problem starts with the term itself: [W]hat exactly is 'culture'? Religion? Music? Cooking? It continues with the difficulties…what exactly is meant by cultural integration? Giving up one's folk songs or being tolerated [by] the majority culture?[192]

The same Council of Europe report echoed these concerns about using indicators in areas such as "political participation" or social integration, while it notes that "statements concerning the migrants' social integration are often limited to speculations". The report continued:

> Bearing these problems in mind it becomes rather doubtful whether the identification of indicators and the measurement of integration based on these indicators can be a fruitful undertaking at all. It is questionable whether one can succeed in reliably identifying a set of indicators really pointing at progress in integration…and covering all dimensions of integration at the same time in order to supply a complete impression of the state of integration in a given country.[193]

In addition, one of the reports analyzed in Section 3 refers to issues connected with the respect of 'shared values' as a possible indicator for cultural integration. Although what constitutes a value remains a contested matter, tackling the question of 'European values' poses even greater dilemmas and divisions. Who would be in a position to define the meaning of a European citizen's values and way of life? What does it mean to be European? And what would be the features and distinctive ingredients of a supposed European set of values? These questions of definition would be difficult to reconcile in view of the rich diversity reigning in an enlarged EU. The task of conceptualizing the content of European identity involves an even greater process of excluding what it does not mean to be European. The legal category of non-European would be reinforced and perhaps end up using the same archaic stereotypes and societal/cultural/religious visions of what it means to be (or not) a 'model European citizen'. Indeed, the Europeanisation of a common set of values into which TCNs would be expected to integrate would open an even wider debate than that solely focused on the national levels. Such an exercise would unleash ever-greater contradictions and paradoxes, and deconstruct certain illusions and premises upon which the EU has been built.[194]

4.4.3   Typology and Comparison

The system of indicators aims at facilitating comparison between states' integration policies and laws. **Any typology or comparative exercise tends to fall into the trap of over-simplifying social realities.** This occurs through the effort to make the comparison understandable and coherent.

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[192] Council of Europe, *Measurement and Indicators of Integration*, Community Relations, Directorate of Social and Economic Affairs, Strasbourg: Council of Europe Publishing, 1997.

[193] Ibid., p. 13.

[194] E. Balibar, *Nous, citoyens d'Europe? Les Frontiers, L'État, le peuple*, Paris: La D´couvert. 2001.

Benchmarking is based on the premise that a comparative study can in fact be effectively conducted among states and that the results from this comparison will be comprehensive enough to inform and promote better policy-making at the EU level. There have been numerous attempts to look for similarities, differences and trends among the EU member states in the academic literature and the studies addressed in Section 3.[195] One major difficulty is always that of finding any comparable data/categories of information on integration that go beyond the mere legal and policy frameworks (and stereotypes) about national models of integration.[196] As Penninx et al. (2008) have expressed,

> [c]ross-national comparability of seemingly simple data such as those on migration turn out to be profoundly problematic. The problem is that administrative data are collected within a specific institutional context for specific purposes, using definitions that reflect their particular tasks, assumptions and preoccupations…the basic problem for scientists in using such data for comparative purposes [is] twofold: do they measure the same phenomenon and are they complete and representative?[197]

Indeed, **gathering objective and reliable data about access and participation in socio-economic dimensions might be a rather daunting task** if the main sources are limited to surveys, opinion polls, personal contacts/relationships and research on attitudes.[198] This problem intensifies in relation to accessing any information connected with what some term 'cultural integration'. Therefore, the

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[195] See for instance the International Centre for Migration Policy Development (ICMPD), *Integration Agreements and Voluntary Measures: Compulsory or Voluntary Nature – Comparison of Compulsory Integration Courses, Programs and Agreements and Voluntary Integration Programs and Measures in Austria, France, Germany, the Netherlands and Switzerland*, ICMPD, Vienna, May 2005; I. Michalowski, *An Overview on Introduction Programs for Immigrants in Seven European Member States*, Adviescommissie voor Vreemdelingenzaken, The Hague, 2004; S. Carrera, "A Typology of Different Integration Programs in the EU", Briefing Paper, DG Internal Policies, European Parliament, January 2006(d); S. Carrera, *A Comparison of Integration Programs in the EU: Trends and Weaknesses*, CHALLENGE Research Paper No. 1, Centre for European Policy Studies, Brussels, 2006(c); and C. Joppke, "Beyond National Models: Civic Integration Policies for Immigrants in Western Europe", *West European Politics*, Vol. 30, No. 1, January 2007, pp. 1–22.

[196] INTI-Project 13 Indicators on Immigrant Integration (June 2005–June 2006), *Immigrant Integration Indicators: Proposal for Contributions to the Formulation of a System of Common Integration Indicators*, Research & Documentation Centre (WODC), Ministry of Justice, The Hague, 2006 (retrieved from http://english.wodc.nl/publicaties). The report concluded by stating that "[t]he lack of comparable statistics, different policies and models in Europe in the field of immigration and integration remain obstacles for the successful development of comparative data and indicators across Europe". For a summary of the project, see European Commission, *INTI Report: Integration of Third-Country Nationals, 2003-2004 Projects*, DG Justice, Freedom and Security, Brussels, June 2006. A similar argument was sustained by the Commissioner for Integration and Migration of the Senate of Berlin (ed.), *Encouraging Diversity – Strengthening Cohesion, Integration Policy in Berlin 2007-2011*, Der Beauftragte für Integration und Migration, Berlin, 2007.

[197] R. Penninx, D. Spencer and N. Van Her, *Migration and Integration in Europe: The State of Research*, ESRC Centre on Migration, Policy and Society (COMPAS), University of Oxford, 2008 (retrieved from www.norface.org).

[198] For one such attempt, see D. De Palo, R. Faini and A. Venturini, *The Social Assimilation of Immigrants*, IZA Discussion Paper Series No. 2439, Institute for the Study of Labour, Bonn, November 2006, which aims at "studying the extent of social relations of migrants and compar[ing] it with that of natives" (p. 7) utilising the European Community Household Panel (ECHP), which is a multi-country longitudinal survey based on a standardized questionnaire. For another report using a similar survey-based methodology, see O. Causa and S. Jean, *Integration of Immigrants in OECD Countries: Do Policies Matter?*, Economic Department Working Papers No. 564, OECD, Paris, 2007 (retrieved from www.oecd.org/eco).

question arises as to whether integration-related figures and statistical data could be sufficiently trust-worthy and comparable for undertaking such a monitoring exercise.

4.4.4   Results of Benchmarking Integration

What is the nature of the results? Are the results robust and fact-based? **Benchmarking uses non-transparent, complex and obscure methods and tools.** It becomes a numeric matching exercise most often using quantitative indicators or starting with qualitative ones and then presenting them in a resolutely quantitative fashion. This method allows for rather complex yet incomprehensive analyses that are alien to a scientific assessment of effectiveness and usefulness. Any attempt to understand how some of the benchmarking exercises have been constructed or work becomes a 'mission impossible', even for experts in immigration and inclusion.

Although some of the benchmarking reports discussed in Section 3 have involved experts and academics in the preliminary phases, these contributors have not always been involved in the achievement and presentation of the results. The character of the benchmarking outcomes is beyond any comprehensive scientific evaluation. The methodology pursued by the 2005 index, for example, is far from transparent. It is typified by an opaque style that obscures any clear vision of the way it really works or how the results have been attained.[199] This format prevents possible challenges to or questions about its adequacy and the validity of its results. In its technical rhetoric, everything becomes numbers and has to be quantified or quantifiable. The index thus becomes an instrument based on graphs and statistics, with a view to presenting a respectable scientific image that is hard to confront. **There appears to be a strategy to use benchmarking in an irrefutable and highly technical manner to portray some results whose bases would otherwise be subject to debate.**

For example, the 2005 and 2007 versions of the MIPEX use "averages" and "indices" to present the final results. Understanding the ways in which the different classes of averages have been measured and calculated is an extremely complicated task on its own. The methodology backing up the synthesized results is far from simple or user-friendly. In addition, the concluding results are presented in bar graphs and radar graphs in an attempt "to provide the clearest statement of a country's performance on policy relative to our normative framework",[200] but which actually manage to hide very effectively

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[199] A good example is footnote 11 of the index (Geddes and Niessen, 2005): "The criterion used for this analysis is: two country outcomes are significantly different if the difference is equal to a difference caused by an average score difference of 1 for one of their sets. There is, however, one complication, because the strand means are calculated as the average of all indicator values belonging to the strand and not as the average of the four dimension means per strand, a dimension difference of 1 score point therefore has a different weight (more indicators means more weight) depending on the table. In defining significant difference the model is used that approximates the strand mean by working with the mean of four dimension values per strand. There are 4 dimensions per strand. Therefore, the criterion effect on a strand mean is 0.25. There are 20 dimensions per country (5 strands of 4 dimensions); therefore the criterion effect on a country mean is 0.05. In conclusion: two countries have a significant mean difference if two respective strand means differ more than 0.25. Two countries have a significant country mean difference if the respective means differ more than 0.05. Two countries have a significant country index difference if their country index differs more than 2.5 points."

[200] Ibid., p. 41.

the real process through which the evaluation has been conducted. Some of the reports end up using the same kinds of tools (graphs and statistics) and methods as those utilized by public authorities to justify the implementation of restrictive immigration policies.

4.5 Europeanizing Policies on Integration

Is benchmarking the best way to foster Europeanization in the area of TCN integration? While the comparative exercise appears to be one of the main goals of benchmarking, the final aim is for it to lead to a 'learning experience' through the exchange of practices and coordination based on 'European standards', in which the EU has an impact on the national level. If a member state is found at the bottom of the ranking on 'best practices' or is deemed to demonstrate 'worst practices' in relation to a given standard, benchmarking encourages change and policy convergence, through means other than those provided by the Community method. Yet, consideration should be given to the possibility that the opposite might occur as well: through the exchange of information under the EU framework on integration, some national practices might be emphasized and transferred to the supranational setting, thus becoming 'European standards'.

The EU framework on integration constitutes a pragmatic alternative to the Community method. It aims at facilitating coordination and promoting best practices among the member states *through other means*. It seeks to 'softly' influence national policies and laws. In fact, while these methods have been conceived as a soft legal approach, they may not prove to be so soft and may affect the policy frameworks at the domestic level (policy convergence).[201] As recognized in the European Commission's *Third Annual Report on Migration and Integration* (COM(2007) 512) of 11 September 2007,[202] the CBPs have already been expressly mentioned in official declarations and political statements in countries such as Austria, the Czech Republic, Denmark and Spain. In addition, Spain has explicitly incorporated them into the Spanish Strategic Plan on Citizenship and Integration.[203]

Moreover, the legislative outcomes are not the typical regulations, directives or decisions, but rather communications, annual reports, Commission staff working documents, handbooks, common agendas, etc., whose juridical nature and effects are far from clearly stipulated or commonly agreed, thus affecting the principles of legal certainty and transparency. These acts fall under the heading of soft

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[201] M. López Santana, "The Domestic Implications of European Soft-Law: Framing and Transmitting Change in Employment Policy", *Journal of European Public Policy*, Vol. 13, No. 4, June 2006, pp. 481–99.

[202] Commission Communication, *Third Annual Report on Migration and Integration*, COM(2007)512, Brussels, 11 September 2007.

[203] *Plan Estratégico de Ciudadanía e Integración*, Secretaría de Estado de Inmigración y Emigración, DG de Integración de Inmigrantes, Junio 2006; see also L. Cachón, "El Plan Estratégico de Ciudadanía e Integración 2007-2010", en E. Aja y J. Arango (eds), *La Inmigración en España en 2006,* Anuario de Inmigración y Políticas de Inmigración, Barcelona: CIDOB Publicacions, 2007, pp. 246–66.

law as they lack any legally binding force,[204] and in this way their legal effects differ greatly from those of ordinary EU law. The EU framework on integration has not envisaged any kind of enforcement mechanism to guarantee that the member states actually comply with the CBPs. It is up to the member states whether or not to take on board the common agenda on integration. Therefore, although soft law might help to achieve more uniformity (Europeanization) in the application of the law while allowing for a high degree of "differentiation",[205] the question remains open as to how its use can really ensure a solid common policy and prevent the soft regulatory instruments from losing their transnational significance, coherency and consistency during implementation in the various national arenas.[206]

In moving the debate on benchmarking integration to the role that it might play in evaluating the performance of local and regional authorities, a somewhat different scenario emerges. The 'integrating cities process' aims at fostering the dialogue and exchange of experiences among cities on the relationship between the EU framework on integration and the local dimension. In doing so, this initiative intends to promote innovative models of integration governance by local authorities across the EU. **In this context, the added value of EU initiatives and supranational networks is the support they could give toward developing better standards and quality in service provision, local policies and institutional structures.**

5 Refocusing the Debate on Benchmarking and its Potential to Foster Social Inclusion

This chapter outlines seven key areas in which benchmarking (and the debate surrounding it) could be enhanced by realigning some underlying concepts and tackling issues embedded in the benchmarking methodology.

1. **Strengthen the traditional European approach(es) to integration.** One of the key deficits connected with benchmarking is the **lack of a commonly shared approach to or 'standard' for integration at the EU level.** The CBPs are too broad and flexible in nature to give any concise definition or ideological setting. We have also identified a shift in the paradigm driving the classical normative understanding or features attributed to integration in the EU. The paradigm has moved from one advocating fair and near-equality treatment to another conceiving integration as a legal measure or

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[204] F. Snyder, "Soft Law and Institutional Practice in the European Community", in S. Martin (ed.), *The Construction of Europe: Essays in Honour of Emile Noël*, Dordecht: Kluwer, 1994, pp. 197–225; see also L. Senden, *Soft Law in European Community Law: Its Relationship to Legislation*, Nijmegen: Wolf Legal Publishers, 2003.

[205] L. Senden and S. Prechal, "Differentiation in and through Community Soft-Law", in B. de Witte, D. Hanf and E. Vos (eds), *The Many Faces of Differentiation in EU Law*, Antwerp: Intersentia, 2001, pp. 181–99.

[206] The potential of the EIF in this regard cannot be underestimated. The combination of soft law and a strong financial framework might constitute an effective mechanism to ensure that only those national policies and programs in full compliance with the common objectives (CBPs) that are settled upon will be funded. The funding scheme would therefore enforce the consistency of a common policy approach.

condition applying within or outside the EU (the immigration norm) in order for TCNs to have access to rights, security and social inclusion. All this makes the conceptual weaknesses difficult to overcome at the EU level.

2.   **Deconstruct the nexus between integration and immigration in EU law/policy.** The way in which integration is being framed at the EU level in immigration law and as part of the AFSJ is problematic for benchmarking. The linking of integration and immigration in EU law/policy is taken as an unquestionable premise at the EU and national official levels, and it is even qualified as best practice in the EU framework on integration. This nexus, however, leads to the stigmatization of a vulnerable foreigner who depends on social solidarity and seeks inclusion, but who is prevented by immigration law from having access to security and rights. Integration measures and conditions in EU immigration law and the EU framework on integration contribute to social exclusion and (in)cohesion, as they are used to test whether an individual deserves a secure immigrant status based on that individual already having attained the necessary degree of social inclusion. Paradoxically, while those individuals holding an insecure immigration status would need more rights and protection, the use of integration as a norm prevents them from being socially included and acts as a mechanism for their exclusion.

When benchmarking is combined with the allusion to mandatory integration programs, conditions or measures, integration abroad or pre-departure measures, welcoming programs, national plans for citizenship, civic introduction or orientation courses, the tensions coming out of the nexus between immigration and integration are likely to be exacerbated. There is nothing to prevent benchmarking from being used to attribute an (assumed to be) irrefutable 'value' to certain state practices, programs and political strategies. If careful attention is not paid in establishing a European benchmarking system on integration, there is a danger that it will **become another instrument in the hands of public authorities for legitimizing restrictive immigration laws and practices.** The intersection between integration and the legal and policy framework on the management of immigration obstructs the realization of the citizens-based approach and the Tampere paradigm on fair and near-equality treatment, as well as the development of the two-way process.

3.   **Build up the connection between integration and social inclusion in EU policy.** There needs to be a stronger link between the policy spheres of integration and social inclusion at the EU level. The spotlight should be on what the obstacles and barriers are to the social inclusion of vulnerable groups in society and on providing measures to facilitate access across all the sectors in the receiving society and different levels of governance in the EU. In the past few years, the relationships between the DG JFS and other DGs, such as those for Employment, Social Affairs and Equal Opportunities, have not proven to be simple and straightforward. One of the main legislative outcomes of inter-DG cooperation on integration has been the adoption of the Communication on Immigration, Integration and Employment (COM(2003)336), although that was back in June 2003.[207]

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[207] Communication from the Commission on Immigration, Integration and Employment, COM(2003) 336, Brussels, 3 June 2003.

4.   **Address the lack of neutrality.** Benchmarking is not a neutral or ideology-free tool, but rather encompasses heavy political baggage. How can the independence and objectivity of this technique be ensured? What are the guarantees that it will not become another tool of governance in the hands of public authorities to manage immigration and diversity? Moreover, what are the 'best' and 'worst' practices? 'Best', 'favorable' or 'worst' are malleable adjectives often attributed according to a certain ideological understanding or approach to 'the common standard' against which to test the norm, policy or practice at stake.

5.   **Consider the issue of who is the benchmarker and who is to be benchmarked.** It is not clear who will be in the position of benchmarker. How certain is it that the benchmarking community on integration will be open, plural and diverse at the EU level? How can independence be safeguarded? Is it realistic to believe that throughout the different phases making up the benchmarking process, the interests and involvement of civil society, social partners and immigrants' organizations will be duly protected? Or will it become another apparatus in hands of state authorities and the European Commission (DG JFS)? There is also the important problem of who is addressed in the personal scope of benchmarking. Most of the reports studied in Section 3 only cover legally resident TCNs. This narrow approach originates in the focus on immigration control that has been applied to integration in the context of the EU framework on integration and the AFSJ.

6.   **Examine the methodologies.** Current benchmarking techniques are encumbered by various methodological defects that call for critical reflection and wide discussion. As argued in Section 4, there are numerous constraints involved in attempting to apply an interdisciplinary approach, finding a common set of indicators, resolving the shortcomings rooted in any comparative analysis and presenting the benchmarking results in a transparent and comprehensive manner. Benchmarking rhetoric appears to take for granted that these deficiencies do not exist. At the same time, improving all these weaknesses might well raise ethical issues with respect to non-discrimination and fundamental rights, which must not be undercut by a short-sighted drive for data for the purpose of comparing and monitoring integration in the EU. Also, while one of the goals of benchmarking is the identification of good or best practices, it would be desirable to first address whether the technique itself is good or bad – an issue that until now has received little serious attention. The discussion could move beyond providing plausible answers to the questions of 'what exists' (a mapping exercise) and 'what could be' (policy recommendations) in relation to integration policies and regulations in the EU. **The debate could instead focus on the question of 'what should be' (thus deconstructing the benchmarking of integration)**. Such a shift in focus would be the most appropriate way to move the debate on benchmarking integration in the EU forward.

7.   **Europeanize the integration efforts currently being undertaken through soft law.** Doubts have also been aired about whether benchmarking really is a better way to foster policy convergence on the integration of TCNs in the EU framework on integration. The Treaty of Lisbon, however, would offer the basis for developing common legislative measures to encourage and support the work of the member states in this area through the new Article 79.4 of the Treaty on the Functioning of the Union

(TFU). As such, it would formalize the current quasi-OMC in the EU framework on integration through the application of the ordinary legislative procedure (co-decision).[208]

6   Set of Policy Recommendations

1.   **Revitalize the Tampere approach to integration.** Before developing EU immigration law and the EU framework on integration any further, **deep reflection is needed on the European approach(es) to integration**. The Tampere Program should be revitalized and the paradigm on fair and near-equality treatment put back on the EU's agenda. The two-way process paradigm is proving insufficient to prevent the sole application of burdens and obligations to TCNs in the form of immigration norms. Furthermore, the potential offered by a legally-binding Charter of Fundamental Rights for the liberalization of European citizenship for TCNs should be further explored.[209]

2.   **Develop and strengthen the nexus between integration and social inclusion. The integration debate needs to be disentangled from (in)security and immigration control and linked to social inclusion.** The use of integration as a mandatory criterion to limit the legal channels of regular migration is neither consistent with the way the EU has dealt with mobility and integration, nor is it coherent with the EU's new motto – 'united in diversity'. The aspiration of some member states to limit the EU's competence over immigration by using the subjective condition of integration and to restrict the latter to the confines of their own legislation is counterproductive to the political project of a common EU immigration policy. Also, diversity is one of the EU's strengths, not a defect in need of correction.[210] Social inclusion in the member states depends on an understanding of integration as a right for TCNs to equality and participation rather than an obligation to abandon their identity(ies).[211] The 'integrating cities process' is a positive initiative in this respect, which should be further promoted. **Strengthening the voice of the cities in the elaboration of the EU framework on integration is**

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[208] Article 79.4 states that "[t]he European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States". See also S. Carrera and F. Geyer, "The Reform Treaty and Justice and Home Affairs: Implications for the Common Area of Freedom, Security and Justice", in E. Guild and F. Geyer (eds), *Security versus Justice? Police and Judicial Cooperation in the European Union*, Aldershot: Ashgate, 2008, pp. 289–307.

[209] The Charter recognizes fundamental rights not only in relation to European citizens, but also to TCNs legally residing in the EU. See the Charter of Fundamental Rights of the European Union, 2007/C 303/01, OJ C303/01, 14.12.2007; see also D. Kostakopoulou, "European Citizenship: Writing the Future", *European Law Journal*, Special Issue on EU Citizenship, Vol. 13, No. 5, 2007, pp. 623–46.

[210] D. Bigo, S. Carrera and E. Guild, *What Future for the Area of Freedom, Security and Justice? Recommendations on EU Migration and Border Policies in a Globalizing World*, CEPS Policy Brief No. 156, Centre for European Policy Studies, Brussels, March 2008.

[211] D. Bigo, S. Carrera, E. Guild and R.B.J. Walter, *The Changing Landscape of European Liberty and Security: Mid-Term Report on the Results of the CHALLENGE Project*, CHALLENGE Research Paper No. 4, Centre for European Policy Studies, Brussels, February 2007 (see p. 21).

essential for articulating a common European approach, guided by principles of social inclusion and the reliable provision of public services.

3.   **Deemphasize questionable national practices. The European integration strategy should not continue to provide a supranational forum for highlighting certain policies, programs and practices at the national level** considered 'best' by some, and therefore deemed a source of inspiration for the entire EU-27. The direct consequence of current actions such as the exchange of information is that the strategies and techniques practiced by certain member states may eclipse those of countries perceived as 'less experienced'. 'Lessons learned' and 'best practices' in one member state may translate into worse practices in another. The EIF should not be instrumentalized to promote the normative framing of integration as a tool for immigration control and a restrictive immigration policy in the EU-27. Nor should the EU support questionable national practices that seek to manage (or rather limit) the immigration, security of residence, access to rights and family life of TCNs.

4.   **Undertake a critical assessment of benchmarking**. If the EU takes over or nuances a proper debate about the inherent defects involved in benchmarking integration and legitimizes its use regardless of whether this supranational technique of governance is truly necessary, effective or desirable, then all the weaknesses identified should be carefully studied and tackled. Furthermore, another (welcome) step would be that of addressing the state practices and policies under development that prevent, condition, limit or undermine social inclusion and protection. The relationship between these practices and the European employment, social inclusion and social protection strategies also merits attention. These steps could in turn lead to **measuring social exclusion and determining how to improve the provision of public services that foster inclusion***, along with legal security and access to rights by TCNs and other vulnerable groups.

5.   **Consolidate the policy linkages within the European Commission.** The DG JFS should work very closely and interact more decisively with other related DGs, such as those for Employment, Social Affairs and Equal Opportunities and Education. The need to strengthen the "mainstreaming approach" of the EU framework for integration has also been underlined by the Commission Communication on a Common Immigration Policy for Europe (COM(2008)359) of 17 June 2008.[212] This effort should not remain a merely symbolic one on the part of the Commission services.[213] It should instead encourage the development of a **nexus that fosters coherent policy**. This nexus is of the utmost importance for a robust European approach to integration and a potential OMC on integration driven

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[212] In particular, the Communication calls for "strengthening further the mainstreaming approach of the EU Framework for Integration including civic participation, integration into the labour market, social inclusion, anti-discrimination, equal opportunities, education and youth-related measures, intercultural dialogue and diversity management" (see p. 6 of the Communication).

[213] See point 3.2 of the Commission Communication, *Third Annual Report on Migration and Integration*, COM(2007)512, Brussels, 11 September 2007, on "mainstreaming integration" across a wide range of EU policies such as employment, social inclusion/social protection, education, health, urban dimension, intercultural dialogue, fundamental rights, non-discrimination and equal opportunities, women, children, youth and entrepreneurs (see pp. 5-7).

by the principles of social inclusion, equality and dignity. It would also help to prevent any overlapping OMC scenarios in these policy areas within the Commission. **A permanent inter-DG working group** including members of each of the European Commission's services dealing with the various aspects of immigration should be set up for this purpose.

6. **Establish an appropriate and inclusive personal scope for the application of policy. The fair and near-equality treatment of all persons not holding the nationality of a member state should be duly addressed along with issues related to access and participation.** Furthermore, every person holding national and therefore European citizenship should be treated equally and in a non-discriminatory manner according to EU law and the Treaties. Any perceived obstacles and barriers to the inclusion and protection of EU citizens should mainly be dealt with through the provisions for social inclusion, social protection, fundamental rights and non-discrimination.

7. **Ensure and increase the involvement of relevant actors: Civil society, social partners and academia.** The decision-making processes in the quasi-OMC on integration should be further liberalized, with proper democratic control of over action as well as the vigorous participation of civil society, social partners and academia. It would be particularly important to guarantee that actors such as **civil society and immigrants' organizations are actively involved**, not only in the initial phases of any potential OMC on integration and a European benchmarking system, but also in evaluating the accuracy and reliability of the indicators, data sources and the comprehensiveness of the results of any benchmarking exercise. The forthcoming **European integration forum** offers great potential in this regard.

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ANNEX 1

INTERVIEWS

Luis Miguel Pariza Castaños (European Economic and Social Committee), 29 April 2008

Joanna Apap (DG Internal Policies of the EU, European Parliament), 5 May 2008

Giulia Henry and Emanuela Canetta Rossi Palermo (DG Justice, Freedom and Security, European Commission), 6 May 2008

Stefano Bertozzi (DG Justice, Freedom and Security, European Commission), 14 May 2008

Martino Paolo Cossu (Council of the EU), 26 May 2008

Isabelle Engsted-Maquet (DG Employment, Social Affairs and Equal Opportunities, European Commission), 11 June 2008

ANNEX 2

MAPPING THE NORMATIVE FRAMING OF INTEGRATION IN EU LAW AND POLICY (1999–2008)[214]

TREATY OF AMSTERDAM		

Tampere Program, 15–16 October 1999	European Council	- (*) EC fair and near-equal treatment paradigm:
		  1) Principle of fair treatment for legally-residing TCNs
		  2) More vigorous integration policy granting to legal TCN rights and obligations comparable to EU citizens
		  3) The granting of rights that are "as near as possible" to those of EU citizens to long-term residents

Communication on a Community Immigration Policy, COM(2000) 757 of 22 November 2000	European Commission	- (=) EC fair and near-equal treatment paradigm - (*) "Successful integration policies" should start "as soon as possible after admission" and "settlement packages" - (*) Explicit reference to integration as a two-way process - (*) Obligations: TCNs need to adapt to "our fundamental shared principles and values" - (*) Civic citizenship
Justice, Home Affairs and Civil Protection Conclusions, 14–15 October 2002	Council	- Integration is an "important element in the establishment of a European asylum and immigration policy, which could include integration requirements" - Newly arrived immigrants should have access to information "on their host society" and language courses in accordance with national law

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[214] The table uses the (*) symbol when pointing out features of a key innovative nature and (=) when alluding to those already part of previous normative responses.

Opinion on Immigration, Integration and the Role of Civil Society Organizations, SOC/075, 21 March 2002	EESC	- (*) "A Community Framework Program to Promote the Social Integration of Immigrants and Refugees. The program should spur the other institutions to step up their integration policies at all levels." - Civic citizenship – "bringing immigrants' rights and duties, as well as access to goods, services and means of civic participation progressively into line with those of the rest of the population, under conditions of equal opportunities and treatment"
Communication on Immigration, Integration and Employment, COM(2003) 336, 3 June 2003	European Commission	- (=) The EC fair and near-equal treatment paradigm - Two-way process principle - (*) Obligations: "immigrants respect the fundamental norms and values of the host society and participate actively in the integration process" - (*) Holistic approach: "not only the economic and social aspects of integration, but also issues related to cultural and religious diversity, citizenship, participation and political rights" - Nexus between employment and integration (economic rationale)
Report on the Commission Communication on an open method of coordination for the Community immigration policy, C5-0337/2002 – 2002/2181(COS), A5-0224/2003, 16 June 2003	European Parliament	- (*) "Active Policy on Integration": first, clear rules on the legal status of TCN residents and their right to good administration; second, integration into the labor market; third, tuition in the national language and access to education; fourth, access to social and health services; fifth, dignified living conditions in cities and neighborhoods - (=) Civic citizenship - (*) "Member States should not misuse integration policy as a way of rendering immigration impossible in practice"; calls on member states not to impose integration tests and language requirements which immigrants are required to comply with before they enter a member state.
Thessaloniki Presidency Conclusions 19–20 June 2003	European Council	- (=) Nexus between employment and integration: EU integration policy necessary to deal with "the new economic and demographic challenges that the EU is now facing" - Two-way process - (*) Call for the development of "common basic principles for integration of immigrants"

Directive 2003/86 on the right to family reunification, 22 September 2003	Council	- Integration as a condition – Article 4.1 - Integration as a measure abroad – Article 7.2
Directive 2003/109 on the status of third-country nationals who are long-term residents, 25 November 2003	Council	- Integration as a condition – Article 5.2 - Integration as a measure – Article 15.3
Report on the Communication from the Commission on Immigration, Integration and Employment, 2003/2147(INI), A5-0445/2003, 1 December 2003	European Parliament	- (*) Personal scope: "new migrants, established third-country nationals and EU citizens of ethnic minority origin" and "third-generation migrants" - (*) Integration as a factor for "social cohesion" and "social inclusion" - Implicit two-way process principle – "integration is a matter for society as a whole, and…efforts are needed both from migrants and from indigenous populations in order to achieve genuine social cohesion" - (*) Language skills – duty to follow courses in the national language or languages - (=) "Active Policy on Integration": first, clear rules on the legal status of TCN residents and their right to good administration; second, integration into the labor market; third, duty to follow courses in the national language and the right to access education; fourth, access to social and health services; fifth, dignified living conditions in cities and neighborhoods; sixth, participation in social, cultural and political life - (*) Integration programs for newcomers

Communication, *First Annual Report on Migration and Integration*, COM(2004) 508, 16 July 2004	European Commission	- (*) Trends in national policies on integration:
		  1) Integration courses and programs. "A number of Member States are in the process of developing specific integration courses or programs targeted at immigrants and refugees and there is a growing understanding of the need to mainstream immigration aspects into all policies and to mobilise stakeholders"
		  2) Shared concern as regards the integration of "the newly arrived", and ensuring that they "understand and respect the fundamental norms and values of the host society (civic education)", including "language abilities (language tuition)"
		- (*) Holistic approach and civic education: "such (Member States') efforts could be seen as an increased recognition of the need for developing and implementing a holistic approach to integration, which should include measures to facilitate civic, cultural and political participation"
		- (*) Implicit nexus between integration and admission

Handbook on Integration for Policy-Makers and Practitioners, November 2004	Migration Policy Group (on behalf of the European Commission) and NCPI	- (*) Introduction of courses and programs for newly arrived TCNs and civic participation - (*) Integration as self-sufficiency and independence: "governments seek to enable immigrants to lead an independent life concerning housing, jobs, education, social networks and participation in society" - (=) Two-way process principle - Introduction to "values" to meet the standards set by the countries' norms and rules - (*) Linkage between "positive outcomes" with the development of "certain skills" such as language proficiency and knowledge of the host society; integration programs "are an investment for the future, which both the immigrant and the society should be willing to make. They give immigrants a start enabling them to acquire vital skills to become self-sufficient and are therefore well worth the effort. The return on investment for society is that immigrants become better-equipped citizens capable of contributing to society" (see the annex of the handbook). - (*) Integration indicators, indexing and benchmarking

The Hague Program, 4–5 November 2004	European Council	- "[C]ommon basic principles underlying a coherent framework on integration"
Justice and Home Affairs Conclusions, 19 November 2004	Council	The 11 common basic principles for immigrant integration policy (CBPs) 1. Integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of member states. 2. Integration implies respect for the basic values of the EU. 3. Employment is a key part of the integration process and is central to the participation of immigrants. 4. 1) Basic knowledge of the host society's language, history and institutions is indispensable for integration; 2) enabling immigrants to acquire this basic knowledge is essential to successful integration. 5. Efforts in education are critical for preparing immigrants, and particularly their descendants, to be more successful and more active participants in society. 6. Access for immigrants to institutions, as well as to public and private goods and services, on a basis equal to national citizens and in a non-discriminatory way is a critical foundation for better integration. 7. Frequent interaction between immigrants and member state citizens is a fundamental mechanism for integration. Shared fora, intercultural dialogue, education about immigrants and immigrants' culture and stimulating living conditions in urban environments enhance the interactions between immigrants and member states' citizens. 8. 1) The practice of diverse cultures and religions is guaranteed under the Charter of Fundamental Rights and must be safeguarded, 2) unless such practices conflict with other inviolable European rights or national law. 9. The participation of immigrants in the democratic process and in the formulation of integration policies and measures, especially at the local level, support their integration. 10. Mainstreaming integration policies and measures in all relevant policy portfolios, levels of government and public services is an important consideration in public-

		policy formation and implementation.
		11. Developing clear goals, indicators and evaluation mechanisms are necessary to adjust policy, evaluate progress on integration and to make the exchange of information more effective.
Report on the Links between Legal and Illegal Migration and Integration of Migrants, 2004/2137(INI), A6/0136/2005, 3 May 2005	European Parliament	- (*) Language, civic courses and introduction programs, "encouraging efforts to learn the language of the host society and encouraging the organisation of civic courses and teaching programs on topics including male/female equality" - (*) Respect of the EU's fundamental values "by a symbolic act of commitment" - (=) Implicit two-way process principle - (=) "Active Policy on Integration": first, clear rules on the legal status of TCN residents and their right to good administration; second, integration into the labor market; third, duty to follow courses in the national language and the right to access education; fourth, access to social and health services; fifth, decent living conditions in cities and neighborhoods; sixth, participation in social, cultural and political life
Communication on a Common Agenda for Integration – Framework for the Integration of Third Country Nationals in the European Union, COM(2005) 389, 1 September 2005	European Commission	- Suggested actions to put the CBPs into practice - Integration programs: civic orientation "ensuring that immigrants understand, respect and benefit from common European and national values" and TCNs "acquire basic knowledge about language, history, institutions, socioeconomic features, cultural life and fundamental values" - (*) Integration abroad; explicit nexus between legal migration and integration: "legal migration and integration are inseparable and should mutually reinforce one another" - Pre-departure integration measures consisting of "information packages and language and civic orientation courses in the country of origin" - Mainstreaming - Common indicators (European criteria for the process of comparative learning), statistical tools, monitoring, evaluation, etc.
Report on Strategies and Means for the Integration of Immigrants in	European Parliament	- Two-way process principle – emphasis on the willingness and responsibility of TCNs to integrate - Integration abroad: diplomatic and consular authorities "to assist in integrating poten-

the European Union, 17 May 2006		tial immigrants through familiarising them with EU and Member State culture, history, language and civic rights and responsibilities" - Awareness of the EU's fundamental values - Integration programs – "importance of encouraging the learning of the host society's language and organising civic education courses"
Handbook on Integration for Policy-Makers and Practitioners, second edition, May 2007	Migration Policy Group (on behalf of the European Commission) and NCPI	- Integration: "Integration is not easy to plan: it is a long-term process, and it is non-linear. An international political event or a criminal act can set back integration processes significantly. Integration is also multi-faceted, demanding a capacity for adaptation…including [by] immigrants themselves"; a pragmatic approach, looking at "outcomes in terms of social and economic mobility, education, health, housing, social services and societal participation - (=) The elimination of inequalities through a revival of the concept of civic citizenship in light of "security of residence" - (=) Revival of the concept of civic citizenship in light of security of residence - The acquisition of competences ('learning to learn') through the acquisition of language proficiency and training/education ('empowerment also reinforces knowledge')

Commission Staff Working Document, *Second Annual Report on Migration and Integration*, SEC(2006)892, 30 June 2006	European Commission	- Trends in national policies on integration:
		   1) New immigrants to fulfill "integration obligations" and a tendency toward compulsory integration programs
		   2) Integration abroad: pre-departure standards before family reunification
		- Rights considered to be the best way for TCNs to integrate

Communication on the *Third Annual Report on Migration and Integration*, COM(2007) 512, 11 September 2007	European Commission	- Integration: a process of mutual accommodation by both the host societies and the immigrants and an essential factor in realizing the full benefits of immigration…the link between legal migration policies and integration strategies needs to be continually reinforced…the Common Agenda provides supportive EU mechanisms to facilitate this process developing a distinctive European approach to integration" - (*) Trends in national policies on integration: impact of the CBPs in member states (Spain)

		- (*) Proposals to develop the common agenda: concepts of participation and citizenship, common European modules for migrant integration (EMMI), awareness-raising and dissemination, prevention of social alienation and discrimination of youth, indexing and benchmarking
Decision 2007/435/EC establishing the European Fund for the Integration of Third-Country Nationals for the Period 2007 to 2013 as part of the General Program "Solidarity and Management of Migration Flows, 27 June 2007,	Council	- (*) General objectives: 1) to facilitate the development and implementation of "admission procedures" relevant to and supportive of integration 2) to develop the integration of "newly-arrived third-country nationals" in the member states 3) to increase the member states' capacity to develop, implement, monitor and evaluate policies on integration 4) to exchange information, best practices and cooperation among the member states
Informal Meeting of EU Ministers Responsible for Integration in Potsdam, 10–11 May 2007	Member states, European Commission, NCPI, etc	- (*) Active participation instead of civic citizenship - (=) EMMI - (=) Indexing and benchmarking
Justice and Home Affairs Conclusions on Strengthening of Integration Policies by promoting Unity in Diversity, 12–13 June 2007	Council	- (*) Integration part of the global approach to migration - (*) "Promoting Unity in Diversity" - Two-way process principle – "which should be underpinned by an agreed value system" - Obligations: TCNs "should make a deliberate effort to integrate, in particular learning the language of their host society, and understanding the values of the European Union" - EMMI - (*) (In)security – radicalization and the role of integration programs to prevent social alienation and radicalization (terrorism)

		- Indicators, indexing and benchmarking - (*) Intercultural dialogue – integration of citizens of different origins, culture and religion
Justice and Home Affairs Conclusions, 6 and 7 December 2007	Council	- Integration as a tool of foreign policy – nexus between circular migration, mobility partnerships and integration – "pre-departure information on labour market opportunities, language and skills training and other integration measures available to migrants prior to arrival in the EU"
Communication, Towards a Common Immigration Policy COM(2007) 780, 5 December 2007	European Commission	- (*) Integration: as a 'continuum', "running from entry, through settlement and to social and economic inclusion" - Nexus between legal migration and integration - (=) Nexus between employment and integration (economic rationale) - Principle of equality and non-discrimination

Source: Author's compilation.

ANNEX 3

THE INTEGRATION INDICATORS OF BERLIN 2007-2011

INDICATOR	SIGNIFICANCE OF THE INDICATOR
Participation and the strengthening of civil society, in terms of the shares of…	
Persons with a municipal voting right to all persons with an immigrant background in Berlin and the boroughs	Extent of political participation opportunities for persons with immigrant backgrounds
Representatives with an immigrant background in the membership of the House of Representatives	Extent of political participation opportunities for persons with immigrant background
Representatives with an immigrant background in the borough parliaments (by borough and total)	Extent of political participation opportunities for persons with immigrant background
Persons with an immigrant background in residents' committees of the Neighborhood Management	Intercultural opening of the Neighborhood Management
Registered racist or anti-Semitic violence in relation to the resident population	Extent of racist/anti-Semitic discrimination and violence
Suspects in all burglary offences from non-German and German backgrounds	Burglary offences are an indicator of social deficits, which imply the lack of integration
Victims (of criminal offences) among foreigners compared with the number of suspects of German background	No explanation provided
Bi-national marriages (German–foreigner) and registered partnerships to the total	Extent of familial combinations of Germans and foreigners

INDICATOR	SIGNIFICANCE OF THE INDICATOR
Judicial integration	
Percentage of foreigners with an unlimited residence permit	Legal security of abode in Germany
Foreigners with residence permit for more than 8 years	Reference for naturalization potential
Proportion of naturalized persons to the total population for Berlin and subdivided by borough	Maximum legal security; identification with the receiving society
Annual number of naturalizations	Identification with the receiving society

Source: Author's compilation, with reference to Commissioner for Integration and Migration of the Senate of Berlin (ed.), *Encouraging Diversity – Strengthening Cohesion, Integration Policy in Berlin 2007-2011*, Der Beauftragte für Integration und Migration, Berlin, 2007.

ANNEX 4

MIPEX INDICATORS LIST[215]

1. LABOR MARKET ACCESS

1.1 Eligibility

1. Renewal of third-country nationals' work permits

2. Ability to accept any employment (excluding exercise of public authority) equal to that of EU nationals

3. Ability to take up self-employed activity (excluding exercise of public authority) equal to that of EU nationals

4. Procedures for recognition of academic and professional skills and qualifications

1.2 Labor market integration measures

5. Measures to further the integration of third-country nationals into the labor market (reduce unemployment, promote vocational training, and encourage language acquisition)

6. State facilitation of the recognition of skills and qualifications obtained outside the EU

7. Equality of access to vocational training and study grants

1.3 Security of employment

8. Renewal of work permits

9. Termination of work contract is a reason for revoking or refusing to renew work/residence permit

1.4 Rights associated

10. Membership in trade union associations and work-related negotiation bodies

11. Changes in working status/permit (different employer, different job, different industry, different permit category, etc.)

2. FAMILY REUNION

2.1 a) Eligibility for sponsor

12. Eligibility for legal residents

2.1 b) Eligibility for family members

13. Eligibility for the sponsor's spouse and registered partner

14. Eligibility for minor children

15. Eligibility for dependent relatives in the ascending line

16. Eligibility for dependent adult children

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[215] J. Niessen, T. Huddleston and L. Citron (in cooperation with A. Geddes and D. Jacobs), *Migrant Integration Policy Index*, British Council and Migration Policy Group, Brussels, 2007 (see www.integrationindex.eu).

2.2 Acquisition conditions (for sponsor and/or family members)

17. Integration measures
18. Imposition of integration course
19. Format of language assessment
20. Format of integration assessment
21. Content of integration assessment
22. Flexibility of all test criteria
23. Criteria for exemptions
24. Cost of test
25. Study guide
26. Accommodation requirement
27. Economic resources requirement
28. Length of application procedure
29. Costs of application and/or issue of permit or renewal

2.3 Security of status

30. Duration of validity of permit
31. Grounds for rejecting, withdrawing or refusing to renew status
32. Factors taken into account for refusal or withdrawal
33. Legal guarantees and redress in case of withdrawal or non-renewal of permit or expulsion order

2.4 Rights associated

34. Right to autonomous residence permit for partners and children reaching age of majority
35. Right to autonomous residence permit for other family members
36. Access to education and training for adult family members
37. Access to employment and self-employment
38. Access to social security and social assistance, health care and housing

3. LONG-TERM RESIDENCE
3.1 Eligibility

39. Required time of habitual residence, disregarding work activity
40. Required time in legal employment or self-employment
41. Period as pupil or student counted
42. Period awaiting asylum decision counted
43. Periods of absence from country allowed previous to granting long-term residence

3.2 Acquisition conditions

44. Integration measures
45. Imposition of integration course
46. Format of language assessment
47. Format of integration assessment

48. Content of integration assessment

49. Flexibility of test criteria

50. Criteria for exemptions

51. Cost of test

52. Study guide

53. Economic resources requirement

54. Insurance requirement

55. Length of application procedure

56. Costs of application and/or issue of permit or renewal

3.3 Security of status

57. Duration of validity of permit

58. Renewable permit

59. Periods of absence allowed for renewal

60. Grounds for withdrawal

61. Factors taken into account for protection against expulsion

62. Groups precluded from expulsion

63. Legal guarantees and redress in case of withdrawal or non-renewal of permit or expulsion order

3.4 Rights associated

64. Residence right after retirement

65. Access to employment (only exception being from exercise of public authority), self-employment and other economic activities

66. Access to social security, social assistance, health care and housing

67. Recognition of academic and professional qualifications

68. Freedom of movement and residence within the EU

69. Simultaneous holding of a long-term residence permit in more than one member state

4. POLITICAL PARTICIPATION

4.1 Electoral rights

70. Right to vote in national elections (not weighted)

71. Right to vote in regional elections (any level of government between the lowest local and the highest national/federal)

72. Right to vote in local elections

73. Right to stand for elections at local level

4.2 Political liberties

74. Right to association, including political, for foreign residents

75. Membership in political parties

4.3 Consultative bodies

76. Form of consultation of foreign residents at the national level

77. Composition of consultation body at the national level

78. Form of consultation of foreign residents at the regional level

79. Composition of consultation body at the regional level

80. Form of consultation of foreign residents at the local level in the capital city

81. Composition of consultation body of foreign residents at the local level in the capital city

82. Form of consultation of foreign residents in the city (other than the capital city) with the highest proportion of foreign residents

83. Composition of consultation body of foreign residents in the city (other than capital city) with the highest proportion of foreign residents in the population

4.4 Implementation policies

84. Active policy of information on political rights by national level (or regional level in federal states)

85. Public funding or support of immigrant organizations on national level

86. Public funding or support of immigrant organizations on regional level

87. Public funding or support of immigrant organizations in capital city

88. Public funding or support of immigrant organizations in city with highest proportion of foreign residents

5. ACCESS TO NATIONALITY

5.1 Eligibility

89. Years of residence required for ordinary naturalization of first-generation immigrants

90. Years of residence/marriage required for spouses of nationals

91. Years of residence required for partners/cohabitees of nationals

92. Automatic or restricted naturalization for second-generation immigrants (born in country, both parents of the TCN born abroad)

93. Automatic or restricted naturalization for third-generation immigrants (born in the country, both parents TCNs and at least one parent born in the country)

94. Periods of absence from country allowed prior to naturalization

5.2 Acquisition conditions

95. Language or integration measures

96. Format of language assessment

97. Format of citizenship assessment

98. Costs of tests

99. Format of study guide

100. Cost of study guide

101. Name change for applicants for naturalization

102. Requirements for oaths, declarations or ceremonies that are tantamount to denial or exclusion

103. Economic resources requirement

104. Health insurance requirement

105. Criminal record requirement

106. 'Good character' requirement

107. Maximum length of application procedure set down in law

108. Costs of application and/or issue of nationality title

5.3 Security of status

109. Grounds for refusing or withdrawing citizenship

110. Time limits for withdrawal as prescribed in law

111. Legal prohibitions against withdrawal that would lead to statelessness

112. Factors taken into account before refusal or withdrawal

113. Legal guarantees and redress in case of withdrawal

5.4 Dual nationality

114. Requirement to renounce/lose foreign nationality upon naturalization

115. Dual nationality for children of TCNs born in the country

116. Ratification of Council of Europe's 1997 European Convention on Nationality

6. ANTI-DISCRIMINATION

6.1 Definitions and concepts

117. Definition of discrimination includes direct and indirect discrimination, harassment and instruction to discriminate on race and ethnicity, religion and belief and nationality, hereafter referred to as 'all three grounds'

118. Definition of discrimination includes discrimination by association and on the basis of assumed characteristics on all three grounds

119. Anti-discrimination law applies to the public/private sector and to natural and legal persons

120. Law prohibits public incitement, public threats/defamation and instigation to commit offenses on all three grounds

121. All three grounds covered in employment and vocational training

6.2 Fields of application

122. All three grounds covered in education (primary and secondary level)

123. All three grounds covered in social protection, including social security

124. All three grounds covered in social advantages

125. All three grounds covered for access to and supply of goods and services available to the public, including housing

126. All three grounds covered for access to supply of goods and services available to the public, including health

6.3 Enforcement

127. Access for victims, irrespective of grounds of discrimination, to all procedures

128. Access for victims on all three grounds

129. Average length of both judicial civil and administrative procedures

130. Shift in burden of proof in all procedures

131. Protection against victimization in all relevant sectors

132. State assistance for victims

133. Powers of legal entities with a legitimate interest in defending the principle of equality to assist victims

134. Range of sanctions available in discrimination cases

135. Discriminatory motivation treated as aggravating circumstance for all three grounds

6.4 Equality policies

136. Mandate of specialized equality agency on all three grounds

137. Powers of specialized agency to assist victims

138. Legal standing of specialized agency in different procedures

139. Powers of specialized agency to initiate proceedings and investigations

140. Legal obligations of the state on information, social dialogue and civil society dialogue on discrimination

141. Legal obligations of the state to promote equality in lawmaking, administration, service delivery and recruitment

142. All three grounds covered for restriction of freedom of association, assembly and speech

ANNEX 5

FRAMEWORK FOR IDENTIFYING IMPEDIMENTS AND AREAS OF IMPROVEMENT

		Non-discrimination	Dignity	Development	Participation
Citizenship		* access to local voting rights * viable pathways to naturalisation	* contact between immigrants and nationals * questioning freedom of religious expression * training of religious personnel * vulnerability to radicalisation	* inter-cultural and inter-religious competencies * access to European media	* voting rights outreach * membership in political parties * membership in trade unions * function of local consultative bodies * migrant volunteering
Social Cohesion	housing	* access to social housing and housing support * access to social housing * homelessness among immigrant groups * discrimination in the housing hunt	* respect for special needs in social housing * excessive and infeasible renting requirements * social segregation	* concentration in disadvantaged neighbourhoods * awareness of available housing support	* participation in housing consultation structures
	health	* access to health care services for all * access to mental health services * costs of health care services * physical accessibility	* intercultural mediation between patients and clients * special needs of elderly, female and young	* information on health services * translation and interpretation services * promotion of healthy lifestyles and exercise	* involvement in health-related decision-making * monitoring of migrant health and health services
Economic Participation		* access to employment for all * access to public sector employment opportunities * access to welfare and unemployment benefits * non-discrimination in the job hunt	* transparent, timely and affordable procedures * security of residence and work status * recognition of skills and qualifications * fair work conditions * respect for diversity in the workplace * access to benefits for elderly immigrants	* career guidance and job lifelong and language training * mobility within the labour market * specific needs of immigrant entrepreneurs	* unemployment gaps * labour market situation of immigrant women
Education		* access to all categories of education * assessment of newcomers educational attainment * early-leaver/dropout rates * acquisition of key competencies	* respect for diversity in daily school life * access to training in and of mother tongue * teacher trainings for a diverse classroom	* support measures beyond initial settlement phase * support measures beyond language * involvement of immigrant parents in school life	* greater focus on intercultural education * evaluation of support measures

Source: J. Niessen and T. Huddleston (with N. Verbruggen and M. A. Kate), *Setting up a System of Benchmarking to Measure the Success of Integration Policies in Europe*, Policy Department C, Citizens Rights and Constitutional Affairs, European Parliament, PE 378.288, January 2007, Figure 5d.

ANNEX 6

EXCHANGING AND LEARNING FROM GOOD PRACTICES

Organizations can learn from each other, whether they are governmental or non–governmental agencies, working at the same or different governance level, when hey design and implement policies or when they carry out concrete programs and projects.

The process includes the following steps:

- Describe in some detail the policy areas and integration programs on which the exchange will take place and what the expected outcomes are.
- Decide whether the aim is to replicate practices of the partner organisation, to adapt its practices to their own situation, or to change and develop new practices together with the partner.
- Identify one or more potential partners and negotiate and agree on principles governing the exchange process (for example, by adhering to the European Benchmarking Code of Conduct of the European Foundation for Quality Management).
- Allocate human and other resources to the exercise, create commitment among the organization's staff and demonstrate this commitment to partner(s).
- Decide on a program and timeframe, designate staff, agree on an internal and external communication strategy, bring own staff and that of the partners together and build an exchange team based on competence and trust.
- Identify data sources and agree on how information will be generated, handled (especially where it concerns confidential data) and exchanged. Determine and bridge or deal with data gaps.
- Engage in in-depth exchanges through site visits, preparing general background material on integration policies, giving detailed presentations on program implementation and formulating learning points.
- Establish to what extent situational differences influence not only expectations of outcomes of policies and practices, but also their actual impact. Develop common criteria to measure effectiveness and efficiency.
- Compare policies and practices and formulate strengths and weaknesses. Highlight critical success factors and identify hurdles. Establish lessons learned and make recommendations on how to apply them.
- Evaluate the exercise, share the outcomes with stakeholders and adapt policies and practices accordingly.

Source: Niessen, J. and Y. Schibel, *Handbook on Integration for Policy Makers and Practitioners*, DG Justice, Freedom and Security, European Commission, European Communities, Second Edition, May 2007, p. 11.

ANNEX 7

BENCHMARKING INTEGRATION GOVERNANCE IN EUROPEAN CITIES: BENCHMARKING MODEL

CATEGORY	GENERAL GOVERNANCE – CONTENT/INDICATORS
Ambition	1. Describe whether and how a needs assessment has been used to inform the strategic plan for the integration of migrants. Is this plan used as a 'blueprint' for implementation of policy measures, and if so how? 2. Explain whether and how the strategy is integrated into all relevant policy portfolios and at all stages of the policy development process. 3. Describe whether there is an officer that is appointed as the integration focal point ('Integration Agent'), and provide his/her details. Explain their relationship with the inter-departmental committee on integration. 4. What measures of effectiveness are used to measure the effectiveness of the Integration Agent in promoting and ensuring mainstreaming of migrant integration in the municipality's policy work? 5. Describe the strategy for liaising with regional, national and European levels of governance. 6. Explain the rationale or logic used by the municipality in deciding what data to collect and use on migrant communities, including on settlement patterns.
Leadership	1. Have political leaders made a public commitment that migrant integration is a key priority for resources and action, and if so what exactly have they committed to? 2. Explain whether and how elected members and senior staff are committed to making migrant integration a policy priority and are committed to achieve its objectives. 3. What commitment has each political party made to the principles of migrant integration and the strategic plan adopted by the municipality? Does this commitment go beyond a single mandate period? 4. Explain whether and how leaders of the municipality highlight the contribution of migrants to the city and the community. Is volunteer commitment and initiatives by migrant associations and individual migrants appreciated and honored?
Resources	1. Describe the financial, staff and other resources made available by the municipality for its integration-related activities and explain how this is appropriate to achieve its objectives. 2. Describe whether there is a positive action policy used in relation to staff recruitment and explain how this is strengthening the diversity of the workforce. 3. How does the municipality include inter-cultural issues and migrants' perspectives in relevant staff training programs?

	4. Describe whether there is a positive action policy for public procurement and how this is strengthening the diversity of contractors and suppliers (i.e. 'supplier diversity').
	5. Explain how you know that the municipality provides adequate funding to migrant associations, including appropriate training.
Implementation	1. Describe the experience and resources available to the inter-departmental committee for migrant integration.
	2. Provide a list of the nominated contact persons in each department who are responsible for managing the department's contribution to the strategic plan and monitoring successes and failures in migrant integration.
	3. Is there a permanent consultative committee on migrant integration in place? Provide a membership list demonstrating that it includes suitably qualified and representative individuals from civil society, migrant associations and the private sector. Does the municipality consult the committee on a regular basis? Provide evidence.
	4. Has the municipality established negotiating and debating meetings and other opportunities for migrants (and associations) and local residents (and associations) to meet, exchange views and resolve potential conflicts? Describe how.
	5. Explain whether and how the municipality tailors its services and opportunities (or those of sub-contracted external agencies) to meet the needs of its diverse population and to enhance the integration process of migrants, including their potentials for full participation.
Evaluation	1. Explain whether and how the municipality carries out a regular evaluation of the achievements of its migrant integration policy and practice (including their strategic and implementation aspects). Is this communicated to all relevant stakeholders? Provide examples.
	2. Does the municipality regularly report to the public on the results of its migrant integration policy? Explain how and provide examples.
	3. Provide examples of the indicators used to measure success and failure in both processes and outcomes, and explain how these are kept up to date.
	4. Does the municipality evaluate whether intermediary and other partners are satisfied with progress toward objectives and whether they 'feel' valued, and if so how?
	5. Explain how the municipality understands why policies are not working.
	6. Give examples of key success factors and best practices and demonstrate how they are used in policy planning.
	7. Illustrate how the municipality is open to third-party evaluation.

Source: INTI Cities, "Guidance on How to Prepare the Initial Report", INTI Cities Project, Brussels, 2008 (retrieved from http://www.inticities.eu/en).

ANNEX 8

THE MITI PROJECT SET OF INDICATORS

1. Index of absorptive capacity

1.1. Indicator of the size of the foreign population (foreign residents in a region as % of the national total)

1.2. Indicator of the foreign proportion of the population (foreign residents as % of total population of the region)

1.3. Indicator of the increase in the foreign population (% change in the foreign population in a region over a 10-year period)

1.4. Indicator of long-term residence (% of foreign population resident in the country for at least 5 years or, for those countries where this data is not available, at least 10 years)

2. Index of social stability

2.1. Indicator of poor housing (% of the foreign population living in overcrowded housing):

a) Gap between the regional figure for non-EU nationals and the average for nationals;

b) Gap between the regional figure for non-EU nationals and the regional figure for nationals

2.2. Health indicator (% of total population suffering from some form of disability):

a) Gap between the regional figure for non-EU nationals and the average for nationals;

b) Gap between the regional figure for non-EU nationals and the regional figure for nationals

2.3. Indicator of mixed marriage:

a) Gap between the regional marriage rate for immigrants (number of marriages per year in each region, in which at least one partner is a non-EU national per 10,000 residents) and the national marriage rate of nationals (number of marriages per year in the country, in which at least one partner is a national per 10,000 residents);

b) % of mixed marriages (partners of different nationalities) per year as a proportion of total marriages, for each region

3. Labor market index

3.1. Indicator of unemployment (unemployment rate: the unemployed as a % of the labor force):

a) Gap between the regional figure for non-EU nationals and the average for nationals;

b) Gap between the regional figure for non-EU nationals and the regional figure for nationals

3.2. Indicator of sectoral distribution of activity (% of non-nationals and nationals in each sector, for each region)

3.3. Indicator of occupational status of the immigrant labor force (the proportion of workers in the highest three occupational groups, based on the International Standard Classification of Occupations of the International Labor Organization):

a) Gap between the regional figure for non-EU nationals and the average for nationals;

b) Gap between the regional figure for non-EU nationals and the regional figure for nationals

3.4. Educational level of the foreign labor force (% of persons with a university degree in the labor force):

a) Gap between the regional figure for non-EU nationals and the average for nationals;

b) Gap between the regional figure for non-EU nationals and the regional figure for nationals

3.5. Indicator of immigrant activity rate (% of the labor force in the population aged 15-74):

a) Gap between the regional figure for non-EU nationals and the average for nationals;

b) Gap between the regional figure for non-EU nationals and the regional figure for nationals

3.6. Income level of immigrants (annual gross per capita income in euros for each region):

a) Gap between the regional figure for non-EU nationals and the average for nationals; and

b) Gap between the regional figure for non-EU nationals and the regional figure for nationals.

Source: C. Withol De Wenden et al. (2008), *Measuring Integration: The French Case – Regional indices of social and labour market inclusion of third-country nationals*, Final Report, Sciences Po, CERI, March 2008 (retrieved from http://www.ceri-sciences-po.org).