

# The Refugee Hospitality Dilemma: Between Universalism and Closure

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Human rights are universal, but citizenship, the “right to have rights” in the words of Hannah Arendt,<sup>1</sup> is based on the nation-state. This results in a dilemma that goes back to the dualistic *Déclaration des droits de l’homme et du citoyen* (Declaration of the Rights of Man and of the Citizen) that conceived of the nation-state as the only legitimate actor: “*Le principe de toute souveraineté réside essentiellement dans la nation*” (“The principle of all sovereignty lies essentially in the nation”).<sup>2</sup> Six years after the French declaration, Immanuel Kant argued for a cosmopolitan right (*Weltbürgerrecht*) to visit and to enjoy hospitality in other republics.<sup>3</sup> This cautious proposal, stopping short of endorsing a right to settle, is part of his treatise on perpetual peace.

These days, the dilemma between state sovereignty and universal rights is more pressing than ever. On the one hand, the idea of universal human rights is recognized in the modern world and advocated for ever more consequentially in the social sciences. In that vein, Ayelet Shachar has pointed to the injustice of the “birthright lottery”<sup>4</sup> and Luicy Pedroza has suggested citizenship rights for all, “beyond nationality.”<sup>5</sup> On the other hand, sovereigntists insist on the priority of the nation-state, and U.S. vice president J. D. Vance recently presented a moral *ordo amoris* (“rightly ordered love”), arguing for “compassion . . . first to your fellow citizens”<sup>6</sup>—a misrepresentation of Catholic teaching ever since Augustin’s *civitas dei*, or “city of god.”<sup>7</sup> Kant, in the ironic preliminary remark to his essay on perpetual peace, introduced “to distract the censorship authority,”<sup>8</sup> had foreseen

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such tensions between the “sweet dreams” of philosophers and the contempt of practical politicians for “school sages.”

The dilemma has been meticulously elaborated by Seyla Benhabib, addressing what Habermas called the “Janus face of the modern nation.”<sup>9</sup> She presents it as the “constitutive dilemma at the heart of liberal democracies between sovereign self-determination . . . and adherence to universal human rights principles” and an “outright contradiction” at national borders.<sup>10</sup> She sees an “inevitable and necessary tension between moral obligations and duties resulting from our membership in bounded communities and . . . as human beings simpliciter.”<sup>11</sup> She criticizes communitarians ignoring the dilemma and simply following traditional nationalist ideas, omitting and neglecting border issues, and conflating “cultural with political integration.”<sup>12</sup> On the other hand, she values the “right to belong to some kind of organized community”<sup>13</sup> and the nation-state as the only institutional structure that defends the rights of all who are its citizens—“at least in principle.”<sup>14</sup>

In the spirit of Kant’s approach, Benhabib has argued for “democratic iterations,” or “processes of public argument, deliberation, and exchange through which universalist rights claims and principles are contested and contextualized, invoked and revoked, posited and positioned, throughout legal and political institutions, as well as in the associations of civil society.”<sup>15</sup> She also sees the EU’s supranational structures as offering a possibility to disentangle conflicts between the nation-state and its environment. She discusses the ongoing EU arrangements as a way of solving or softening the dilemma. Migration dilemmas have since been discussed in many aspects.<sup>16</sup>

With respect to refugees, the dilemma has specific aspects: Unlike other migrants, refugees do not immediately generate added value for the receiving country or community, like labor or investment immigrants, nor do they generally have relational connections as family migrants do. Their acceptance is based on humanistic principles or political sympathy. Either that takes place or the migrants flee over borders informally, and the immigration country must simply deal with their presence. This generates a specific hospitality dilemma, between the moral obligation to welcome refugees on the one hand and the sovereign right to exclude on the other. Where the moral obligation exists but there is no political will to invest resources and engage civil society in a process of incorporation, the successful inclusion and integration of the refugee population may suffer.

In the following, I shall first outline the specificities of the European asylum system and explain their *raison d’être*. Next, I will compare this asylum system,

which became particularly controversial with the reception of over a million Syrian refugees in 2015 and 2016, to a different form of hospitality; namely, that offered by the EU to Ukrainians fleeing the war caused by the Russian invasion. These two types of reception diverge both in their form—one is highly controlled and bureaucratized; the other characterized by freedom of entry and movement—and in their effects with regard to integration and social perception. Whereas the complex European asylum system, with all its contradictions, has emerged over decades, the Ukrainian refugee crisis in 2022 led to a sudden new opening. I shall use this historic situation to compare the traditional European asylum system and the opening for the Ukrainians, and to examine the implications for the political and media processes that lead to different modes of acceptance of refugee groups—processes of othering for asylum seekers from the Middle East vs. processes of Europeanizing for the Ukrainians. In doing so, I shall shed light on the different expressions of the hospitality dilemma, and on the conditions most favorable to its mitigation.

## THE EU'S COMMON EUROPEAN ASYLUM SYSTEM

The Common European Asylum System (CEAS) is an example of Benhabib's deliberative idea. Long negotiations between EU countries resulted in a complex framework governing refugee policy and law. The universalistic principles formulated in the Universal Declaration of Human Rights (1948), in the Convention Relating to the Status of Refugees (1951) and its Protocol (1967), and in the revised Treaty on European Union, as well as in several national constitutions, became enforceable European directives between 1999 and 2004. The European Court of Human Rights in Strasbourg and the Court of Justice of the European Union (CJEU) in Luxembourg have interpreted and developed European law. Courts in EU countries follow the European Court judgments and appeal to the CJEU for clarifications. The CJEU became powerful and active, Europeanized public law, and sharpened human rights standards. At the same time, the regulations were meant to harmonize the asylum systems between EU member countries, ending the North-South divide between highly formalized asylum systems and *laissez-faire* practices.<sup>17</sup>

CEAS was built up as a comprehensive system, with detailed rules for fair decisions; protections for minors and vulnerable people; and dignified housing, food, education, and employment. It clarified standards for protection, access to rights and to integration, and defined the country responsible for each case.

Yet, it is now conventional wisdom that the system has failed. Natascha Zaun found that the states actively engaged in the deliberations—the United Kingdom (when it was still in the European Union), Germany, and the Netherlands—succeeded in constructing the EU system in the image of their own existing rules. They also succeeded in establishing the responsibility of the refugee’s country of first entry.<sup>18</sup> Southern and Eastern member states were rather passive in the deliberations, but in the end did not follow the rules of registration and accommodation.

CEAS implementation led to tensions between the countries, with various beggar-my-neighbor tactics and practices. Refugees are widely considered a burden. Nativist fears and feelings are omnipresent across Europe, and politics-media discourses are driving public opinion, parliaments, and governments to circumvent, oppose, and even openly disregard European Union rules. Governments sticking to the rules are swept away in elections, and halfway accommodation of the anti-immigrant trends often leads to the downfall of governments and electoral successes of xenophobic parties. The 2024 EU Pact on Migration and Asylum even allows countries to opt out of accepting refugees in their own territory and instead contribute financially to those states that do host or resettle them.

Thus, the EU ended up with an “asylum paradox”: an elaborate system to safeguard asylum while simultaneously fostering a common wish to prevent people from reaching EU territory where asylum is granted.<sup>19</sup> The aim is to keep asylum seekers out and in third countries, to externalize the problem, and the EU is prepared to pay other countries to do so.

### *Path Dependency and Symbolic Politics*

The European path for refugees is unique, and differs from their experiences in countries in other regions, particularly the United States, as Courtney Brell, Christian Dustmann, and Ian Preston have shown.<sup>20</sup> In Europe, refugees are considered a burden, difficult to bring into work, and the discussion is about sharing or not sharing this burden or getting rid of it. In this context, a murky and long asylum processes, collective accommodation, and employment bans have led to long phases of unemployment and welfare dependence for refugees and asylum seekers, with millions rendered idle and out of work. The buildup of an asylum control bureaucracy was meant to regulate and solve the asylum problem.<sup>21</sup> When it did not function, more controls were introduced or intensified, creating even

more bureaucracy and isolation, as the rules governing the lives of asylum seekers are meant to prevent their full inclusion in society for as long as their claims have not been fully adjudicated. This is a novel example of Murray Edelman's analysis of "more of the same" in symbolic politics.<sup>22</sup>

## THE EXPERIENCE OF "FREE CHOICE" FOR UKRAINIANS

The shock of the Russian invasion in Ukraine opened the way for a totally new EU approach: "free choice" of the country of refuge for the displaced Ukrainians. One week after the beginning of the Russian aggression on February 24, 2022, EU ministers decided to open their countries for fleeing Ukrainians and give them a free hand to choose where to settle and work, under the EU's 2001 Temporary Protection Directive, which had never been applied before. When the decision was taken, a million fleeing Ukrainians had already crossed the borders using their visa-free status, agreed to in 2017. Switzerland, Iceland, Norway, and Denmark joined in. European railways offered free rides, and the displaced people were able to move all over Europe, assisted by governments and by support networks that spontaneously sprang up everywhere.

Although the original enthusiasm has given way to routine after three years, free choice has been a success all over Europe. Ukrainians can move freely across borders, and back and forth between the EU and Ukraine. In contrast to asylum and other immigration systems, Ukrainians are not stuck in their countries of refuge, and need not navigate the difficulties of selectively closed borders. Even though Ukrainians are unevenly distributed in Europe, states have not engaged in conflict about their distribution. Many of the 2022 refugees have returned to Ukraine, knowing that in case of danger the way would be open again. This is different from the asylum system where refugees assume that they have one chance only and must cling to the country that they have reached. Border countries have been relieved from the first days on, since some of the refugees have chosen countries as far to the West as Portugal, Ireland, Iceland, and even Canada, which stepped in with its own temporary protection program. Canada granted 962,464 visas to Ukrainians, but only 298,128 refugees made it to Canada before the program ended on April 1, 2024.<sup>23</sup> In addition, 187,000 Ukrainians went to the United States under the Uniting for Ukraine program.<sup>24</sup>

Contrary to all predictions about chaos, free choice has led to a distribution pattern across Europe that has been largely stable since November 2022 and can be

tracked in the Eurostat maps published every month.<sup>25</sup> Only 7 percent of Ukrainian refugees have registered in a country different from their present country of refuge.<sup>26</sup> Fears that nearly everybody “would move to Berlin and Vienna” did not come true, and high-income countries are not the main recipients.<sup>27</sup> Calculated per capita of the countries’ population, the Czech Republic hosts more Ukrainian refugees than all other countries, at 3.57 percent of the population as of December 31, 2024. In Poland, Slovakia, Estonia, Latvia, and Ireland, more than 2 percent of the population are now Ukrainian refugees. Germany, Norway, and Finland have more than 1 percent. In Western Europe, the percentages vary from Ireland’s 2 percent to 0.09 percent in France. Thus, one in thirty inhabitants of the Czech Republic is a Ukrainian refugee, but only one in one thousand in France. Although France pays a single displaced unemployed Ukrainian 426 euros per month indefinitely,<sup>28</sup> many prefer the Czech Republic, Poland, and the Baltics, where welfare payments are limited to a few months for people able to work.

Eastern EU countries pay less, but they opened the way for people to work in their chosen professions. They followed the European Commission’s recommendation<sup>29</sup> for easy access to professional activities for the displaced Ukrainians. Poland passed a special law to entitle displaced Ukrainians to work as “doctors and dentists, nurses and midwives, psychologists, academic teachers and researchers, school teachers’ assistants if they know the Polish language, miners, persons working in public offices, and persons working in the foster care system (upon the consent of specified authorities).”<sup>30</sup> The Czech Republic, Slovakia, and the Baltic states took similar steps. Thus, many displaced people can work and contribute to their new communities. In contrast, Ukrainians in Western European countries work largely in nonqualified jobs or remain unemployed.<sup>31</sup> Italy’s opening of the health sector is the exception. Blunt refusal of recognition or endless waiting times discourage the applicants<sup>32</sup> and restrict them to undesirable jobs. “Clearly, you can simply put psychologists to cleaning toilets” was the bitter and disappointed comment of a Ukrainian psychologists’ initiative when they were refused recognition and could not serve their needy fellow Ukrainians in Switzerland.<sup>33</sup>

With recognized professional certificates, the status of the displaced Ukrainians resembles that of EU citizens in Eastern EU countries, including the need to earn an income. A further step is the Polish policy to offer transitions to work statuses. On the other hand, in Switzerland, Ukrainians need a permit to work or to change canton. Unable to work in their preferred jobs, they have been accused of being

“work-shy.”<sup>34</sup> In Austria, they fall into the “inactivity trap” and lose their health insurance upon taking up employment. In Germany, they need a lot of paperwork and wait for an available slot in the obligatory integration courses. Authorities act largely in the established refugee system mindset and do not expect a speedy labor market integration.<sup>35</sup>

## COMPARING THE HOSPITALITY EXPERIENCES

Comparing the experiences of Ukrainian and non-Ukrainian refugees, we see divergent developments. Despite careful planning, the established European asylum system ran into deep trouble when confronted with the large influx of Syrian refugees from the country’s civil war, for example, whereas the spontaneously created free choice arrangement after the Russian invasion has worked much better. Since Ukrainians are automatically entitled to temporary protection, there is no need to determine the eligibility for asylum and consequently there are no waiting periods. By contrast to the regular asylum system, this does not create additional workloads for courts, and the individuals in question get immediate access to the labor market and to certain social benefits. Free choice did away with two procedural dilemmas: the decision about the right to arrive and the decision about where a refugee would be allowed to settle. These procedural dilemmas mirrored the general hospitality dilemma of refugee policies: the wish and legal obligation to help and host people in need, and the reluctance to take those not in need and to encourage too many to come. In the asylum system, states tried to limit and hinder the agency of refugees, as well as the hospitality activities of the general population. With free choice and direct settlement, the interaction between refugees and natives became free and open, and both sides could immediately become active and interactive. Asylum seekers appeared as generic boundary violators forced on communities that had to fulfill their quotas, whereas Ukrainians appeared as individuals and often were invited into countries. In the case of Ukrainians, unregulated entry and free choice of destination within the EU did not generate the feeling of being overburdened, whereas the traditional controlled entry and bureaucratized procedures do. Counterintuitively, while the asylum system is aimed at avoiding an overburdening of the hospitality-related institutions, particularly the welfare system and the housing and labor market, it ends up overburdening the asylum systems and the courts, and creates an inactive and unintegrated population, which puts pressure on social relations and produces high costs.

Racist and ethnic stereotyping of refugees from the Middle East and from Ukraine have also shifted, in different directions. After an initial “welcome culture,” during the refugee influx from the Syrian civil war, Syrian men were often stereotyped negatively, whereas anti-Slavic stereotypes have given way to a spirit of inclusivity for the Ukrainians. Both processes, the othering of people from the Middle East and the deothering of Ukrainians, are connected to international policies and wars, but also to the effects of the different acceptance policies. The long tradition of devaluing and stereotyping Eastern Europeans in Western cultures has eased for Ukrainians. In Samuel Huntington’s system of civilizations, for example, Ukraine was considered part of the Slavic-Orthodox civilization, and thus non-Western and other.<sup>36</sup> Following the 2022 Russian attack, Ukraine is now broadly considered as European in the West, whereas anti-Muslim and anti-Arab attitudes are on the rise. Thus, the dilemma is subsiding under free choice for Ukrainians and persisting for refugees from the Middle East under the established European control system.

## DILEMMA DIMENSIONS, ENVIRONMENTS, CYCLES, AND MANAGEMENT

In all its forms, variations, and developments, hospitality for refugees invokes the dilemma between universalism and particularism introduced at the beginning of this essay. It can be temporarily overcome in moments of solidarity, and it can be suppressed, managed, brought back, played up, and celebrated. It can have populist, elite or upper-class, casual, or institutionalized connotations. We see environments of otherness and of communality, and processes of othering and of coming together. Analytically, we can distinguish different dimensions of this dilemma as follows.

*A demographic dimension.* The importance ascribed to demographic factors is key to explaining the different trajectories of the European hospitality regimes I have discussed. First, consideration of gender has made an important difference. The typical asylum seeker from the Middle East is portrayed as a young man, often associated with masculine aggressive behavior, and generally scandalized because of individual physical assaults. In contrast, Ukrainian refugees are mostly women and children, and men are rarely mentioned. Key actors have shown immediate concern that they should be protected from sexual exploitation.<sup>37</sup> Moreover, Ukrainians are often seen as Europeans rather than non-European asylum seekers, and the tradition of the othering of Eastern Europeans has been played down. As Elena Dück and colleagues show, in discourses in Poland, Germany, and the wider EU, “race was not



explicitly mentioned.” Yet, they conclude that Ukrainians “were perceived as white and . . . race did not need to be discussed.”<sup>38</sup> They interpret the othering processes as racialization, without presenting evidence and discussing the othering of Russia and Russians in perspective. Importantly, othering processes are not necessarily *racist*, and European discourses often focus on culture and religion rather than “race.”

*A spatial dimension.* Clearly, geographical proximity eases refugee moves, and neighboring countries are confronted with people fleeing over borders before they move onto far-away destinations, like the spontaneous movement of Ukrainians across European borders in 2022. Afghans fleeing to Pakistan and Syrians to Turkey are other examples. However, as shown by the experiences of Central American asylum seekers staying in the United States or Mexico, neighborhood is not necessarily a friendly connection.

*A time or attention dimension.* During bellicose events or mass human rights violations, we often see compassion and feelings of solidarity or adversity, often connected to attributions of responsibility and political sympathy. These feelings can dwindle in the long run, particularly in the media when the news effects are over or alliances shift.

*An inclusion dimension.* Migrants can come to be seen as a burden when they are not economically self-sufficient and socially incorporated, which, however, is often the result of host state policies that hinder or delay integration in the name of protecting hosting institutions. Thus, refugee regimes are precarious when refugees are kept separate; integration is needed for long-term stability. Whether a country’s economic outlook is optimistic or pessimistic affects the acceptance of groups that are needy: optimism breeds inclusion and pessimism the reverse. Factors such as inflation and bottlenecks in the housing market can also have effects on the acceptance of immigrants.<sup>39</sup>

*A security dimension.* Foreigners or immigrants are often regarded as a security problem, rightly or wrongly. In the mind of the public, they are related to international arenas and countries of origin, whether in conflicting or supportive ways. As such, narratives of actual as well as older historic relations between the refugees’ home countries and destination countries can impact public perception of their suitability as “safe” entrants into a community.

*An implementation dimension.* The quality of rules and of management makes a difference. Contradictory and complex arrangements can counteract the best intentions. Asylum administrations need to work with civil society and use its manifold resources and agency.

## CONCLUSION

As long as the nation-state is the dominant form of political, social, and economic organization, borders and boundaries will shape human mobility that transcends national containers.<sup>40</sup> Economic migration is often promoted by material interest and may lead to dilemmas between security perceptions or cultural homogeneity and economic needs, infrastructural imbalances, or unforeseen effects. Refugee reception is based on humanitarian principles, universalistic treaty systems, sympathy for suffering people, or solidarity with groups with religious, political, or other affiliations. Since it is largely grounded on moral, not material, resources, it needs the backing of an active civil society to advance and be maintained over time.

My comparison demonstrates different welcome patterns for the Ukrainians and other refugees in Europe. Most Ukrainian refugees have been absorbed all across Europe with the help of spontaneously organizing citizens. Over the years, the agency of the refugees has been more successfully exercised in the Eastern EU countries, where their professional qualifications are recognized. On the other hand, overly complex and bureaucratic control machineries and contradictory policies have weakened the moral basis of reception of refugees from the Middle East and led to a perception that they are a burden that must be reduced. Over time, this has led to self-enforcing processes, since problems have mostly been treated with more control bureaucracy and more national actions that ran against other national interests and against common European solutions.

The opening for Ukrainian refugees has occurred as a response to Russian aggression. It is not easy to repeat for other groups, particularly those who suffer under established prejudices or ongoing processes of othering. But as this case shows, solving or softening the hospitality dilemma can only be achieved when refugees are recognized as masters of their own life in an open society, enabling them to unfold their agency in their new environment.

### NOTES

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- <sup>33</sup> Quoted in Robin Bani, “Ukrainische Psychologin ist enttäuscht: ‘Die Schweiz lässt mich nicht arbeiten’” [“Ukrainian Psychologist Disappointed: ‘Switzerland does not let me work’”], *Blick*, October 21, 2024, [www.blick.ch/schweiz/ukrainische-psychologin-ist-enttaeuscht-sie-darf-nicht-arbeiten-id20240701.html](http://www.blick.ch/schweiz/ukrainische-psychologin-ist-enttaeuscht-sie-darf-nicht-arbeiten-id20240701.html).
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- <sup>35</sup> Thränhardt, *Chancen besser nutzen* [Making Better Use of Chances]; and Yuliya Kosyakova, Kseniia Gatskova, Theresa Koch, Davit Adunts, Joseph Braunfels, Laura Goßner, Regina Konle Seidl, Silvia Schwanhäuser, and Marie Vandenhirtz, *Arbeitsmarktintegration ukrainischer Geflüchteter: Eine internationale Perspektive* [Labor Market Integration of Refugees from Ukraine: An International Perspective] (Nuremberg: Institute for Employment Research, November 14, 2024), [doku.iab.de/forschungsbericht/2024/fb1624.pdf](http://doku.iab.de/forschungsbericht/2024/fb1624.pdf).
- <sup>36</sup> See Samuel P. Huntington, “The Clash of Civilizations?,” *Foreign Affairs* 72, no. 3 (Summer 1993), pp. 22–49, at p. 38.
- <sup>37</sup> Kristy Siegfried, “Ukraine Crisis Creates New Trafficking Risks,” UN Refugee Agency, April 13, 2022, [www.unhcr.org/news/stories/ukraine-crisis-creates-new-trafficking-risks](http://www.unhcr.org/news/stories/ukraine-crisis-creates-new-trafficking-risks).
- <sup>38</sup> Elena Dück, Zina Weisner, and Elodie Thevenin, “Female, Deserving, and European? The Changing EUropean Migration Discourse in the Face of the Russia–Ukraine War,” *Politische Vierteljahresschrift* 66 (March 2025), pp. 101–24, at p. 112.
- <sup>39</sup> One recent example is Ireland’s housing crisis, related to the arrival of refugees. See Taryn Pedler, “The £370,000 Homes Built for Ukrainians That Have Enraged Ireland: As Country Suffers Housing Crisis, Families Fume That War Refugees Are Given Brand New Accommodation,” *DailyMail.com*, October 8, 2024, [www.dailymail.co.uk/news/article-13936321/The-370-000-homes-built-Ukrainians-enraged-Ireland-country-suffers-housing-crisis-families-fume-war-refugees-given-brand-new-accommodation.html](http://www.dailymail.co.uk/news/article-13936321/The-370-000-homes-built-Ukrainians-enraged-Ireland-country-suffers-housing-crisis-families-fume-war-refugees-given-brand-new-accommodation.html).
- <sup>40</sup> Wiebke Sievers, Rainer Bauböck, Mathias Czaika, and Albert Kraler, eds., *Drawing Boundaries and Crossing Borders: Migration in Theorie und Praxis* (Vienna: Austrian Academy of Sciences Press, 2024).

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Abstract: Today’s controversies about territorial access and rights of refugees and the cohesion of the nation-state can be traced back to the *Declaration of the Rights of Man and of the Citizen* and Kant’s ideas about hospitality. Seyla Benhabib has argued that the resulting dilemma can be softened and bridged through “democratic iterations,” and that the EU deliberation offers a suitable perspective. However, the complex construction of the EU asylum framework has led to a paradox of highly regulated rights and closed borders, and to disappointment and opposition. The sudden opening of borders and free choice for the Ukrainian victims of Russian aggression open a new perspective to address the dilemma, in line with EU principles of free choice and openness.

Keywords: asylum, Kant, hospitality, EU temporary protection, migration, Common European Asylum System, CEAS, free choice