



# Understanding solidarity in the European Union: an analytical framework

Daniele Saracino<sup>1</sup>

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## Abstract

Solidarity is a key concept in the European Union. However, the concept of solidarity lacks systematic theoretical examination to enable a sufficient understanding of its contextual meaning and to provide an operationalisable benchmark for analysis. To address this research gap, I propose an analytical framework for solidarity in the European Union that features four necessary conditions: particularity, instrumentality, reciprocity, and responsibility. I develop the framework through a transdisciplinary conceptual history approach, substantiated with a thorough document and legal analysis of European integration and CJEU case law. I demonstrate the robustness and validity of the proposed framework by using EU asylum policy as a test case, a field where the question of solidarity is notoriously salient, which is exemplified by an area-specific expression of the concept: fair sharing of responsibility between the EU member states. Moreover, I show that the EU's solidarity principle is necessary to maintain the bloc's *raison d'être*.

**Keywords** Solidarity · European Union · Asylum policy · Conceptual history · Analytical framework

## Introduction

Solidarity is an extraordinary concept. It features prominently in a variety of research disciplines and permeates multiple relational dimensions of our life experience. Its meaning seems to vary considerably depending on the viewpoint taken. In an apt characterisation, Volkmann (1998) has pointed out that the concept conveys both comfort and genericness, equipping it with an unflinching positive connotation as well as always leaving the door open for the individual to evade concrete calls to action. In this field of tension, solidarity meanders as an iridescent, elusive, seemingly ubiquitous concept that carries a wide-ranged appeal. However, the omnipresence

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✉ Daniele Saracino  
daniele.saracino@essex.ac.uk

<sup>1</sup> Department of Government, University of Essex, Colchester, UK

and overuse of the concept of solidarity can make it come across as arbitrary and watered-down which poses a challenge for rigorous analysis.

This holds true especially in the context of the European Union where solidarity has been introduced in the founding act of European integration as ‘*solidarité de fait*’ (Schuman Declaration, 1950). Since then, the concept has markedly raised its European stature, evolving into a fundamental EU legal principle. In addition, it is constantly invoked in times of political crisis in the EU: be it the euro crisis, the Covid-19 crisis, the Ukraine crisis, or – maybe most of all – the asylum crisis of 2015–2016. The latter, in particular, has spawned public debate and fertile scholarly interest that is still ongoing: failed policy solutions like the 2015 mandatory relocation scheme for asylum seekers aimed at giving effect to solidarity among the member states, corresponding primary law provisions, and the much-debated responsibility allocation logic of the ‘Dublin system’ creating a severe solidarity deficit highlight the significance of solidarity in EU asylum policy (see e.g. Costello & Mouzourakis, 2017; Küçük, 2016; Saracino, 2018). The issue remained front and centre in the negotiations to reform the Common European Asylum System (CEAS) (Maiani, 2022). It will remain a bone of contention even after the reform has passed since some member states announced that they will not fully implement the so-called ‘solidarity mechanism’ (Lopatka & Baczynska, 2024). The handling of the refugee movements from Ukraine after Russia’s full-scale invasion has opened an additional avenue to study EU asylum solidarity (Saracino, 2024). Considering the continued salience of solidarity in this policy field, asylum policy constitutes a prime test case for this study.

However, a definition of solidarity is nowhere to be found in the EU’s *acquis communautaire*. The desideratum to address the meaning of solidarity in the European Union is apparent. Due to the concomitance of the elusive nature of the concept, on the one hand, and the outstanding significance for the European Union on the other, such an endeavour is both (epistemologically) essential and (methodically) challenging. Astonishingly, sufficient theory building to understand the meaning of solidarity in the European Union is, by and large, absent. Hence, the impetus of this contribution is making the concept of solidarity operationalisable for the study of the European Union by providing an analytical framework based on a cogent, interdisciplinary, and methodologically sound theoretical approach that addresses this considerable lacuna. The salience of solidarity in EU asylum policy makes this area a worthwhile example of exploring the validity and robustness of the proposed framework.

Therefore, it is this piece’s central aim to tackle the identified research gap, outlined in the first part, by providing a systematic theoretical account that can be employed to deliver more robust results when studying solidarity in the European Union. To that effect, I will provide an analytical framework for solidarity by means of a conceptual history approach based on the seminal works of Reinhart Koselleck that offers a novel methodological approach to conceptualising solidarity in the European Union and satisfies two fundamental premises: first, employing and theorising concepts with a thorough knowledge of their historical development produces more reliable and valid findings. Second, given the absence of a present institutionalised interpretation, an underlying understanding of solidarity in the EU exists that

is embedded in the specific historical context of the concept (Müller, 2010). Hence, I will carry out an interdisciplinary exploration of the concept of solidarity through the introduced conceptual history lens from its origins in Roman law to contemporary accounts in the European context, carving out the theoretical framework along the way. In addition, I will examine the history of European integration, presenting the findings of an in-depth document and legal analysis, identifying the historical development of the EU's solidarity principle as well as its role and scope, to substantiate the proposed framework empirically. Demonstrating the specific expression of solidarity in the Union's asylum policy will function as a method to evidence the robustness and validity of the framework. The article will conclude by showing how the findings amalgamate to a research framework of solidarity that is applicable to all aspects of the European Union and can serve as a benchmark for analysis.

I propose that the concept of solidarity comprises four necessary conditions: particularity, instrumentality, reciprocity, and responsibility. Furthermore, I show that the principle of solidarity is a necessary condition for the European Union to function effectively and achieve its objectives in addition to providing an explanation for the existence of the specific expression of the solidarity principle in the policy area of asylum, namely fair sharing of responsibility between the member states.

This contribution offers a novel approach that adds methodological originality to the literature. It is aimed at reducing uncertainty and adding cogency and coherence to the understanding of solidarity, both in general and specifically in the case of the European Union. Ultimately, beyond stimulating the scientific debate on a theory of solidarity, I aim to provide European policymaking, legal decisions, and public perception with a more substantial understanding of solidarity in the EU to reduce arbitrariness around this crucial concept.

## The research gap

Although the concept of solidarity seems to be ubiquitous, theory building around it is rather rudimentary (Wilde, 2007). It is remarkably peripheral considering the extensive theoretical and analytical literature on other prominent concepts like justice, liberty, or equality (Bayertz, 1999). One reason might be its relatively recent ascent to relevance: the classics of political philosophy from Plato to Rawls barely give any notable attention to solidarity if they mention it at all.<sup>1</sup> Beyond its legal context, the concept gained prominence - mainly in France - not until the 1840s. Against this backdrop, Große Kracht (2017: 12) has aptly observed that in terms of interdisciplinary grounding, systematic elaboration, and argumentative rigour, contemporary discourses of social theory and political philosophy lack adequate theorisations of solidarity, rarely even sufficiently noticing or distinctly bringing forward this desideratum. Most authors eschew appropriate systematisation when dealing

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<sup>1</sup> One notable exception might be the work of Hannah Arendt. However, she uses the concept in an inherently inconsistent, if not contradictory manner that rather defies a rigorous, systematic account (Reshaur 1992).

with the concept of solidarity, either by choosing to adopt already existing, substantially inadequate definitions, or by defining the concept rather intuitively (Löschke, 2015). Thus, the concept of solidarity is chronically underdetermined and frequently employed in an incoherent, heterogenous, and hence inadequate manner for scientific analysis.

The study of the European Union and, more specifically, of its asylum policy is not excluded from this paucity. Bauder and Juffs (2020: 57) suggest that ‘a considerable share of the migration and refugee literature applies the concept of solidarity in a rather blasé manner’. This might be explained, in part, by the dominance of legal scholarship in dealing with the European solidarity principle and its methodological traditions of rather strict juridical lenses (Moreno-Lax, 2017; Tsourdi, 2017). Even though some legal scholars address the need to include some historical aspects of the concept (Küçük, 2016), this contribution’s systematic and transdisciplinary approach can help to fill potential gaps in legal frameworks of solidarity (Domurath, 2013; Hilpold, 2015; Wellens, 2005). The same applies to other EU areas and dimensions, like civic solidarity (Lahusen, 2020), solidarity with refugees (Straehle, 2020), or solidarity between EU citizens (Bauböck, 2018; de Witte, 2015).

A more theory-driven framework like the one presented here could also be valuable for more general explorations that either employ narrow analytical lenses by focusing on solidarity conceptualisations of individual authors like Durkheim (Trein, 2020); or embark on more cross-cutting approaches that still focus on only individual layers of the concept, like the social glue that binds societies together (Ferrera & Burelli, 2019; Laitinen & Pessi, 2015); or understand solidarity as an activist tool to foster societal and political change (Agustin and Jørgensen, 2019; Kolers, 2016; Scholz, 2008). This extends to social psychology where research on the components of solidarity is still rather nascent (Neufeld et al., 2019). By and large used interchangeably with prosocial behaviour, psychologists tend to focus on the circumstances and motivations of solidary behaviour whilst social scientists tend to focus on structural and institutional determinants (Lindenberg et al., 2006). Looking through the lens of self-identification, solidarity in psychological terms seems to be more closely connected to investment of the self rather than self-stereotyping in voluntary groups (Leach et al., 2008). Louis et al. (2019) make the case for refining the concept of solidarity within social psychology by distinguishing it from allyship; a corollary of their argument would be to subsume what is typically viewed as ‘solidarity with refugees’ under allyship.

Ultimately, this contribution seeks to go beyond hitherto existing approaches by offering a more integral approach that can combine existing lenses under one framework. In that respect it agrees with Shoemaker et al. (2004) who argue that there is an overemphasis on data collection without a clear sense of theoretical purpose that must be tackled by building theory to make sense of the empirical data. It should be noted, however, that a more substantial theoretical debate about the concept of solidarity has recently gained momentum. Kapeller and Wolkenstein (2013) offer a conceptualisation through the lens of liberty. Sangiovanni (2015) maintains an actor-centred perspective restricted to social justice and the welfare state that Kneuer et al (2021) build their multi-level framework on. These theory-driven approaches have not really spilled over to the study of the European Union where the requirement to

base the examination of solidarity on sound theoretical groundwork remains paramount. Positive exceptions remain few and far between (Bartenstein, 2021; Saracino, 2019).

## Methodology

Some misunderstandings around the concept of solidarity could be removed by first clarifying the nature of concepts in general. Concepts are theories about the fundamental constitutive characteristics of a phenomenon, and these must be ascertained when analysing them (Goertz, 2006). Concepts are significantly informed by their (social, historical, cultural) environment and are constantly changing (Freeden, 2017). A concept combines in itself an abundance of meanings and must necessarily be ambiguous: 'It bundles together the richness of historical experience and the sum of theoretical and practical lessons drawn from it in such a way that their relationship can be established and properly understood only through a concept' (Koselleck, 2011: 20). Concepts, hence, can only be interpreted, not captured in atemporal, exhaustive and closed definitions, due to their intrinsic nature of having abundant, aggregative meanings.

Acknowledging that authoritative closure of concepts can never be achieved is imperative to realise that Gallie's (1956) argument of 'essentially contested concepts' – meaning that one conceptualisation can never be more theoretically justified than another – is a relativist one that can result in the notion that measurement is futile. The fact that concepts are disputed does not mean those disputes cannot be pacified or resolved. Certainly, there can be understandings of concepts that are more coherent and cogent than others by reducing ambiguity and vagueness with information and contextualisation. This is what the method of conceptual history employed in this piece provides extensively. Deducing that theorising concepts is superfluous or unnecessary is an illegitimate and self-defeating approach to sound analysis (Munck et al., 2020).

One objective of the conceptual history method is to gain a benchmark for the study of concepts. Semantic deviations affected by changes in context of their historical usage are accounted for and can become constitutive elements of their interpretation (Palti, 2011: 47). Dimensions of a concept are related to each other and establish temporal as well as spatial dimensions to being applicable (Pennings, 2019: 55). Central to conceptual history according to Koselleck (2002), often labelled as its German translation *Begriffsgeschichte*, is ascertaining past meanings of concepts to specifying what they mean for us today. This methodological approach examines the temporal structure of concepts to first retrieve and then analyse their layers or sediments of meaning through time: the 'method uncovers those concepts which can serve as the basis for theories, and then examines thematically how such concepts change over time' (Koselleck, 2011: 21). It is paramount to write a transdisciplinary conceptual history because of the several synchronous and diachronous interconnections (Koselleck, 1989).

Applying the method can satisfy the general need to render concepts measurable by assigning them a specific value in a particular occurrence (Gay & Waever,

2011). Concepts may be understood as crystallised nuclei or condensation of discourses (Bödeker, 2011). However, it should be noted that concepts are a continuum and either have no or porous boundaries and thus overlap with others (Steinmetz & Freedon, 2017). It is thus unnecessary to theorise concepts as being completely separated from others. The aim of a sound methodological conceptual history approach is therefore to carve out patterns and not to focus on the unique. On the other hand, when building theoretical frameworks, they should not be missing any essential or important dimensions (Goertz, 2020: 35).

Palonen (2002a) has argued that in political science, contestation of concepts is methodologically desirable because those disputes are both a prerequisite for the interpretation of a concept's (trans)formation; without debates there would be a deficient understanding of politics. Political analysis by means of conceptual history can draw cogent conclusions from the seemingly negligible: 'Conceptual history offers a chance to turn the contestability, contingency and historicity of the use of concepts into special instruments for conceptualizing politics' (Palonen, 2002b: 92). It is hard to imagine a meaningful study of politics (or society, economics, culture) without taking into account the conceptualisations of the past and the present which conceptual history puts at its centre (Palonen, 2005). This contribution equally maintains that adequate research of concepts demands a sufficient understanding of their history; employing the conceptual history method delivers that necessary knowledge to satisfy a methodologically and empirically sound approach.

In light of these findings, this contribution's approach will be to 'define' solidarity in the European Union through a theoretical framework based on the outlined conceptual history approach. Since concepts cannot be defined in their entirety, this piece aims at providing an interpretation based on the pertaining prerequisites and presuppositions in the context of the European Union. The aim is not to determine but rather to identify and demarcate the meaning of solidarity in the European Union. This method is buttressed by an extensive document and legal analysis ranging across languages (German, English, French), academic text types and research disciplines. This article proposes a theoretical framework for analysis that is hitherto absent and that facilitates efficient development of the field as well as adding a sound understanding of solidarity in the European Union. The framework includes intension and extension of solidarity in the EU and employs an inductive model of theory building. It formulates a two-level theory as a 'conjunction of necessary causes', i.e. necessary conditions that are jointly sufficient for solidarity in the EU where secondary level variables (particularity, instrumentality, reciprocity, and responsibility) represent the defining features that constitute the basic-level variable (solidarity) (Goertz, 2020: 275). The framework is confined to the study of the European Union, hence preventing 'conceptual stretching' of the concept of solidarity (Sartori, 1970).<sup>2</sup> It extracts systematic features of solidarity

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<sup>2</sup> I acknowledge the tension that the multilevel design of the European Union might cause in this regard. Solidarity can not only overlap with other concepts but also among dimensions. It should be noted, however, that actors can have multiple solidarities. This does not interfere with my aim to avert conceptual stretching when carving out the specificity of solidarity in the EU. The layered dimensions of solidarity do not preclude the emergence or existence of a particular EU solidarity, quite the contrary: My exploration will show that without some of those dimensions – for example national, transnational, supranational – the specific kind of EU solidarity I conceptualise would not exist.

to ascertain what is relevant for research on solidarity in the EU, distinguishing systematic from non-systematic components (King et al., 2021: 62).

## Conceptual history of solidarity

In what follows, I will present a conceptual history of solidarity based on the main features outlined above that results in a theoretical framework to gain a profound understanding of the concept in the context of the European Union. It features four necessary conditions: particularity, instrumentality, reciprocity, and responsibility. These necessary causes for solidarity are inextricably linked, mutually dependent and establish reciprocal references to another. It will become apparent that solidarity forms in enlightened self-interest of actors: solidarity emerges when actors realise that they can attain certain goals better in conjunction with others. On that voluntary basis, the outcome is a reference group that generates reciprocal commitment in the form of support and assistance to ensure the achievement of the common objectives. Solidarity creates this mutual connectedness where the reference group members vouch for each other in terms of the common objectives. Solidarity is a means to the end of achieving common objectives of actors in non-universal reference groups.

### Origins in Roman law

Counterintuitively, the concept of solidarity does not originate in the labour movement or in the classics of sociological or philosophical thought but has its roots in Roman law. Its principle of *obligatio in solidum* means that the debt or obligation that every debtor had vis-à-vis the group of debtors they are part of (Brunkhorst, 2005). This creates a joint liability in which the debtors vouch for a common debt. Every single debtor is liable for every other debtor vis-à-vis the creditor in terms of the joint obligation. This principle has survived in several legal systems that are strongly influenced by the Roman law tradition, especially in France. In this legal tradition, to this day, persons unknown to each other, different roles, and heterogeneous interests are being bound to each other even though they are not being connected through a common identity. What connects them is a common objective and they need solidarity as an instrument to achieve it.

### Adaptation during the French Revolution

This specific legal tradition might be an explanatory factor as to why the concept starts to gain additional variations in its meaning in France. In 1770, Voltaire uses solidarity with a connotation outside of the legal tradition to describe the behaviour of Jesuits towards the French King (Zoll, 2000). This burgeoning connotative change was perpetuated during the French Revolution. For example, Mirabeau and later Danton use solidarity unambiguously detached from its legal form and approximate it closer to socio-political issues, describing social interdependence (Röttgers, 2011). A coexistence of both old and new contextual meanings emerges in this

period. In terms of another prominent concept in the French Revolution, an occasional misunderstanding should be clarified: *solidarité* and *fraternité* have never been interchangeable or synonymous and always coexisted (Piazolo, 2004). During the French Revolution, solidarity assumes the role as the political discharge of fraternity (Küppers & Nothelle-Wildfeuer, 2011). Solidarity replaced fraternity during the first part of the nineteenth century insofar as it seems to be more fitting for political contexts (Schieder, 1972). The frequency of its usage increases significantly in the 1840s (Schmale, 2017). All in all, solidarity emancipates from its legal application and gains a distinct socio-political profile by the 1840s.

### Recalibration in post-revolutionary France

In 1842, Hippolyte Renaud (1842) publishes a book with ‘solidarity’ in its title – a summary of Charles Fourier’s doctrines. Fourier’s utilisation of solidarity meanders between legal, welfare state, and socialist activism; descriptive as well as normative elements are clearly discernible. For the first time, the concept of solidarity becomes a central element of an intended societal reform. Pierre Leroux (1985 [1840]) introduces a systematic use of solidarity as a central theoretical concept that is completely devised outside a legal context and deployed in purely philosophical-scientific terms in *De l’humanité*. In this work, Leroux conceptualises solidarity in contrast to Christian charity and makes the case for replacing the latter with the former. In his view, all humans are bound together as a species whereof he deduces a mutual responsibility. By relinquishing the universalist claim of Christian charity, Leroux confines solidarity to particular (non-universal) societies where people only bear responsibility for each other when they are bound together by societal cohabitation. Therefore, showcasing this kind of connection and organisation as well as substantiating the reciprocal commitment becomes the function of the respective political sphere. Particularity and reciprocity are posited here alongside both descriptive and normative dimensions of solidarity.

### Imperative in the labour movement

Within the emerging labour movement, solidarity becomes a reformist leitmotif that demands vouching for each other and cohesion in terms of the common interest, bearing decidedly political and socio-moral underpinnings. It is worth noting, however, that there is no remarkable theoretical debate on the concept in Marxist thought (Große Kracht, 2017: 65). The Communist Manifesto does not mention solidarity at all. The labour movement, and socialist thought in general, retained solidarity as an activist formula to fight institutions of (perceived) oppressive power in solidarity as an expression of common interest. The emphasis of socialist thinkers like Lasalle (1919 [1863]), Liebknecht (1976 [1871]), or Bernstein (1910) on the concept’s importance for the labour movement notwithstanding, their writings lack systematic conceptualisations of solidarity. Exclusive class-solidarity as a means to forming a community to fight for the common objectives remained at the forefront (Tenfelde, 1998). Further emphasis is put on the non-universality of solidarity and the notion



that it is not bound to the nation-state. These motives continue to influence contemporary socialist thought or neo-Gramscianism (Featherstone, 2012; Weber, 2007). Developments in modern social democracy seem to point to the main feature of solidarity as instrumental in actors' enlightened self-interest (Stjernø, 2005).

## Introduction into burgeoning sociology

Auguste Comte (1839) has introduced the concept of solidarity into the academic discourse within the field that he is considered to be a co-founder of – sociology. Comte uses solidarity to describe social interdependencies that exist independently of individuals' emotions and perceptions. He interprets the progressing division of labour in society as an expression of social solidarity and posits solidarity as emerging naturally between individuals in a society, and not, as contractarians would contend, as an artificial result of an entered contract (Fiegle, 2003). Apparently, Comte (1839: 337) was so convinced of his understanding of solidarity that he expressly did not deem it necessary to provide evidence for it. That weakens his conceptualisation substantially. Just positing a phenomenon as naturally emerging without substantiation remains highly problematic and inherently fallible.

In his seminal work *The Division of Labour in Society*, Émile Durkheim (1893), a student of Comte, conceptualises solidarity as a force necessary to bind a society together by devising it as a form of sociability that denotes the connection between society and its system of rules. He famously distinguishes two forms of solidarity: the predominating type in segmented, 'traditional' societies that he identifies as 'mechanical' solidarity (Durkheim, 2013: 57–87). In those, a collective consciousness accrued from inherent similarities in how individuals think, feel, and act leads to a coherent way of life and therefore to a collective feeling of togetherness. This feeling is the basis for social solidarity that is generated 'mechanically' – today we would perhaps rather say 'automatically'. The second form he identifies in 'modern', differentiated societies that are characterised by division of labour: 'organic' solidarity predominates societies that function like an organism within which all parts must cooperate in tune (Durkheim, 2013: 88–104). In contrast to mechanical solidarity, individuals gain autonomy under organic solidarity, but this does not detach them from society. Quite the contrary: it increases the strength of reciprocal ties between them (Giddens, 1977a). The key determinant here is difference: with increasing division of labour and individualisation, the interdependence of individuals intensifies since they become increasingly dependent on the other individuals' production and roles. Again, solidarity creates a collective consciousness. Organic solidarity requires division of labour to happen spontaneously, allowing individuals to position themselves in society in a way that they can develop their talents (Herzog, 2018). Personal autonomy grows proportionally with solidarity in Durkheim's thought (Adair, 2008). In modern societies characterised by organic solidarity, social control and sanctions are necessary to ensure unavoidable compromise and concessions from its members (Tranow, 2012). Contracts and the corresponding law become more prominent. Durkheim adds not only the layer of enlightened self-interest but also a normative dimension to the descriptive ascertainment of solidarity

as a social fact based on the work of Comte. Both maintain the concept's descriptive dimension, its non-universal particularity as well as the interdependencies created by solidarity. It is worth noting that Durkheim, when writing *The Division of Labour in Society*, thought he identified a movement towards the creation of a European community (Giddens, 1977b).

### French solidarism

An entirely different approach to the concept of solidarity from that of Durkheim can be found contemporaneously in the work of the progenitor of French solidarism – Léon Bourgeois. Through him and other supporters of solidarism the concept of solidarity has been recognised and accepted throughout French society, especially because the solidarist framework does not demand a revolution or class war but only societal reforms (Hayward, 1959). In Bourgeois' (1896) work, solidarity is formulated as a social demand: it exists as a principle of societal cohabitation that results in mutual commitments. He works with two complementary concepts of solidarity: one is descriptive and based on natural aspects ('*solidarité naturelle*'); the other is normative, based on social aspects ('*solidarité sociale*'). By *solidarité naturelle* Bourgeois understands individuals as part of an organism who rely on each other and are mutually dependant (Bourgeois, 1896: 37 et seq.). At the same time, though, those individuals are members of a social community: natural inequality emerging in a society must be remedied by *solidarité sociale* through creating justice (Bourgeois, 1896: 73 et seq.). In Bourgeois' conception, *solidarité sociale* corrects *solidarité naturelle* because the inherent natural dependencies inevitably lead to inequalities and injustice. The role of norms is to create social equalisation between the members of society. French solidarism continues the line of thought of solidarity as having both a descriptive dimension (as a social fact) and a normative dimension (social obligations being derived to achieve specific common objectives). The reference group members are mutually dependent in terms of achieving the common objectives, out of which mutual dependency arises. The equalisation mechanism in solidarism is a quasi-contractual provision that requires concrete legal norms to achieve common political goals. This legal aspect is indicative of the practical political approach that solidarism takes. Not only does it have roots in the Roman legal tradition but it continues to have a profound influence in contemporary adaptations (Wildt, 1995).

### Fundamental principle in Catholic social teaching

In Catholic social teaching (CST) solidarity is one of the three fundamental principles alongside human dignity and subsidiarity. Due to humans being created in the image and likeness of God, there is a mutual relatedness of all humans to society creating a mutual commitment to respecting human dignity (Rauscher, 1975). Solidarity expresses reciprocal reliance, mutual dependence, and the bidirectional connection of individuals and society. One of the most important systematisations of CST is provided in the seminal work of Heinrich Pesch. In the legacy of his French

progenitors, he makes the case for a third way between socialism and liberalism, calling it solidarism (Pesch, 1914). Pesch deduces a compulsory moral principle from the descriptive ontological principle posited by CST. A crucial aspect is the connection of solidarity to the common good that all members of society have the moral obligation to work towards, and that CST understands as justice (Bohrmann, 2006). It is the duty of the nation-state to ensure social justice as the common good. For Pesch (1899), the duty to solidarity is a sacred duty. Some CST scholars succeeding Pesch have tried to eliminate the obvious naturalistic fallacy in its systematisation by adding the necessity to translate solidarity into legal principles (Baumgartner & Korff, 1999). Its fundamental shortcoming in terms of being unable to soundly universalise solidarity notwithstanding, normative elements accompany descriptive and moral elements in CST. Law must ensure the pursuit of the common good.

### Contemporary approaches: Habermas and Honneth

Jürgen Habermas first suggested that solidarity is the complementary aspect of justice in terms of equal treatment of individuals and connected the concept to the attainment of the common good (Habermas, 1990). However, it is of utmost importance to acknowledge that Habermas later retracted his morally grounded conception of solidarity because it would lead to ‘moralization and depoliticization of the concept of solidarity’ (Habermas, 2015: 23). Instead, in sharp contrast to sociologists, he posits that behaviour based on solidarity presupposes legally organised, artificial contexts, not organically evolved ones. The distinctive character of solidary behaviour, he suggests, is an ‘offensive character’ of striving to honour the promise of the legitimacy claim invested in any political order (Habermas, 2013: 10). With the moral-deontic structure removed, Habermas reconceptualises solidarity as a political act aimed at the achievement of a better political future for a particular group (Carrabregu, 2016). This reconfigured solidarity relies on political associations and shared political interests. Actors within contexts of solidarity must accept short- and medium-term negative effects for the attainment of their shared political objectives. Habermas also addressed the question of solidarity in the EU, but only on the interpersonal level in terms of European citizenship (Habermas, 2012). The overstretching and lack of systematic theorisation of the concept in Habermas’ work have been widely criticised (Große Kracht, 2017; Lösckke, 2015; Wildt, 1999).

Axel Honneth adopts the aspect of recognition in his social theory from his academic teacher Jürgen Habermas. Honneth (1992) suggests three spheres of recognition: emotional (love), cognitive (law), and social (solidarity). Solidarity expresses social appreciation in terms of the individual capabilities and characteristics of individuals. The individual is being recognised as indispensable by the community. Individuals realise that others can help them achieving their goals and thus act in mutual solidarity (Honneth, 2000). Essentially, Honneth suggests, like Habermas, that solidarity is needed in communities to achieve the common good. In addition, both highlight that community members act in enlightened self-interest in order to attain their objectives.

## Interim findings

Through the lens of the employed conceptual history approach, the contours of the concept of solidarity become apparent. To recap, solidarity entails both a descriptive and normative dimension. The former is characterised by a disposition to particular, non-universal reference groups, within which actors<sup>3</sup> commit to each other to achieve common objectives, thus developing interdependencies. There don't seem to be successful attempts to conceptualise solidarity as a universal principle.<sup>4</sup> Connected to that is the finding that solidarity is generally not interpreted as an end in itself but oriented towards common objectives that the reference group seek to achieve. More often than not these objectives are linked to the common good (Reh, 2007). The conceptual history of solidarity shows a very strong propensity to emphasise its instrumental nature. This leads to the notion that solidarity should not be considered a value. It can be referred to values that the reference group seeks to honour, like justice. It is often suggested that solidarity must abide by universal values in order to prevent a false attribution of the concept to actors like terrorist organisations, organised crime, or dictators (Schieder, 2009). In those cases, a different semantic field would arguably be better suited, like that of loyalty.

With regard to the normative dimension of solidarity I have shown that it tends to entail the necessity of reciprocal commitment stemming from the connectedness between the actors of a reference group (see also Derpmann, 2009; Hondrich & Koch-Arzberger, 1992; Zürcher, 1998). It is important to note that the expectation of reciprocity is key: actors expect the necessary assistance from the reference group in case they need it; but they do not expect direct returns when they themselves have provided necessary assistance. It would be acceptable when an actor is not able to provide assistance. It is not acceptable, however, in case they potentially would be able to provide assistance but choose not to.<sup>5</sup> At the same time, actors accept the possibility of never receiving assistance when they simply do not need it. Hence, the normative dimension of solidarity implies that the mutual commitment entered is expressed by concrete provision of support and assistance to secure the pursuit and attainment of the common objectives (Bedorf, 2011; Mau, 2005). That shields the concept of solidarity from a purely appellative understanding that it clearly transcends. Hence, I contend that supererogatory attachments to solidarity

<sup>3</sup> Solidarity is not limited to interpersonal relationships. See e.g. Rippe (1998).

<sup>4</sup> A confounding factor in this regard is the inherent temporary nature of solidarity. Universal principles, in contrast, are inherently permanent. Human rights shall not only be inviolable, but also time- and limitless. Solidarities, on the other hand, can legitimately be ended since individual interests and objectives can and are allowed to change, and thus the corresponding memberships in reference groups can be revoked. Not to mention the notion that connections of solidarity are conditional upon historical circumstance (Rorty 1989). In addition, solidarity with the entirety of potential others constitutes an overburdening of actors. Hence, some scholars have tried to solve this problem by suggesting solidarity as a division of labour (e.g., Löscke 2015). In these conceptions, solidarity serves as a kind of relief mechanism of overburdening through its constitutive element of particularity since duties to assist can only be honoured to a limited extent. Concomitantly, solidarity possesses an exclusionary character. Actors can always hold several solidarities, however.

<sup>5</sup> Findings from social psychology suggest a 'widespread human obsession' with reciprocity (Graham et al., 2009: 1031) and that solidarity is maintained by expectations of reciprocity (Bierhoff and Küppers 1999).

are unconvincing since concepts without the expectation of reciprocity, without resulting in mutual commitment and duties to support and assist, are not necessarily subsumable under a comprehensive understanding of solidarity. The voluntary act of solidarising that goes beyond the expected extent rather leads to acts of love, friendship, charity, mercy, or compassion. Not every instance of congruence of interests, readiness to or discharge of support, or calls for aid and assistance result in real solidarity.<sup>6</sup> Those are just individual elements of an informed understanding of the concept. Employing words can be acts but they are not equivalent to the acts they cause (Searle, 1989). The announcement of hitting someone is not the act of hitting. The announcement of or call for solidarity is not fully fledged solidarity.

Before moving on to examining its shape in the EU, the necessary conditions of the concept of solidarity carved out so far are as follows:

- (1) [*particularity*] Solidarity is characterised by its particular (non-universal) nature and, hence, calls for application to specific reference groups.
- (2) [*instrumentality*] Solidarity is aimed at a common objective whose legitimacy is accepted by the reference group. Solidarity is a means to the end of achieving that objective.
- (3) [*reciprocity*] Solidarity creates a mutual connectedness and demands a reciprocal commitment.
- (4) [*responsibility*] Solidarity manifests itself in vouching for each other in terms of the common objective. This mutual responsibility is expressed by support and assistance.

## Solidarity in the European Union

As will be demonstrated in the following, solidarity's outstanding prominence in the European Union is undeniable. In what is considered the founding act of European integration, Robert Schuman declared that 'Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity' (Schuman Declaration, 1950). This 'de facto solidarity' found its way into the preamble of the Treaty of Paris (1951) that created the European Coal and Steel Community (ECSC). That was the cornerstone that implemented the aim of continuously and incrementally developing solidarity between all Union actors. A progressing integration process led to an ever closer and extended cooperation in an increasing number of policy areas by an increasing number of member states, accompanied by a deepened integration of solidarity both in qualitative and quantitative terms. This development culminated in the Treaty of Lisbon where it has gained a pervasive status as a fundamental principle.<sup>7</sup> Nonetheless, the

<sup>6</sup> Louis et al. (2019) go even further by distinguishing allyship (a group supports another to achieve its own objectives) from solidarity (support for one group of another based on a perception of being part of a shared, common group).

<sup>7</sup> An extensive account of solidarity in European integration and its legal implications has been provided elsewhere (Saracino 2019). I provide a shortened, updated, and refined version of the key aspects here.

concept lacks anchoring by a definition or operationalisable interpretation anywhere in the *acquis communautaire*. Hence, an underlying understanding of solidarity in the EU that is embedded in the specific historical context of the concept can be assumed (Müller, 2010). These historical underpinnings of the concept in question were demonstrated in the foregoing part. I will proceed by setting out the meaning, role, and scope of solidarity in the EU to continue to build the theoretical framework and employ the area of asylum policy as an example of the framework's validity as well as compatibility and applicability to the study of solidarity in all aspects of the European Union.

In the European Union, solidarity is instrumental to achieving its common objectives. Insofar as it is linked to the rule of law aimed at safeguarding the political process as well as its outcomes. In forming and joining the EU, nation-states voluntarily decide to cooperate in order to pursue a common good that is comprised of their common objectives and the framework those objectives are decided within. They act in enlightened self-interest by realising that they can better achieve certain objectives in cooperation with others.<sup>8</sup> Typically, in communities based on the rule of law, the premises for negotiating the common good, as well as the products of this process, are cast into law to ensure effectiveness and legitimacy (Härtel, 2012). The EU is such a community where member states confer the legitimacy of common good pursuance to the European level when they deem it more conducive to their policy goals, making the European level a joint and distinct sphere for solidarity. Therefore, in European integration, politics and the law are inextricably linked since the products of the political process are typically cast into law to ensure joint pursuance of all involved actors in terms of the common political will.

The role of solidarity in the EU reveals itself through its connection to the European common good. Generally, nation states' common good can be located in their constitutions where they are specified as both national objectives and the framework that these are agreed within. The Union's common good is similarly inscribed in EU primary law, namely as operational goals in Art. 3 TEU, set into the framework of values and principles in Art. 2 TEU (Hatje & Müller-Graff, 2014). The specific common objectives are specified in the individual policy areas. This setup can be considered the *raison d'être* of the European Union (Sangiovanni, 2013). Strikingly, in Art. 2 TEU, solidarity is not mentioned as one of the values which is consistent given the foregoing findings.<sup>9</sup> Accordingly, solidarity is listed as one of the principles that characterise the commonalities of the member states and that are the prerequisites of the common values. Solidarity is described as a de facto solidarity underlining a normative dependence. Art. 3 TEU sets out the primary objectives of the European Union, one of which is to 'promote [...] solidarity among Member

<sup>8</sup> Since it does not seem essential for the study of EU policy or law, I shall refer to both instances where member states have certain common policy goals independently of each other and they become partially shared goals on the EU level as 'common goals' in my analysis, but I mean it in this hybrid sense, in which common goals become partially shared through European integration. The *acquis* as well as the literature largely ignore this distinction with few exceptions (e.g. Sangiovanni 2015).

<sup>9</sup> Rizcallah (2019) wonders why solidarity is not being listed as a value, still arguing that the concept is an EU founding value being in crisis.

States' (para. 3). This passage anchors the solidarity principle as a fundamental principle of Union law (Petrus & Rosenau, 2018). Furthermore, the article substantiates solidarity objectives in other policy areas (Saracino, 2017). All member states and Union organs must adhere to the solidarity principle in policymaking and legislation, as well as implementation and application of all Union provisions.

Against this backdrop, the readiness to act in solidarity must necessarily exist as a prerequisite between the involved actors, especially between the member states, who accept their obligations, including a duty to solidarity, upon accession (Sangiovanni, 2012). On the one hand, solidarity is expressed in a descriptive dimension where the community members enter a mutual dependence by voluntarily agreeing to a duty to pursue the common interests or objectives. A connectedness between the community members emerges that demands the commitment of every individual member towards the community as a whole in terms of the common objectives. This connectedness results in concrete duties to solidarity that make up the normative dimension of solidarity. The community members participate and contribute to the realisation of the common objectives, providing support and assistance for the other community members if needed, resulting in general and specific expressions of duties on how to act and desist. These obligations shall ensure effective and reliable realisation of the common good by all community members. This answers the question as to *why* solidarity is necessary in the European Union. The rule of law is pivotal here since it ensures the transition from solidarity as a prerequisite to concrete duties to act and desist aimed at realising the common objectives.<sup>10</sup>

The Court of Justice of the European Union (CJEU) (1969) has recognised the existence of a solidarity principle in the EU quite early in the integration process. In a seminal judgment, the Court (1973) ascertained that member states accept a duty to solidarity when entering the European edifice and that European integration is jeopardised when the solidarity principle is violated. The CJEU has confirmed the existence of the duty to solidarity multiple times and even developed it further, for example by determining that member states must subordinate their individual interests to the Union interests (Marias, 1994). Recently, the CJEU (2019) confirmed solidarity as a fundamental legal principle that binds both the EU and its member states with regard to the common interest of the European Union, entailing a general obligation for all addressees to take into account the interests of the other stakeholders. According to the Court, the principle of solidarity obliges member states to take all measures necessary to guarantee the application and effectiveness of EU law and imposes mutual duties on EU institutions to cooperate in good faith with the member states (CJEU 2021). The judgment reiterated that all member states and Union organs must adhere to the solidarity principle in policymaking and legislation, as well as implementation and application of all Union provisions. It should be noted, however, that although the CJEU judges frequently on cases involving solidarity, it has never defined its understanding of it (Schiek, 2020).

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<sup>10</sup> In their understanding of how solidarity is needed to achieve what they propose as a just society, Banting and Kymlicka (2017) also stress the necessity for the rule of law to attain what they conceptualise as democratic solidarity. Their notion that solidarity is built by political action and needs to be embedded in political institutions and policy regimes corresponds with my findings.

This jurisprudential shortcoming notwithstanding, it becomes clear why solidarity is the foundation without which the European Union cannot stand or function effectively. After joining the Union on a voluntary basis and in full acceptance of the prevailing framework that includes a duty to solidarity, the involved actors agree to legal norms that are supposed to ensure the realisation of their common political objectives. Solidarity becomes a necessary condition to enter the Union and safeguard the effectiveness of the European common good. I understand the solidarity principle, hence, as a *conditio sine qua non* of the European Union that addresses its institutions as well as member states and encompasses all policy fields. Without solidarity, the EU cannot maintain its *raison d'être*. Due to the inseparability of political and legal implications as a result of the EU's design, an understanding of the solidarity principle as, at the very least, a political-legal one, seems more compelling than treating it as merely one or the other.

The answer to the question as to *how* the solidarity principle is procedurally implemented in EU law can be found in Art. 4(3) TEU which establishes the principle of sincere cooperation (often referred to as loyalty principle). It permeates all policy areas of the Union, regulates the relationship between the member states as well as between the Union and the member states, and, in conjunction with Art. 13(2) TEU, among the institutions (Blanke, 2013). This loyalty principle binds all addressees to the mandatory adherence to the common objectives (Bieber, 2013). The principle of sincere cooperation entails the duty to coherent, unrestricted, and uniform application and implementation as well as the primacy of Union law, obliges the member states to actively promote all Union activity, and prohibits the addressees to undermine or even disable the effectiveness of Union provisions (Klamert, 2019). Furthermore, the loyalty principle demands consensual conflict resolution (Klamert, 2014). As the CJEU (2021: 41) has stated, it is 'closely linked' to the solidarity principle, being a procedural specification of it that legally binds EU institution and member states to pursue the common good by means of duties to assist and desist. Given its fundamental significance and attachment to the solidarity principle, it is only consequential that similar forms of the principle of sincere cooperation recur in all Community and Union Treaties since the ECSC (Saracino, 2019: 52 et seq.). In light of constant changes of governments in member states, this provision aims at safeguarding the results of EU policymaking to ensure continuity and effectiveness, without entrenching an eternity clause.<sup>11</sup>

In a nutshell, solidarity is a necessary condition for the European Union because it is a means to maintain its *raison d'être*. It emerges through enlightened self-interest of the Union members and manifests itself as a fundamental, political-legal EU principle, institutionalised in the EU legal order, addressing all Union organs and

<sup>11</sup> This extends to changing attitudes towards solidarity obligations in the member states. For example, political elites might change their preferences and politicise EU solidarity to change population attitudes towards the ensuing obligations, thus justifying violations of the solidarity principle. This alone, however, does not alter the validity of the prevalent solidarity principle per se, developed as a fundamental political-legal principle during European integration, even though it might lead to rule of law backsliding and deteriorate the EU's effectiveness. In order to revise the solidarity principle in the EU, member states have the option to change its composition and scope through the (democratic) political process. A member state can also decide to forgo EU solidarity by leaving the Union since membership is voluntary.



member states, pervading all Union action. Every violation of commonly adopted law that prevents the achievement of the common objectives must be regarded as a violation of the solidarity principle. Sustained refusal to adhere to Union law, to honour the jointly accepted common objectives or the framework those objectives were agreed upon deprives the integration project of its effectiveness and *raison d'être* since the EU, by design, can only function on the basis of the rule of law.

## Solidarity in the EU's asylum policy

Since the Treaty of Lisbon, asylum policy, traditionally part of justice and home affairs (JHA) policy, has been subsumed under the Area of Freedom, Security, and Justice (AFSJ), whose policy objectives are inscribed in Art. 3(2) TEU, under the shared competence of EU and the member states. Art. 67 TFEU establishes the principles of the AFSJ and emphasises the prevalence of the solidarity principle with specific mention of the member state component and under implicit exclusion of third country nationals in paragraph 2. The passage highlights a notion that solidarity between the member states seems to be of salient importance in the corresponding policy areas. This notion is corroborated by the fact that the contracting parties have opted to include an extraordinary solidarity clause in Art. 80 TFEU:

The policies of the Union set out in this Chapter [asylum, border controls, immigration; D.S.] and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Chapter shall contain appropriate measures to give effect to this principle.

This clause accounts for the joint underlying acknowledgement of an outstanding necessity for member state solidarity in these policy areas due to a lack of fair sharing of responsibility, precipitated by an unfair responsibility allocation mechanism found in the Common European Asylum System (Saracino, 2018). Southern and eastern peripheral member states bear the brunt of entries of displaced people into the EU, mostly from the Global South, irrespective of root causes. Accordingly, this specific solidarity clause has been inserted into primary law, substantiating the duty to solidarity between the member states and connecting it to fair sharing of responsibilities. For the area of asylum policy, provisions of assistance and support fall into this category to give effect to the solidarity principle. Although only financial aspects are explicitly mentioned, information exchange, technical support, and training can also be subsumed under Art. 80 TFEU measures (Kotzur, 2015). In line with the proposed solidarity framework, these aspects are institutionalised through specific funding instruments like the Asylum, Migration and Integration Fund (AMIF), and operative agencies like the European Union Agency for Asylum (EUAA).

Art. 80 TFEU has gained prominence since the asylum governance crisis of 2015–2016. When the EU was faced with a major influx of protection seekers, the Commission (2015) proposed a temporary relocation mechanism in an effort to

support the member states of main entry and assist them with concrete measure of responsibility sharing. It put forward the mandatory relocation of asylum seekers from Greece and Italy to all other member states based on quotas. Both the Commission's proposal and the Council decision (2015/1601) bore direct reference to give effect to Art. 80 TFEU. Shortly after, Hungary and Slovakia brought legal action against the decision before the CJEU (Case C-643/15; Case C-647/15). In its 2017 decision, the CJEU (2017a) dismissed the cases on all accounts. The judges determined that all measures within asylum policy must adhere to Art. 80 TFEU (CJEU 2017b). According to the judgment, neither the financial nor the operative assistance, nor the implemented border control measures had been sufficient to relieve the burden of the respective member states, substantiating the necessity of the relocation scheme. The Court interpreted the Council decision as a necessary expression of Art. 80 TFEU.

After sustained refusal by Hungary, Poland, and the Czech Republic to implement the relocation scheme, the Commission (2017) embarked on the path to an infringement procedure which eventually led to legal action brought before the CJEU in December of 2017. In its following judgment, the Court (2020a) found that the defending member states had infringed Union law by not complying with the relocation mechanism. The judges confirmed that all asylum measures must adhere to Art. 80 TFEU and that all member states must abide by the principle of solidarity and fair sharing of responsibility (CJEU 2020b). Member states may not, moreover, avoid obligations emanating from Union acts, since this would go against the overall objective of solidarity. In a later case on energy solidarity, the CJEU (2021) referred to this judgment, hinting at a dogmatic development in terms of the solidarity principle in the EU through this seminal 2020 ruling. It brought to the fore an understanding of the solidarity principle as 'serving as the thread that brings them [the overall EU objectives and the specific objectives within the policy area, D.S.] together and gives them coherence' (CJEU 2021: 43). These jurisprudential trends substantiate the understanding of solidarity contended in this paper by underlining the indispensable nature of the solidarity principle for the EU and contouring the specific expression in the area of asylum as the fair sharing of responsibility between the member states. All asylum policy measures, their formulation, implementation and realisation must be compatible with the solidarity principle specified by Art. 80 TFEU. It demands a collective responsibility and concerted effort to achieve asylum policy goals (Moreno-Lax, 2017). In the CEAS, solidarity is expressed not only through correct implementation of measures but also in supporting each other to develop asylum systems that work for the good of the whole Union (Boswell et al., 2011).

In case a member state is unable to honour its commitments, the solidarity principle demands support measures to safeguard joint goal attainment. If such measures would not be successful, the provision causing the breach must be scrutinised for a potential breach of the solidarity principle. If the issue is, however, a member state's unwillingness to honour its obligations, this could qualify as a clear-cut breach of the solidarity principle. Such a case of violating EU solidarity should lead to some sort of negative consequences, for example potentially disqualifying the delinquent from support measures.

## Conclusion: An analytical framework of solidarity for the European Union

European integration has borne the legal commitment to achieving jointly legitimised political objectives and setting up a European common good as well as a solidarity principle as a means to achieve these objectives. The rule of law prevents solidarity from being a mere political postulate by equipping it with legal effect. The solidarity principle in the European Union is a *sine qua non* of the European Union to maintain its *raison d'être*. It has a procedural expression in the principle of sincere cooperation to safeguard the EU's functioning and effectiveness. Regarding the area of asylum policy, the solidarity principle has been linked to the fair sharing of responsibility between the member states by means of Art. 80 TFEU and pertaining CJEU case law.

Amalgamating the conceptual history approach with the findings from our document, legal, and content analysis, I propose an analytical framework that, first, identifies and demarcates the meaning of solidarity in the European Union, and second, can serve as a robust benchmark that can produce cogent results when examining solidarity in the European Union. The necessary conditions for solidarity in the EU are as follows:

- (1) [*particularity*] Solidarity is characterised by its particular (non-universal) nature and, hence, calls for application to specific reference groups.

The European Union is such a particular reference group.

- (2) [*instrumentality*] Solidarity is aimed at a common objective whose legitimacy is accepted by the reference group. Solidarity is a means to the end of achieving that objective.

The European Union's common objectives and the framework they have been agreed upon make up the jointly legitimised and voluntarily agreed common good. In order to achieve the common objectives, solidarity is needed both as a precondition upon accession and as a vehicle to operationalise pursuance of and adherence to the common good. The actors of the reference group act in enlightened self-interest.

- (3) [*reciprocity*] Solidarity creates a mutual connectedness and demands a reciprocal commitment.

Being part of the EU connects all Union actors to each other and commits them to the commonly agreed objectives through the rule of law. The solidarity principle, on the one hand, aims to ensure that all actors honour their obligations in terms of the common objectives; on the other hand, it determines how achieving these goals is operationalised through the principle of sincere cooperation.<sup>12</sup>

<sup>12</sup> It is worth noting that this is corroborated by findings from social psychology: The successful experience of mutual cooperation strengthens the cohesion of groups that pursue a common interest and the expectation that the group members have a cooperative intention is importance for maintenance of solidarity (Bierhoff and Küppers 1999).

- (4) [*responsibility*] Solidarity manifests itself in vouching for each other in terms of the common objective. This mutual responsibility is expressed by support and assistance.

The solidarity principle in the EU requires all actors to vouch for each other in terms of the common objectives even if it means temporary disadvantages of individual actors. Adhering to the pursuance of the European common good trumps volatile national interests.<sup>13</sup> Solidarity is expressed on concrete measures of support and assistance that can differ across policy areas.

For the solidarity principle in the European Union to be effective, all four necessary conditions must be met. What has been shown in this contribution is that there is a solidarity principle in the EU, addressing institutions as well as member states, that goes beyond its legal implications and must be understood, at the very least, as political-legal. I have broken it down into an analytical framework by using a conceptual history lens and corroborating the findings with extensive document, legal, and content analysis. Solidarity is inherent to the system of the EU, as evidenced by condition (1), (2), and (3). In conjunction with condition (4), solidarity has been shown to be a necessary condition for the European Union and its member states to attain their common objectives and maintain the bloc's *raison d'être*. The *responsibility* condition can vary across policy fields, hence the provisions for support and assistance should enjoy special focus when applying the framework.

In case of the European Union's asylum policy, actors are bound by Art. 80 TFEU to honour a fair sharing of responsibility between the member states as a specific expression of the overall solidarity principle. Solidarity in the asylum policy of the European Union demands every asylum provision to be in line with Art. 80 TFEU. Furthermore, it posits concrete measures of support of assistance to achieve the common objectives. Those are indeed realised in the Union sphere by specific financial instruments, like the AMIF, and operative agencies like EUAA, further buttressing the validity of the proposed framework.

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<sup>13</sup> National policy preferences, for example vis-à-vis asylum, can change. This, however, does not give member states the right to violate the solidarity principle since with EU accession they have accepted the existing *acquis* and the rules to change policies. This is analogous to the national level, where actors must find majorities to change policy within the rule of law which includes accepting the outcome of the political process even if they have been defeated. A member state that ceases to accept, for example, asylum policy measures because of a perception of long-term disadvantages that undermine EU's instrumentality with regard to its policy preferences has options: it can try to change those policies in the political process, it could even try to change the political process itself through Treaty changes, or withdraw its membership (hypothetically, it could even try to change membership conditions to opt-out of asylum cooperation). Recent developments in the CEAS point to a successful campaign of trying to further deter unwanted protection-seekers and curtail access to the EU for unwanted displaced persons by member states critical of the human right to claim asylum (Saracino 2024).

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**Daniele Saracino** is a lecturer at the Department of Government, University of Essex. He is an expert on asylum and border control policies in the European Union, German politics, and the concept of solidarity.