

Freedom in moderation?

A discourse analysis on Freedom of Movement of Persons in the
European Parliament 2015-2020



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Abstract

Although considered to be one of the greatest achievements of the European integration process and continuously shown to be favoured by a majority of Europeans, the principle of Freedom of Movement (FOM), with an emphasis on Freedom of Movement of Persons (FOMOP) has been increasingly politicised over the past few years. In the light of reintroduced border controls in 2015, and a heightened debate in relation to the COVID-19 pandemic, this thesis seeks to identify the political discourse on FOMOP in the European Parliament (EP) and how this has changed between the years 2015-2020. Seeking to deepen the understanding of how this EU institution as a political actor defines and shapes the content and meaning of FOMOP, the thesis adopts a normative political theoretical as framework for analysis. Looking at EP documents coded for its content, the relationship between legal norms and their normative theoretical foundations was explored and identified by deploying an sequential mixed methods design, involving a two-stage data collection and analysis process. The analysis found that the EP engages in a political debate that discursively alters the meaning of FOMOP, observing a development in which the EP leans towards a liberal utilitarian frame just as strong as the liberal cosmopolitan frame. Looking at an evaluation throughout time, the idea of EP as a defender of FOMOP as a fundamental right is challenged by a discourse where the establishing of the Single market has increased in importance. While justifications in support of an increased conditionality of FOMOP can be detected, in the year 2020 vocal calls to observe FOMOP as an absolute right has simultaneously emerged.

Keywords: Freedom of Movement of Persons, European Parliament, Liberal Cosmopolitanism, Liberal Utilitarianism, Liberal Communitarianism, COVID-19

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Table of Abbreviations

AFSJ	Area of Freedom, Security and Justice
CFSP	Common Foreign and Security Policy
EMU	Economic and Monetary Union of the European Union
EEC	European Economic Community
EFTA	European Free Trade Area
EU	European Union
EP	European Parliament
FOMOP	Freedom of Movement of Persons
JHA	Justice and Home Affairs
SBC	Schengen Border Code
SIC	The Schengen Implementing Convention
SIS	Schengen Information System
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
ToA	Treaty of Amsterdam
ToL	Treaty of Lisbon

1 Introduction: Era of crisis and a changing debate on FOMOP?

It is too precious for us all. We will not allow it to fail.

Ursula Von der Leyen on the future of Schengen (Von der Leyen, 2020)

The border-free Schengen Area and the free movement of persons is considered one of the greatest achievements of the European integration process (European Commission 2016; Ceccorulli, 2019; Roos & Westerveen 2019). In a Europe historically characterised by rigid borders between nation-states, twenty-six European countries have abolished almost all types of internal border controls between themselves, allowing citizens to live, work and travel freely within the Schengen Area, needing nothing but a valid identity card (Popa 2016). It guarantees free movement to more than four hundred million EU citizens, along with non-EU nationals living in the EU or visiting the EU as tourists, exchange students or for business purposes (European Commission 2021a), making the border-free region one of the largest visa-free zones in the world (European Commission 2021a). In his 2015 State of the Union speech, former President of the European Commission Jean-Claude Juncker called the Schengen Area “a unique symbol of European integration” (Juncker 2015), and according to a 2020 Oxford survey, some three-quarters of Europeans say the European Union (EU) would ‘not be worth having’ without Freedom of Movement of Persons (Garton Ash et al., 2021).

Although contiguously shown to be favoured by a majority of Europeans (Standard Eurobarometer, 2018; Garton Ash et al., 2021) and praised by many, FOMOP in the EU has been increasingly politicised over the past few years (Roos 2019; Seubert 2019), making it a “highly salient issue in political and public debates (Roos & Westerveen 2020). Following the 2015 “refugee crisis”, where Europe had to respond to the most severe migratory challenge since the end of World War II, border checks were temporarily reintroduced at the internal borders between some Member States which heightened the debate on FOMOP and the Schengen Area (European Parliament, 2017). Though temporary border controls is a prerogative of the Member States provided in the Schengen Borders Code (SBC) until 2015, these had commonly only been introduced for foreseeable events, such as major sports competitions or political meetings (European Commission 2021b). In 2015, the scope and duration of the reintroduced border controls reached more comprehensive levels, with several Member States prolonging or re-imposing the controls motivated by repeated terrorist attacks within the Union (Wagner et al.,

2020). The extensive reintroduction of temporary border controls was interpreted as a “Schengen crisis” (Casella Colombeau 2020), prompting discussions about its future (Guild et al., 2015) and the impact of immigration-related threat perceptions on the European security community (Alkopher et al., 2017). Although the UK did not participate in the Schengen Area, concerns regarding increased numbers of refugees and migrants arriving at their borders, together with the issue of control over EU migration, also played a key role in the far-right leave campaign during the Brexit referendum (Balch and Balabanova 2017, p. 238). The leave campaigns slogan of “taking back control” in large embodied the anti-immigrant sentiments and narratives of FOMOP as a potential threat to internal security and welfare (Bruzelius et al., 2017), which has increasingly made an entrance into both public and political debates concerning FOMOP (Karstens 2020). According to some, this has brought on a politicization that has “opposed the mythology of free movement and open borders with narratives underlining national cultures and identities” (Wolff et al., 2020, p. 4)

The politicization of the Schengen Area and FOMOP has prompted scholars to delve deeper into the motivations of the various actors, both on an institutional and national level, that have helped shape norms of political action. However, while motifs and justifications on border controls issued by Member States and analyses of the legal and judicial development of FOM/FOMOP have been discussed in greater detail (Sindbjerg Martinsen & Vollaard 2014; Vasilopoulou & Talving 2019; Blauburger & Schmidt, 2017), the literature more rarely addresses the positions of EU institutions. In a 2019 study, instead of focusing on the judiciary interpretation of FOM or on conflicting attitudes towards FOM within the national arena (more commonly the point of departure for scholars within the field, see subsection 3.1.1), Roos and Westerveen sought to highlight the EU-level discourse which has changed significantly in recent years. Looking at a frame analysis of documents from the different EU institutions from 2004 to 2016, the authors concluded that restrictionist arguments increasingly entered EU actors’ discourse on FOM during the studied time period.

In the light of recent transformative events, such as the COVID-19 pandemic, there are several reasons to return to the discourse and the results presented by the authors. The uncoordinated closing down of internal borders as a reaction to the COVID-19 pandemic, which has limited the mobility within the Union as never before, prompts an analysis set in a time period after the year of 2016. As of February 2021, nine Schengen Member States (Austria, Belgium, Denmark, Finland, Germany, Hungary, Norway, Portugal and Spain) have reintroduced internal border controls in a bid to curb the health situation caused by the Coronavirus pandemic (COVID-19 Pandemic) (European Commission 2021b). Not only have these more recent reintroductions of border controls contributed to a debate on some imposed corona measures and their impact on democracy, the rule of law and fundamental rights in the EU as they have been deemed discriminatory and unproportioned (Marzocci 2020). Reintroduced border-controls as a reaction to the COVID-19 pandemic has once again sparked concerns on the future of

Schengen (Carrera & Luk 2020; Opiłowska 2021). Furthermore, some argue that internal border controls, whose duration remains to be seen, will have devastating effects on European economies and citizens (Wolff et al., 2020). Considering the importance of intra-European mobility on EU citizenship, economy, and identity creation, understanding recent developments and normative stands in the discourse becomes central for understanding the policy developments on EU-level in light of recent transformative events. Has the EU-level discourse changed, and if, how? Have events such as the refugee crisis and the COVID-19 pandemic left a mark in the discourse, and how is this expressed?

1.1 Purpose and research question

Drawing on the analysis of Roos and Westerveen, this thesis seeks to expand on the results presented for the time span of 2004 – 2016. By diagnosing the justifications and norms of political action in selected EU documents, the objective is to further explore the relationship between legal norms and their normative theoretical foundations. Thus, it adopts a normative political framework seeking to analyse how, between the reintroduction of border controls in 2015 and the COVID-19 pandemic in 2020, the European Parliament has framed the debate around FOMOP in Europe. As the concept of ‘freedom of movement’ is associated not to one but four fundamental freedoms of the EU – Free Movement of Goods, Free Movement of Capital, Freedom to Establish and Provide Services and Free Movement of Persons (Wallace et al., 2015, p. 300) – the term as understood in this thesis is delimited to only refer to Free Movement of Persons (FOMOP).

The concept of the free movement of persons has changed in meaning since its inception (European Parliament 2021). The 1957 *Treaty establishing the European Economic Community* (EEC) covered the free movement of workers and freedom of establishment, and thus individuals as employees or service providers (ibid). With the Treaty of Maastricht (formally the Treaty on European Union, TEU), the notion of EU citizenship being enjoyed automatically by every national of a Member State was introduced and with it the right of persons to move and reside freely within the territory of the Member States. The Lisbon Treaty (Which amended the Maastricht Treaty from 1992, known in updated form as the Treaty on European Union (2007) or TEU, and the Treaty of Rome from 1957, known in updated form as the Treaty on the Functioning of the European Union (2007) or TFEU) confirmed this right, which is also included in the general provisions on the Area of Freedom, Security and Justice, and today gives citizens the opportunity to live, work, establish business and study in any of the countries participating in Schengen (more on this definition in section 2.1.1 and 2.2.2). Henceforth, this understanding of Freedom of Movement of Persons is intended when referring to the term.

Looking at only one of the EU institutions, the European Parliament (EP), the analysis seeks to offer a more detailed perspective on the institution representing the European citizens (Hodson & Peterson 2017) for two reasons. First, out of the main EU institutions, the European Parliament has in previous studies been found to be the actor with the most prominent focus on FOMOP as a fundamental right (Roos and Westerveen 2019). One objective of this study is thus to investigate whether this can still be said to be true. Secondly, as the scope of the analysis investigates the discourse in a post-Lisbon institutional setting, the EP as a co-owner of the policy area and an institution speaking for the people and individual citizens offers an intricate and dynamic setting for debate largely overlooked by scholars, who have instead focused on other institutions or on the national level.

By drawing on normative political theory and the schematic frame for the analysis presented by Roos and Westerveen (2019), this thesis seeks to explore the developments in the EP discourse, trying to identify trends and tendencies regarding the EP's general view on FOMOP. By doing so, the ambition is to shed a light on the normative implications of the EU policy area and the constructing of European integration. Guided by the hypotheses that transformative events in recent years have resonated within public opinion and eventually among key decision-makers, the thesis will seek to answer the following research question:

- How and why has the normative discourse on Freedom of Movement of Persons in the European Parliament changed between the years 2015 and 2020?

2 Background: How and why does the European Parliament matter?

Seeking to explore the relationship between legal norms and their normative theoretical foundations on an institutional level, this essay looks at empirical material set in an intricate institutional dynamic. In order to assess the importance of the results presented, this chapter outlines the decision-making processes, legal frameworks as well as institutional power dynamics essential for understanding the EP as an actor within the selected context. What role does it play in the policy area of FOMOP? How is the policy area to be regarded as a supranational or intergovernmental area? And how can we understand the EP as the institution that represents the citizens of the Union? The first section starts out with a historical overview of the overarching aims of establishing the Schengen Area. It then proceeds to outline the legal framework governing the Freedom of Movement of Persons in order to illustrate how FOMOP is defined in primary and secondary EU legislation. The chapter concludes with a discussion on the European Parliament's role in the decision-making procedure of the area of Justice and Home Affairs (JHA) with the purpose of contextualising EP powers and influence within the field.

2.1 Establishing a border-free Europe

The border-free Schengen Area originally aimed to enable the European working population to travel and settle freely in any EU State (European Commission 2021a). In 1985 in Schengen, Luxembourg, a breakthrough was reached with the signing of the Schengen Agreement. The Agreement meant a gradual abolition of checks at common borders, initially involving Germany, France and the three Benelux States. In 1990, the signing of the 'Schengen Convention', initiating the implementation of the Agreement, followed. However, due to technical and legal prerequisites, the Convention did not take practical effect until March 1995 (Federal Foreign Office of Germany 2021). With the ToA, the Schengen Protocol was incorporated into EU law, transforming the intergovernmental initiative into the body of rules governing the EU (Eur-lex 2020).

At present, the Schengen Area encompasses 26 countries, of which 22 are EU Member States, with the exception of Bulgaria, Croatia, Cyprus, Ireland and Romania (European Commission 2021a). Ireland maintains an opt-out and is thus

not a full member of the Schengen Area. It does, however, participate in Schengen's police and judicial cooperation arrangements, operating in its own visa policy (Wahl 2021). Additional four non-EU-members, Iceland, Liechtenstein, Norway and Switzerland, who are part of the *European Free Trade Area* (EFTA), have joined the Schengen Area (see figure 4 in Appendix) through bilateral agreements (EFTA 2021). They apply the provisions of the relevant Acquis, further explained in chapter 2.1.2

2.1.1 Legal Framework for FOMOP

The general policy objectives for Schengen were laid down in the original Schengen I Convention between the Benelux countries, France and Germany, in 1985. At present, the legal backbone of the Schengen law is the Convention Implementing the Agreement on the Gradual Abolition of Checks at their Common Borders, signed in June 1990 (Schengen II), which specifies the general policy objectives in the original Schengen I Convention (Thym 2002, p.2). The body of legislation was integrated within the legal framework of the EU through article 2 of the Treaty of Amsterdam (ToA). Since then, the function of the Schengen Area has been subject to a number of changes. Title IV of the Amsterdam treaty was, for example, amended and renamed "Area of Freedom, Security and Justice" with the ToL of 2009. The Lisbon Treaty also set a new legal framework for most issues relating to the area of freedom, security and justice (Thym 2002, p.2-3).

Legally, FOMOP is subject to the conditions defined in primary and secondary EU legislation. The right of EU citizens to move and reside freely within the territory of the member states is enshrined in Article 45(1) of the Charter of Fundamental Rights of the European Union (European Parliament 2021). The right to FOM as a primary EU right is determined in TEU Article 2(3) and TFEU Article 21 Titles IV and V (ibid.).

In order to consolidate different pieces of legislation and take account of the large body of case law linked to the free movement of persons, a new comprehensive directive (Directive 2004/38/EC) was adopted in 2004 (European Parliament 2021). The so-called Citizens' Rights Directive, or Free Movement Directive, defines the right of free movement for citizens of member states of the EU and the three EFTA members Iceland, Norway and Liechtenstein. It consolidated older regulations and directives and extended the rights of some groups, such as unmarried couples.

Lastly, the set of rules and legislation that enables the Schengen Area's proper functioning fall under the so-called 'Schengen Acquis'. Both the Schengen Agreement and the Convention, as well as the Accession Agreements setting the frame for acceding Member States in the years after 1995, all fall under the Schengen Acquis. The Acquis regulates both the abolition of border controls at the

internal borders within the Schengen Area as well as the strengthening of border controls at the external borders.

2.2 Institutional framework and the EP as co-legislator

The control of entry to and residence within national territory as well as citizenship, civil liberties and law and order are close to the core of the state (Wallace et al., 2015, p.367). Ever since the seventeenth century, the state has drawn legitimacy from its capacity to provide security for its habitants (Mitsilegas et al., 2003; Wallace et al., 2015) why many of the areas concerned when looking at Schengen and FOMOP relate to historical, national political and judicial systems which have strong affinities to questions of state sovereignty. According to Wallace et al., 2015, p. 373), this, to a large extent, explains the fragmentation of cooperation within the area of freedom, security and justice (AFSJ) and projects related to the area, such as Schengen and other matters on Justice and Home Affairs (JHA), which is reflected in the multiplication of actors dealing with its development, both inside and outside formal EU structures. Understanding the EP's role in the decision-making procedure of the area thus requires a historical perspective on the developments of the policy area.

The 1985 Schengen Agreement and the decision to gradually eliminate internal border controls spurred concerns about safeguarding internal security and prompted closer cooperation on questions relating to cross-border phenomena such as immigration, organized crime and drug trafficking (Wallace et al., 2015, p.369). External pressures for closer cooperation were further spurred by the end of the cold war, which opened the EU's previously closed eastern borders to "hopeful immigrants and criminal networks" (ibid.). Drawing on informal cooperation already in place since the 1970s, the coordination was intensified in the 1980s leading up to two important treaties in the 1990s which set the guidelines for further European cooperation; The Schengen Implementing Convention (SIC) and the common computerized system for the exchange of personal data, the Schengen Information System (SIS). Wallace et al. (2015, p.370) highlight how these measures for coordination illustrate an example of how there, prior to the 1992 TEU, already existed an extensive network of cooperation that operated both outside and under the overall authority of the European Council and where cooperation took place on

[...] several political and executive levels, ranging from ministers through directors-general of the relevant ministries to middle ranking civil servants, and representatives of police forces and other agencies".

Since the end of the Cold War, the decision-making structure of the EU has changed dramatically. According to Fabbrini (2019, p.4), the Maastricht Treaty of 1992 represented a turning point for the decision-making differentiation between the

supranational regime dealing with issues of low domestic political salience regarding the Single market and the intergovernmental regime dealing with policies of high domestic political salience. With the treaty, three distinct pillars were introduced, differentiating different decision-making regimes; the supranational pillar for the Single market and the two intergovernmental pillars of Common Foreign and Security Policy (CFSP) and Justice and Home Affairs (JHA). (Fabbrini 2019, p.4). The Lisbon Treaty (2009) later abolished the division into pillars which was formalised at Maastricht. However, it “preserved the distinction between different decision-making regimes in relation to various European policies” (ibid.). The ToL strengthened the supranational decision-making model for Single market policies and also brought the main intergovernmental institution, the European Council, within the legal order of the EU. Furthermore, the Charter of Fundamental Rights was upgraded to a legally binding instrument (ibid.). According to Wallace et al., these institutional reforms emphasized the human-rights dimension of JHA and provided the basis for stronger supranational legislation (ibid.). The perhaps most remarkable change in the formal decision-making structure was the strengthening of the role of the European Parliament with the introduction of the ordinary legislative procedure for most aspects of JHA (Wallace et al., 2015, p.370-372.) Until the transnational period of the ToA expired, the EP had not been granted any powers to amend or block legislation by the Council and the Council thus only had to “consult” the EP prior to adopting a measure. The development of the regulatory mode as the EU's default decision procedure, according to Wallace et al. (2015, p.104), reflects the decline of the “classical” Community method and the EP’s empowerment over the past two decades. Furthermore, the authors argue that this springs from the reflex

[...] with which governments have complemented the introduction of QMV which decreases indirect legitimacy via national governments with co-decision which adds democratic input through direct elections (Goetze and Rittberger 2010; Wallace et al., 2015, p.105),

Although supranational organs have steadily widened their powers, intergovernmental cooperation between national law-enforcement authorities has equally deepened, leading to a complex patchwork of actors (ibid p. 347). This since Member State reluctance to engage in “hard” supranational legislation still has implications for JHA cooperation. As a consequence, Wallace et al. argue, the transgovernmental mode of governance is the dominant mode of integration in JHA. This mode of governance combines elements of the traditional “Community method” with more intergovernmental ones and is characterized by the relative weakness of legal harmonization and a focus on more operational aspects of coordination between national authorities (Wallace et al., 2015, p.369). Thus, even though the ToL normalized much of the policy field and largely submitted it to the regulatory mode, some features of transgovernmentalism persist on issues such as

passports, family law and operational police cooperation. (Wallace et al., 2015, p.110).

According to Fabbrini (2019), it can be said that the Lisbon Treaty formalised a dual decision-making system or constitutional regime, although different combinations of institutional logics can be detected in specific micro-policy fields. With the introduction of the ordinary legislative procedure (OLP), the EP adopted an increasing number of regulatory policies and has thus come to play a growing decision-making role. However, Fabbrini argues that, while in the supranational constitution, the EP has been recognized as an institutional power, in the intergovernmental constitution, “the EP has had to struggle for imposing its policy influence on the European Council” (Fabbrini 2019, p.4-5). Furthermore, Fabbrini argues, while it has exercised influence on issues of low political salience, it had to work hard to see its influence accepted on issues of high political salience (ibid.). This differentiated decision-making structure has generated tension between the two constitutional settings supporting it, prompted by what Fabbrini labels as an “intergovernmental confusion of powers”. Although no thorough account for the different institutions' roles within the policy area can be made within the scope of this thesis, what is important for this analysis is the realization that the EP's role and thus influence over policy within the field is fragmented and intrinsically linked to power-sharing dynamics between supranational institutions and member states. As the EU operates through different methods and different institutional patterns which have changed over time, historical aspects of the development of intergovernmental and supranational cooperation in this area are important to take into account. Complex power-sharing structures and a number of exceptions, such as opt-outs for certain members of the Schengen cooperation, make it difficult to picture a harmonious structure of the policy area, which has been taken into account in the discussion. An important factor which has been considered in the analysis is the Parliament's changed role and increased powers after the Lisbon Treaty and the tensions in intra-institutional relations, not the least in relation to the Council. These factors affect the ability to draw conclusions on the power dimensions in the discourse why a greater focus has been to identify what discourse has taken place. Although empirically hard to establish, for future research, an analysis with a more critical perspective focusing on policy outcome would have to outline these dynamics further.

3 Theory: From utilitarianism to communitarianism

As mobility within the European Union has increased, so has the political and public attention aimed towards the Schengen Area in general and FOMOP of persons in particular (Roos & Westerveen 2019, p.2). In line with this notion, this thesis is interested in identifying potential changes in the discourse of FOMOP in the light of recent transformative and debated events. Thus, in order to answer the research question, this essay primarily draws on knowledge of current discourses on free movement and the theoretical point of departure based on normative political theory. However, the analysis falls within a wide range of research, in many ways connected to, and essential for a broader understanding of, the selected research area.

Acknowledging the need to contextualise the chosen topic and to illustrate the widespread interest aimed at FOMOP, the following section begins with an overview of related research, focusing on aspects other than discourse and normative justifications. The chapter then proceeds to discuss a narrower context of related discourses, presenting the observed research gap. Finally, the research inspiring the framework of this essay is outlined, bridging to the theoretical framework drawn upon Roos and Westerveen (2019).

3.1 Literature review

3.1.1 Mosaic of scholarly interest

Increasingly politicised and subject to a number of crises (European Parliament 2017, p.15), FOMOP of people has been studied in a wide range of contexts, where the effects on trade and economics within the EU (Davis & Gift 2014; Adepoju 2015; Maas 2015; Mahmood & Linden 2017; Felbermayr, G., Gröschl, J., & Steinwachs, T 2018) securitisation of the border-free area (Banai & Kreide 2017; Ceccorulli 2019; Lamour 2019) and free movement and social rights in an enlarged Union (Krings 2009; Dølvik & Visser 2009; Blauburger & Schmidt 2014) emerge as prominent aspects for research.

In a survey article aiming to present an overview of the scholarly literature on the Schengen Area, Votoupalová (2018) adds to this notion, stating that scholars predominantly have focused on borders, security, agency, and the gap between legislation and practice. Much of this literature builds on policy and legal analysis where accountability, implementation and citizenship commonly are at the centre of analysis (Thym 2002; Guild 2004; Wollenschläger 2011; Topping, 2016). In this context, a focus on the eastward expansion of the European Union and the relationship with accession is oftentimes addressed (Jileva 2002; Atger, 2008; Zaiotti 2013; Mushak 2017), examining tensions among existing and recent, or prospective, members of Europe's border-free regime.

A scholarly literature keyword search reveals that near half of the studies available concerning the Schengen Area and FOMOP deals with crisis in one way or another. Within this category, two main framings for research can be distinguished. Firstly, studies examining crises as a potential driving force for putting an end to Schengen and the principle of FOMOP (Zaiotti 2011; Fijnaut 2015; Casella Colombeau 2020), and secondly, studies underlining the resilience of Schengen *despite* continued crises (Popa 2016; Votoupalov 2019). Although different in their approach, most crisis-centred studies present similar conclusions, emphasising that while the re-impositions of internal border controls in 2015 heightened the debate on a potential collapse of the Schengen Area and the principle of FOMOP, an actual collapse is unlikely. Rather than undermine the premise of Schengen, previous crises have proven to represent cyclical adjustment mechanisms where some scholar argue that an endangerment will not be due to re-impositions but rather insufficient *external* border controls (Votoupalov, 2019). This discussion is touched upon in the multitude of studies dealing with the complexity of the governance structure of the Schengen Area and free movement (Pascouau 2014; Gruszczak 2016; Carrera et al., 2018; Coman 2019), often looking at police and security cooperation (Colombeau 2017; Pejakovic-Dipic 2018) and

the national setting for implementation. In a 2019 study, Colombeau, for example, analysed the effect of the 2015 “refugee crisis” on the free movement of people at an internal Schengen border, highlighting mechanisms of a bottom-up approach toward the EU policy implementation. Looking at activities of the French border police at the France-Italy border, the author concluded that at the bottom of the chain of command

[...] street-level bureaucrats are tasked with managing the inherent ambiguities of free movement as defined in the Schengen convention [...] leaving the vast majorities of border crossings unaffected (Colombeau, 2019)

This thesis’ temporal interest in the year 2020 aligns with a greater general attention aimed towards the effects of border controls on FOMOP in the light of the COVID-19 pandemic (Montaldo 2020; Rijpma 2020; Thym & Bornemann, 2021; Wolff et al., 2020). Within the category, researchers have begun to take a closer look at both governance, legal aspects and symbolism and narratives emerging in public and political debates. Once again, crisis is a prominent theme, although some scholars believe there to be no real cause for unease regarding the reintroduction of temporary border controls (Montalado 2020). In a study analysing the possible implications for the Schengen Area, Montalado, for example, surmises that, from a legal point of view, the temporary reintroductions based upon the COVID-19 epidemic are hardly questionable and yet at an early stage of implementation. Thus they ought not to be considered controversial or compromising for the Schengen Area. Furthermore, Montalado argues, the Commission itself acknowledged that, in principle, border controls could be used as part of the national anti-epidemic toolbox. At the same time, the author raises some concerns about the Commission urging the national authorities to strike “an appropriate balance between health protection and the equally paramount objective of securing adequate intra-EU mobility” (Montalado 2020, p. 5). According to Montalado, the statement by the Commission highlights the issue of certain enduring loopholes in the Schengen Agreement, misused by some Member States. Since the temporary reintroduction of border controls in 2015, some Member States have managed to justify their border controls by shifting from one legal basis to another whenever the respective maximum period expired, igniting a chain of border control reinstatements. Furthermore, on some occasions, Member States have altered their justifications to further secure continuity of temporary reintroductions for a longer period of time, coupling the discussion on implementation and governance to a more constructivist discussion related to justifications in relation to asylum seekers and EU external borders (Montalado 2020, p. 6).

The variety of aspects addressed illustrates the general complexity of the policy area and the many variables affecting mechanisms and possibly the view of free movement at an institutional level. A challenge permeating the forthcoming analysis will thus be to understand which dynamics can be distinguished and deemed important driving forces in the normative discourse subject to analysis.

Furthermore, understanding the setting characterized by interconnected implementation and decision-making processes, multi-level governance structures, and inter-institutional power dynamics is crucial for a more thorough understanding of the lines of development. An important step in this process will be to draw upon discourses already analysed.

3.1.2 EU-level discourse on FOMOP

Whilst laying out arguments for a perceived research gap, Roos and Westerveen (2019, p.2) initially note that scholars, to a large extent, have concurred that FOMOP is primarily discussed and contested at the national level (Bruzelius 2019; Ruhs 2015). Those looking at the policy area from a more interpretive approach on an institutional level often are legal scholars delving deeper into the motivations of the various actors that have helped shape the discourse on FOMOP. As an example, the authors highlight how a significant number of these scholars found that the decisions of the European Court of Justice (ECJ)

[...] interpreted the mobility and residency rights of EU citizens in such a way that EU migrants gained greater access to welfare through expanded eligibility criteria (e.g. Guild 2004; Wollenschläger 2011).

In their article, Roos and Westerveen argue that this scholarly discourse on FOMOP largely ignores the claims of EU institutions and the political discussions about FOMOP that take place within those institutions. If the positions of the central institutions (the European Commission, the European Parliament, the Council of the European Union and the European Council) are mentioned at all, it is only in passing. Furthermore, the literature rarely addresses the positions of the EP and the Council or how normative positions and justifications vary across different EU actors and change over time. Instead, Roos and Westerveen argue, it is mainly the Commission that is depicted often as an “orthodox defender of FOMOP in line with the “interests and principles of the EU as a whole” (Roos & Westerveen 2020, p.2-3; Eigmüller 2013; Parker and López Catalán 2014).

The lack of analysis of institutional discourse on FOMOP is still unmistakable, although some contributions in recent years indicate a greater interest in the subject. In 2019, Votoupalová analysed how solidarity in Schengen is perceived by the EU institutions and which of its aspects are emphasised. Drawing on a theoretical framework based on the concept of solidarity and a methodological framework based on the Discourse-Historical Approach, Votoupalová argued that solidarity in Schengen is inherently linked to external borders that must be controlled collectively. Furthermore, Votoupalová concluded that the question that should be asked is not about how much solidarity is expressed and delivered within Schengen but rather which type of solidarity is concerned. While a “compassionate

aspect” of solidarity might be favourable according to the author, empirically, politicians draw on a rational kind of solidarity (Votoupalová 2019).

The understanding of open borders as an act of solidarity between the Member States of the EU (Krunke et al., 2020) is a thematization that has sparked interest among several researchers using a discursive approach. In a 2017 article, Siebold analyses the historical understanding of the term “solidarity” in the context of the Schengen process. A central argument is that FOMOP granted by the Schengen agreement often has been framed in the context of solidarity (Siebold 2017, p.2) why particular attention needs to be paid to the term. Looking at how the concept was formulated by the signatory states of the Schengen Agreement and how the understanding has changed over the years, an analysis was conducted by analysing the term solidarity in the European agreements and treaties. In her concluding remarks, Siebold discusses how European solidarity as a term did not play a key role during the Schengen process “neither in the official documents nor in the political debate” (Siebold 2017, p.11). Hence, Siebold argues, it is noteworthy that the term is now used as a central keyword in the ongoing debate on the continuation of the Schengen Agreement. Just as Votoupalová, Siebold notes that attention must be paid to the question of the definition of solidarity but also to the value of the term for research. The different understandings of solidarity have, according to Siebold (2017, p. 1), one aspect in common: they focus primarily on the internal dimension of European solidarity. In her analysis, however, the author furthermore concludes that the term was also applied in another external, global dimension to call for “humanitarian support towards refugees reaching the Schengen Area from anywhere in the world”. These dual dimensions of the Schengen Area, as well as the framing of discussion concerning refugees, especially after 2015, emerge as common points of departure in a number of analyses. However, this applies to a greater extent to studies looking at public or national discourses (Barlai et al., 2017; Karstens 2020) rather than institutional ones on an EU level.

Studies on FOMOP in the EU that look at constructivist approaches and aspects that have constructed the view of the Schengen agreement seldomly look at the discourse from a broader theoretical, conceptual apparatus. Instead, the focus is rather on specific concepts or terms identified as central for the understanding of FOMOP. Furthermore, a comparative analysis of the EU institutions is scarce. Recognizing this research gap and aiming to extend the theoretical debate, Roos and Westerveen (2019) introduced the EU institutions as agents of discursive change with respect to norms on FOMOP. Their analysis of the EU-level discourse shows that the Commission, the Council and the EP take different stances towards FOMOP, viewing it either as a fundamental right of EU citizens, a utilitarian good for EU integration, or a conditional right that can be restricted. Basing the empirical analysis on established strands in normative political theory, the authors concluded that the European Commission and the European Parliament put more emphasis on FOMOP as an individual right, whereas the Council tends to underline the

FOMOP's utility to the common European market and European integration (Roos & Westerveen 2019, p. 13).

In Roos and Westerveen's analysis, the Commission was found to be the actor with the highest variance in its positions, reflecting the scope of FOMOP as defined in the Treaties. Moreover, the EP was shown to seek to develop EU citizenship for establishing the EU as a community of people in which FOMOP as an individual right is essential. Drawing on these results and on the general lack of research on how normative positions and justifications vary across EU actors and change over time, the analysis of this thesis is based on the framework for the analysis presented by Roos and Westerveen. In the following section, this framework is presented.

3.2 Theoretical framework

Drawing upon a framework of normative political theory with an objective to diagnose the justifications and norms of political action, this thesis is largely theoretically driven, thus employing a deductive use of theory (Manners et al., 2015, p.314). However, adopting a somewhat pragmatist perspective for deciding what the most likely inference are that can be made from a set of observations, in reality, the analysis deploys an abductive reasoning. In the following section, the use of theory and the particular theoretical framework chosen for the purposes of answering the research question is presented.

3.2.1 Normative political theory as basis for analysis

Historically, scholars have primarily discussed the European Union in terms of a dichotomy between supranational integration and intergovernmental cooperation (Manners 2013). Within this school of thought, some grand theories designed with European integration in mind have dominated the field of research, namely neo-functionalism, intergovernmentalism and post-functionalism (Hooghe & Marks 2019). Within this context, the perhaps most prominent scholar within the field, Boswell and Geddes (2011, p.191), think about mobility in the EU as rationalised from two rival ‘paradigms’. One liberal, free-trade-oriented paradigm and one more state-centric and restrictive paradigm. The first, to a greater extent, emphasises the economic benefits of free movement, while the latter focuses on concerns about the impact of migration and mobility on the state’s capacity to allocate socio-economic and political resources (Balch 2018).

While neo-functionalism, intergovernmentalism and post-functionalism will not be discussed in greater detail, Balch (2018) offers an example of what an approach using these grand theories could say about the politics of the intra-European movement. In Balch’s understanding (2018, p. 2-3; Wiener and Diez 2009), linking the different positions of national or EU actors on FOMOP with broader understandings around the process of integration represented by the ‘ideal-type theories of neo-functionalism or liberal intergovernmentalism, could predict that

[...] supranational institutions will seek ever-deeper integration over free movement, while national/intergovernmental fora would be more cautious, seeing cooperation as contingent upon the higher priority of national interests.

Hooghe and Marks (2019) furthermore illustrate how an approach using neo-functionalism, intergovernmentalism, and post-functionalism could offer fruitful insights into forces driving EU integration in the light of transformative change and

thus a research question with a similar focus area to this thesis. The authors outline the distinctive features of each respective approach in relation to four landmark events of the past decade: the Euro crisis, the migration crisis, Brexit, and illiberalism, concluding that at one and the same time

[...] the Euro crisis, the migration crisis, Brexit, and illiberalism can be viewed as episodes of intergovernmental bargaining, path-dependent spillovers, and ideological conflict.

This view is contested by Manners (2021, p.160), who argues that the classical integration theories of neoliberal intergovernmentalism, neo-functionalism and postfunctionalism all operate within the “ideological common sense of neoliberal orthodoxy”. Thus, Manners argues, these classical theories make sense within an rationalist political science assumptions, largely ignoring historical, economic, social and other contexts of EU crisis.

Although the approaches used by Balch and Hooghe and Marks offer interesting approaches for analysing FOMOP in relation to the process of integration, for the purposes of this thesis, the theoretical schools are less relevant. Even though changed attitudes towards FOMOP ought to have implications on the integration process, not the least considering its central role in the aspiration of “an ever closer Union among the peoples of Europe” (Treaty of Rome 1957), the focus of this essay is not primarily to explain mechanisms of integration, but rather to analyse, and trying to understand, the construction of the EU from a discursive political theory approach. This endeavour relates to the works of Manners, who suggests that the post-Lisbon period requires a need for engagement with contemporary political theory “that embraces the wider transformations of society, economy and politics that constitute both Europe and the globe” (Manners 2013, p. 3). One reason for this, Manners argues, is the persistent difficulty in identifying the “nature of the beast” (Manners 2013; Bretherton and Vogler 2006), which might be because of the increasing disjuncture between political concepts and theoretical understandings. To Manners, rather than using ‘integration’ or ‘co-operation’ as means of perceiving the EU as a political object, understanding the projects, processes and products of the European Union, based on ‘sharing’ or ‘commUnion’ provides a more appropriate means of conceptualizing European Union (Manners 2013, p. 2, 18). Rather than presuming theories of regional integration or focusing on governance theories, Manners suggests that contrasting communitarian, cosmopolitan and cosmopolitical theory is suitable.

Roos and Westerveen identify similar distinct strands of political theory for analysing normative positions on FOMOP. In order to map the parameters of the discourse in which the meaning and scope of the right to free movement is defined, Roos and Westerveen explore the relationship between legal norms and their normative theoretical foundations (2019, p. 2-3). These, they argue, are liberal utilitarianism, liberal cosmopolitanism, and liberal communitarianism.

In this thesis, the ambition is to build on the results as presenters of Roos and Westerveen, the reasons being twofold. First, the research gap presented above

demonstrates the need to address the discursive aspects of the increasingly prominent debate on FOMOP, especially from a normative and institutional point of departure. In order to increase the knowledge of how key pillars of EU integration can be subject to discursive change, understanding how the EU and its institutions act as political actors that define the meaning of FOMOP is important. Secondly, in their research, Roos and Westerveen present a well-defined framework, analysing the time period 2004 to 2016. However, considering the number of transformative and significant events that are likely to have influenced this discourse since 2016, such as transformations in the political landscape in the aftermath of the refugee crisis and the COVID-19 pandemic, there is reason to transfer the framework to a posterior time period. In the following, the framework identified by Roos and Westerveen is presented in more detail. What are the basic characteristics of each framework? What is the explanatory focus for justifications of FOMOP, and what literature is each approach rooted in?

3.2.2 Liberal Utilitarianism

The principle of intra-European movement free from direct hindrance originally built on the liberal utilitarian view that worker mobility “is an essential element in establishing a common EU labour market and a trigger for European political integration” (Haas 1958, p.12). With this understanding, FOMOP is placed in a normative ethical context derived from works such as Mill’s (1863), who advocated actions to maximize utility, understood in terms of happiness and well-being for all individuals (Crisp 1997, p. 77). Roos and Westerveen expand on Haas’ argument, adding to the utility aspect of FOMOP by highlighting the pioneering work in monetary dynamics and optimum currency areas by Mundell (1961). Mundell’s work examined mechanisms of adjustment when countries or regions face exogenous country-specific shocks, with particular reference to the US and Canada. In the context of the EU, Roos and Westerveen here understand the function of FOMOP as a mechanism for market correction during such times of asymmetric shocks to the economic system (Roos & Westerveen 2019, p. 5).

Within the framework of liberal utilitarianism, FOMOP is furthermore assumed to help create a community of people with a shared European identity (ibid.). According to Kuhn, this is because market-related transactions originating from cross-border movements help promote the creation of a community of European citizens (Kuhn, 2015). The liberal utilitarian framing of FOMOP thus primarily focuses on the “instrumental value of mobility” for EU integration (ibid.). It is either considered significant for the creating of the common market or “in terms of creating a community of people who identify with Europe”, or both. In Roos and Westerveen’s understanding, a crucial distinction from the liberal cosmopolitan view is that FOMOP is not considered a right in itself as long as it does not contribute to the common good of EU integration.

3.2.3 Liberal Cosmopolitanism

For the frame recognized as liberal cosmopolitanism, Roos and Westerveen present a common denominator of identifying FOMOP as an “individual right that EU citizens enjoy equally as a result of their countries’ membership in the EU” (Roos & Westerveen 2019, p. 4; Maas 2013, p. 9). This idea of free movement as a fundamental right stems from the classical liberal paradigm formulated by, amongst others, Immanuel Kant. In his writings on moral and political philosophy (originally, e.g. published in *Idea for a Universal History with a Cosmopolitan Purpose* 1784), Kant understands all human beings as equal members of a universal community. Roos and Westerveen emphasize how scholars frequently have considered the principle of free movement within the EU as a measure of this universal liberal doctrine, safeguarding principles such as equal opportunity and non-discrimination with respect to nationality (ibid.). To illustrate an example, the authors highlight how sociologist Adrian Favell (2014, p. 282) considers the EU FOMOP policy to be a “liberal migration dream scenario”.

Apart from the view of fundamental equality, another central reasoning within the framework is the egalitarian ideal of promoting social justice (Marshall 1964). In a 2017 study, Bruzelius, Reinprecht and Seeleib-Kaiser, for example, theorize how citizens from poorer Member States within the Union can pursue social mobility via geographical mobility, making FOMOP an essential instrument for social and economic equality. Roos and Westerveen expand on this reasoning with the works of Bauböck (2009, p.7), who argued that FOMOP has an instrumental and intrinsic value of autonomy essential for the exercise of individual freedom as such. Thus, FOMOP becomes a fundamental aspect of citizenship that can be morally justified in itself. In the context of the EU, its commitment to non-discrimination (Guiraudon 2009) means that

[...] it would be unjust to deny individuals the right to mobility on the basis of a nationality that they cannot freely choose (Roos & Westerveen 2019, p. 4-5, Maas 2013)

3.2.4 Liberal Communitarianism

The inherent conditionality of access to the welfare system of the state, Roos and Westerveen interpret as “in-built concessions to communitarian conceptions of society and state” (2019, p. 4). Referring to Walzer (1983, p. 38–39), this distinction between fully inclusive and conditional membership in the welfare state

[...] recognizes the idea that social cohesion and an egalitarian society can only be established by maintaining boundaries between groups of members and non-members.

A focus on the national community rather than the community of EU citizens (Walzer 1983, p. 41) here provides room for arguments favouring the closing of welfare states and labour markets to non-national EU citizens “thus restricting or even abolishing FOMOP” (Roos & Westerveen 2019, p. 4-5). Unlike the liberal utilitarian and cosmopolitan stance on FOMOP, who consider worker mobility in the EU as a tool for “matching labour market needs or as an opportunity for individual social mobility” (Roos & Westerveen 2019, p. 5), Roos and Westerveen argue that a focal point of communitarian position on FOMOP is that open borders for labour in Europe heighten competition brought by migrant workers, thus threatening local labour standards and wages (Schulz-Forberg & Stråth 2010).

These communitarian positions can be contextualized within the debate of academic philosophy concerning liberal and communitarian theories of government (Taylor 1989). Broadly speaking, a dichotomy between liberal rights with respect for the individual and defenders of community who are against the individual, on the other hand, can be detected (ibid.). A vocal opposer of this apparent clash is American political philosopher Sandel, who argues a more procedural liberalism on the grounds that it requires a notion of community that it rejects in favour of individualism (Sandel 1984). Although not explicitly outlined, Sandels’ liberal communitarian position seems to be the interpretation applied by Roos and Westerveen. They argue that favouring protective measures restricting FOMOP to certain EU citizen groups are based on “concerns for the various national communities within the EU”, which to them represents liberal communitarian stands (Roos & Westerveen 2019, p. 5). Furthermore, Roos and Westerveen present a potential critique against open borders for labour in Europe where a communitarian stand would consider it a potential part of a neoliberal agenda that “aims to keep production costs as low as possible by increasing the pressure on wages and standards” (Castles 2011, p. 312).

Lastly, Roos and Westerveen illustrate how restrictionist arguments can be expressed through reference to the maintenance of public security. From a communitarian perspective, they argue, reintroduced border controls can be legitimized in case of external dangerous threats against public order in the (liberal) state (Turner 2007).

In the scheme below, the different positions within each framework as they have been coded for the analysis are presented. When discussed in the analysis section, some terms or codes have been joined under one overarching concept, which, e.g. is the case for *individual right* and *right in itself* who are presented under the term *fundamental right*. This is also the case for community protectionism and labour market protectionism, which are joined under the term *welfare protectionism*. For liberal utilitarianism, positions arguing that FOMOP is an essential tool for EU integration, *Integration* has been added in addition to the concepts included by Roos and Westerveen. The attentive reader will thus note that the coding scheme presented in *Table 1* does not represent an exact replica of the one presented by Roos and Westerveen. This is due to operationalization and an attempt at better efficiency in presenting results. Just as Roos and Westerveen, the codes reflect the normative positions identified except for one additional code; Abuse or Fraud. Roos and Westerveen adds this code to the scheme since they found a number of extracts that argued that “safeguarding FOMOP requires protecting it from potential abuse and fraud”. In order to underline that this position is a separate one, this thesis will present this particular code as a separate one. This is also the case for *conditionality* which can be placed under both utilitarianism and communitarianism. In terms of content and understanding of each normative position, however, the framework is the same.

Table 1 – Coded categories for normative political positions

<i>Liberal utilitarianism</i>	<i>Liberal cosmopolitanism</i>	<i>Liberal communitarianism</i>
Utilitarian good	Fundamental right	Welfare protectionism
<i>Creating the common market</i>	<i>Individual right</i>	<i>Community protection</i>
<i>Welfare gains</i>	<i>Right in itself</i>	<i>Labour market protectionism</i>
<i>Integration</i>	<i>Human right</i>	
European identity	Equal treatment /access	Security and public order
		<i>Social cohesion and identity</i>

* *Cursive text represent sub-categories operationalized under each main category. In order to present a better overview in figure 2, only main categories are presented.*

4 Methodology: Identifying the normative political discourse

In the following sections, the methodological considerations that have been made for the purpose of this thesis will be presented. The purpose of this chapter is thus to account for the choice of content and discourse analysis as methods for answering the thesis' research question. First, the research design and general structure for analysis will be outlined. The chapter subsequently proceeds to discuss the rationale for choosing a mixed-methods approach, using content analysis and discourse analysis for the purposes of answering the research question.

4.1 Research design

In order to identify how normative positions on FOMOP are named and referred to linguistically in the discourse in question, the analysis uses a textual analysis. The choice of methodological approach is based on the ambition to, by studying and analysing texts, be able to demonstrate or explain a certain phenomenon (Fairclough, & Fairclough 2015). Attempting to explore the construction of the concept of FOMOP and developments hereof over a five year period, the analysis deploys a longitudinal design. Instead of looking at different samples of the material or population at one point in time (a cross-sectional design), this thesis studies a phenomenon over an extended time period (Bryman 2016). This design allows for an in-depth exploration and analysis as well as identifying changes over time which is one objective of this thesis (Mills et al., 2009).

Setting out to identify the political discourse by the EP and how this has changed over time, the methodological procedure has been designed in an explanatory sequential mixed methods design involving a two-stage data collection and analysis process (Creswell 2017). This mixed-methods approach represents an alternative to the quantitative and qualitative traditions by advocating the use of whatever methodological tools are required to answer the research questions under study (Creswell 2010). The basic premise of this methodology is that integrating elements of both traditions permits a more complete utilization of data than separate quantitative or qualitative data collection and analysis approaches can. As this study

seeks to deepen the understanding of the discourse of the EP, an ambition to enrich the material used by Roos and Westerveen has guided the data sampling. Furthermore, by using both quantitative and qualitative elements in the process, this thesis seeks to provide a more complete story than either method would alone. At the same time, the approach does not come without its challenges. It is, e.g. more labour intensive and requires greater resources and time than single method studies do. This has had some implications for certain delimitations of the analysis, such as the exclusion of certain analytical perspectives discussed under section 4.4.

In the first level of analysis, quantitative data was collected and structured through a content analysis. Content of various types of EP documents in which FOMOP is addressed were coded for the purposes of outlining how normative positions on FOMOP are referred to linguistically in the discourse in question. This first approach is empirically grounded and exploratory in process. It uses a hybrid approach where the coding categories are deductively derived from a theoretically grounded code-book. As new things were noticed in the data, however, the set of codes were expanded, thus also using a more inductive approach to the material.

The results from the content analysis then constructs the second qualitative level of analysis. By at this stage employing a discourse analysis, a more in-depth insight into of what is said and how this has developed over time is achieved. The discourse as a method for qualitative reading of the coded material furthermore enables a more specific attention to the context in which a verbal act is taken.

The more quantitative content analysis allows for observations of the amount of attention that FOMOP has received in the studied EP documents during the selected time period. Furthermore, shifts and trends in normative positions derived from the coding scheme presented by Roos and Westerveen can be detected. While the content analysis approach helps track probable trends in a systematic and reliable way, the qualitative stage of analysis can highlight how normative positions on FOMOP are constructed in the studied documents. Driven by the hypotheses that normative positions derived from the theoretical framework will appear, the discourse analysis, using critical elements for analysis, can help identify and nuance potential hegemonies.

For the purposes of answering the research question, content analysis and discourse analysis are used as complementary methods providing both quantitative and qualitative descriptions about the subject of the research. Together, the methods not only allow analysis and interpretation of EP documents but also of the social phenomena covered by them. How this has been operationalized for his thesis is presented below.

4.2 Content Analysis

Content analysis entails a systematic analysis of a body of texts, debates, media broadcasts, protocols, art and other things that might be considered as texts. That is, provided they speak to someone about phenomena outside of what can be sensed or observed (Krippendorff 2013, p. 25). In order to determine a specific pattern of words and concepts given within the set of documents, a content analysis offers an effective method for data collection and systematisation. While it is possible to identify quantifiable trends, the method also allows a closeness to text which is beneficial when word frequency alone is not satisfactory. In the empirical data used in this thesis, many different words or coded normative positions can relate to similar but less relevant frames why the corpus has been manually scanned and coded. Geared towards the quantification of content, the material has been coded with the help of the computer software Nvivo.

As a technique, content analysis is expected to be reliable and replicable, meaning that researchers working at different points in time and under different circumstances should get the same results when applying the same technique to the same phenomena (ibid.). This is achieved by structuring specific content in fixed categories that can be replicated in the same manner over the selected material. In this regard, it becomes of utmost importance to present findings in the analysis in such a way that the reader can follow the process step by step.

The coding scheme presented in *table 1* has aimed to create a replicable tool for analysis. From the theoretical assumptions derived from normative political theory, an analytical instrument was created by identifying operationalized coding units (see subheading 3.2.4). Certain words or concepts derived from each respective theoretical frame were thus recorded by means of numerical code.

An initial keyword search in the public databases of the EP used for data collection (europarl.europa.eu) revealed an extensive material, prompting considerations on sample size. Setting out to use a qualitative interpretative approach for reading the material, this close reading normally requires a relatively small amount of textual matter (Krippendorff 2013, p. 23). However, a larger sample is favourable in order to achieve the credibility that makes the results as trustworthy as possible. In the defining works of Krippendorff, the author questions the validity and usefulness of an absolute distinction between quantitative and qualitative content analyses as all reading of text, he argues, is qualitative. Based on this notion and in order to be able to relate the results to those presented by Roos and Westerveen's study, near 170 documents of various types were analysed (see subheading 4.4) in order to answer the research question.

To further meet the requirements of reliability, exemplifying quotes derived from the material has been included so that the reader is given an opportunity to determine whether presented conclusions can be deduced from the material (Bergström and Boréus 2012, p. 41). However, a certain room for interpretation is

unavoidable as the scheme is based on a wide theoretical framework, and the material is read with a particular intent relative to a particular context. When interpreting the descriptive statistics generated, Lynggaard, Manners and Löfgren highlight how one should be aware of the characteristics of the corpus. Variations in discourse, they argue, can sometimes be explained by contextual or technical factors rather than confirm or reject hypotheses. The analysis, therefore, remains qualitative in the sense that “the numbers used to objectify discourse do not have a value in themselves: they are only here to convey the content and remain dependent of their context” (Lynggaard et al., 2015, p.114). Thus, this analysis acknowledges a hermeneutic interpretation, conditioned by certain socially and culturally understandings of the theoretical framework and observed expressions and phenomenons in the material (Krippendorff 2013, p. 23).

4.3 Discourse Analysis

Discourse analysis entails a more encompassing theoretical approach to social phenomena than content analysis, although both methods concern the study of text (Lynggaard et al., 2015, p.106). Frequently underlined in the body of literature on methods of social science, there is no *one* form of discourse analysis. Scholars within the field come from a variety of intellectual traditions, seeking to study societal phenomena through text and talk (Boréus 2017). Although different in their ontological and epistemological approaches, discourse analysts share the assumption of language as formative and constitutive (Boréus 2017, p. 210). Discourse analysis as a method emphasizes intersubjective understandings of the world and seeks to understand how and why particular discourses emerge, become dominant and are used by different actors. It is thus a form of qualitative analysis that focuses on the interpretation of linguistic forms of communication (Lamont 2013, p. 91). The interpretative aspect of discourse thus prompts a reflection on theoretical scientific considerations dealing with ontology and epistemology.

Within the methodological field, a wide range of possible stands on what counts as the analytic focus of a particular study and how findings and implications are framed in terms of what counts in the world, i.e. ontology, have been used (Anderson & Holloway 2020). Hardy et al., for example, define discourse analysis as “a methodology for analysing social phenomena that is qualitative, interpretive and constructivist” (2004, p.19). This constructivist approach rejects the possibility of a neutral observation language (Boréus 2017, p. 9) and instead argues that the method for analysis brings with it a set of assumptions about how the world is constructed through language (Hardy et al., 2004, p. 19). Commonly contrasted to constructivism, scholars of the empiricist school claim that scientific knowledge

can be reached by neutral observation and stresses the distinction between reality and language (Boréus 2017, p. 9).

An epistemological position somewhat between these more simplistic empiricist ideas on how to gain knowledge about reality and constructivism is critical realism (ibid.). Applying a critical realist approach means acknowledging that language constructs social realities while at the same time theorizing that constructions are shaped by the possibilities and constraints inherent in the material world (Bhaskar 2008). Fairclough (2005, p. 931) argues that this approach is of particular value when studying organizations, where a critical realist approach can address, amongst other things, how particular discourses become hegemonic and how discourse figures within the strategies pursued by groups of social agents to change organizations in particular directions (ibid. p, 933). In this analysis, the primary aim is to identify potential changes in the political discourse in the EP by drawing on the results and normative political framework of Roos and Westerveen. However, recognizing the EP as a particular actor drawing on the discourse to legitimate their positions and actions, the thesis furthermore seeks to shed light on structure and agency. By doing so, the analysis borders on the discourse method “critical discourse analysis” (CDA) and adopts critical realism as an approach. It thus recognizes that it is possible to obtain knowledge about social mechanisms by studying phenomena and processes in the empirical domain. At the same time, language is understood as a “key player” in constituting the objects under study. Exploring the relationship between legal norms and their normative theoretical foundations, the analysis furthermore draws on Habermas’s discourse theory (2015) and the rationality of legal discourse. Habermas argues that there exists a tension between the certainty of law and its rightness. Roos and Westerveen (2019, p.3) thus argue that the legal requirements of FOMOP cannot, by themselves, comprehensively explain the meaning and scope of the right since:

[...] beyond what is written in law, it is the discourse of powerful actors on legal norms that determines how these norms become effective in everyday practice by connecting them to their respective normative and theoretical contexts (Roos & Westerveen 2019, p.3)

Compared to other approaches to discourse analysis, CDA, to a larger extent, emphasizes language as a power resource that is related to ideology and socio-cultural change (Bryman 2016, p. 536). As a theoretical foundation, it particularly draws on Foucault, who, in classic works such as *Madness and Civilisation: A History on Insanity in the Age of Reason* (1967), discussed how questions of power and discourse are placed at the centre of focus with the help of discourse analysis (Boréus 2017, p. 212). Building on Foucault’s notion that power is exercised through the operation of rules and procedures that form the objects of which they speak, CDA embraces the idea of a pre-existing material reality that constraints individual agency (Phillips & Hardy 2002). Discourses should thus be examined in relation to social structures and power relations.

When using this approach, Wodak (2009) highlights an important distinction between power *in* discourse and power *over* discourse. In the context of European politics, Lynggaard et al. (2009, p.109) emphasize how these exclusion dynamics could potentially be very important since European policy issues often are very complex and “some groups or actors are perceived as more legitimate or can make themselves more easily heard than others in the public sphere.” (ibid.) Thus, it remains a challenge to empirically demonstrate the impact of discourse on policy change, which is *not* the objective of this essay. Instead, the aim is to diagnose the justifications and norms of political action rather than the power dimension of political outcome. However, a special focus on the EP means a certain focus on how the EP is a political actor defining the content and meaning of FOMOP. This is why certain critical questions have been asked of the data trying to expand the analysis to also include certain reflections on power dimensions. Thus, in order to structure the analysis, a set of questions have been asked of the material as tools for discourse analysis. For the purposes of discerning why and how the EP has resorted to a particular discourse, questions have been formulated to enable a closer look at details of language in the written communication. Who is described as entitled or not to the right of free movement? Does the use of a certain discourse legitimize a certain course of action? Are certain kinds of movements of people described as more of a threat to internal security? These and similar questions have been identified as of interest in the discourse analysis. Although the questions illustrated intend to clarify which tools are used, some vagueness and ambiguity remains for the application of the method. A such, reliability becomes a general challenge for this part of the analysis, which is also a general critique often expressed towards discourse analysis as a method (Boréus 2017, p. 236). Another potential challenge is the selection of material as it should be representative of the “official” discourse of the organisation as a whole and not just a single representative (Lynggaard et al. 2009, p.111). These and other considerations concerning the choice of empirical material will be discussed in the following section.

4.4 Material and delimitations

For the data collection, a document repository was initially created by conducting a keyword search in the public databases of the European Parliament. In order to enable a comparative analysis with the results presented by Roos and Westerveen, the documents were selected on a similar basis and from similar sources used by the authors for the European Parliament. In order to address the EP's positions, press releases and resolutions addressing Schengen and Freedom of Movement of Persons were selected. In addition to this, the material was extended by also looking at debates during EP plenaries and in the respective committees. While Roos and Westerveen suggest that the latter would be favourable in order to uncover distinct positions of political factions, this has not been the main objective of the analysis. While some reflections on political factions have been made, a discussion dedicated, for example, to the different positions of political groups in the EP has been left out for numerous reasons. First, for the purpose of analysing the positions of European political parties (Euro parties), the selected material does not offer the best empirical basis since political stands are only partly visible. The material would thus have to be supplemented with more suitable documents such as statements and manifestos or other representative material. Given the limited scope of this thesis, this focus was thus left out, although it is suggested as future research. Secondly, the organizational and institutional intricacy of the EP and its role in the policy area makes an analysis of the discourse of the political Euro parties complex as it would be difficult to determine the importance of the influence of different factions. Instead, the aim is to provide an analysis of the EP as an institution in general why the political and ideological aspect has been largely left out.

Legal documents usually do not address the political considerations that underlie the adoption of a certain text, why Roos and Westerveen exclude these kinds of documents from the sample. However, in order to include a large diversity of sources, positions of the European Parliament concerning legislative document have been included for the purposes of making the corpus more representative in the sense that there is less bias related to a single type of source (Lynggaard et al. 2009, p.111). In total, the selected documents generated a sample of 162 reports, motions for resolution, press releases and positions.

The time period of interest has been selected based on some strategic considerations. As the main interest guiding this thesis are the implications of two main events on the discourse on FOMOP - the reintroduced border controls in 2015 as a reaction to the "refugee crisis" and the more comprehensive reintroduced border controls in 2020 as a response to the COVID-19 pandemic - limiting the analysis to a five year time period between 2015 and 2020 is largely based on this objective. Furthermore, seeking to transfer the analysis to a time period post-2016 (as analysed in Roos and Westerveen's article) limits the possibilities of another

period to study. As the effects of the response to the COVID-19 pandemic are still playing out, including events of 2021 could have added perspectives on where the discourse is headed. However, as the data collection phase of this thesis was conducted during the initial months of the year, an incomplete analysis of the year 2021 was not added. Instead, the concluding discussion has offered a discussion about possible future scenarios and implications of recent developments where recent events are highlighted.

Another factor affecting the chosen time period is the general election held every five years in the European Union to elect the Members of the European Parliament. The period 2015 to 2020 coincides with the election in 2019, which changed the composition of the parliament. In order to avoid any implications of a changed political composition, a time period running over only one term (2014-2019) was considered. However, this would not include the year 2020, which is of great interest for the analysis. Extending the time period to also include the year 2014 was furthermore considered (2014-2020), however as that the election 2014 was held in May with new MEP's officially taking up their seats in the Parliament in July following a summer recess until September 1st (European Parliament 2015) not many months would be "lost" in the analysis when excluding the year 2014. In summary, the reasoning for choosing the time period 2015-2020 is largely based on convenience. However, having considered the potential implications of choosing another time period, no other options were considered more favourable.

Lastly, the endeavour to identify the discourse of the EP by analysing a sample of documents is limited by two conditions. First, although a large body of documents is available for answering the research question, one cannot be certain that the analysis has had access to the most relevant archives. Secondly, although the sample size has been selected based on an aim to use a representative corpus, documents only give a glimpse into the chosen organisation. Many aspects of social interaction might be lost, and with them also certain expressions important for the understanding of the discourse. Approaching the research question with another method, for example, conducting interviews, could therefore provide other valuable insights into what is actually going on in the EP. However, for the purposes of this thesis and given the scope of the research, the chosen method is considered the most fruitful. In the following chapter, insights from the material are presented and discussed.

5 Analysis: Towards an ambivalent view of FOMOP as a fundamental right?

A migratory challenge of unprecedented dimensions since the end of World War II, a wave of right-wing nationalist parties advocating tougher borders and a raging pandemic with long-lasting consequences yet to be seen. Since the border controls were first reintroduced in 2015 between some Member States in the EU, several significant developments have contributed to a heightened debate on FOMOP in the European Union. What normative standpoints in the discourse on FOMOP in the European Parliament can be detected during this studied time period, characterised by several transforming challenges for FOMOP as a pillar of the Single market? And what can a closer look at the discourse on FOMOP in the European Parliament tell us about a possible shift of normative foundations of EU integration? This chapter starts out with some reflections on word frequency and possible implications for the discourse. It then proceeds to analyse the coded empirical material structured around the different normative political categories identified in the theoretical framework. The concluding section presents changes over time, seeking to summarize the observed developments and discuss possible implications for where the discourse is headed.

5.1 Perspectives on data

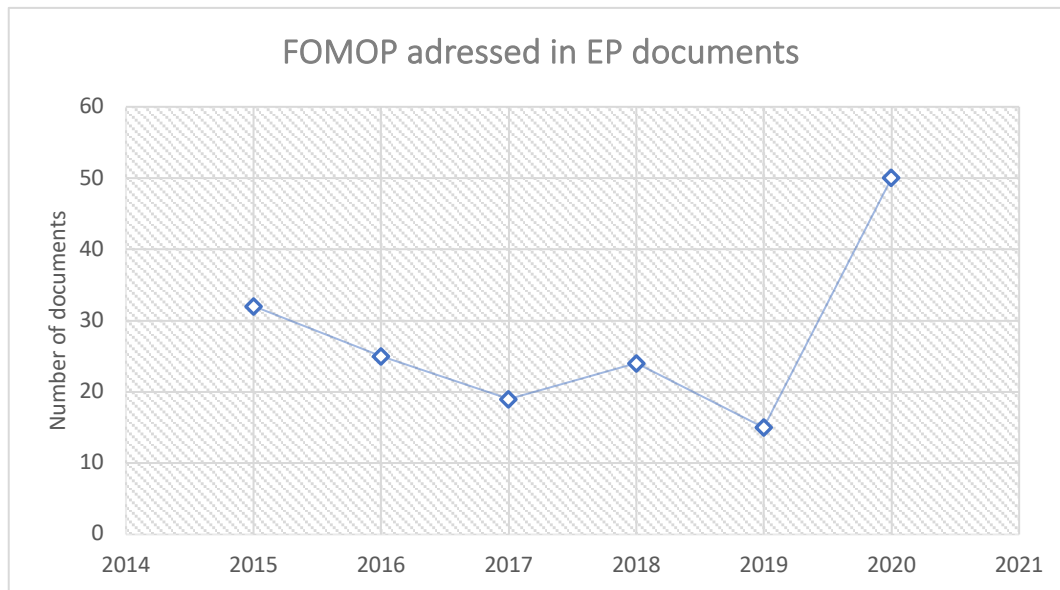


Figure 1 – Amount of documents where FOMOP is mentioned for each respective year

An initial analysis of the collected data revealed a change in frequency of the number of times FOMOP has been mentioned over the studied time period. While the number of documents where FOMOP was mentioned decreased between 2015 and 2019, with a slight increase during 2018, a prominent spike was observed for the year 2020. Compared to 2015, when FOMOP was mentioned in 32 documents, the number of times the issue was raised in 2020 increased by over 50 per cent. This apparent trend towards a greater interest in FOMOP in 2020 perhaps says less about the normative standpoints that this analysis intends to identify but shows a noteworthy change in the dynamics of European Parliament communicated standpoints where an increase in frequency could have certain implications for the discourse in general. In the context of this analysis, the increased frequency is perhaps most interesting when one considers which normative standpoints were most prominently advocated during this year and why. While these questions will be addressed later in the analysis, an initial assessment of the material highlights the relevance of the research area and the need to address the latest developments and potential changes in the discourse. In the following, observed normative justifications related to each respective category for analysis is presented.

5.2 Normative justifications on FOMOP

5.2.1 Liberal Utilitarianism

A cross-sectional analysis of the total amount of references identified, based on the coding scheme derived from Roos and Westerveen, shows that the slightly more dominant positions of liberal cosmopolitanism, to a large extent, are challenged by the liberal utilitarian positions (see figure 2). In fact, the total number of references categorised under each respective normative political framework is almost at the same levels, illustrating an apparent shift in results compared to those presented by Westerveen and Roos (2020). While the authors recognise that the different EU institutions, subject to analysis in their research, express a variety of different normative arguments in their discourse, their main conclusion for the European Parliament is that the institution primarily aligns with the liberal cosmopolitan

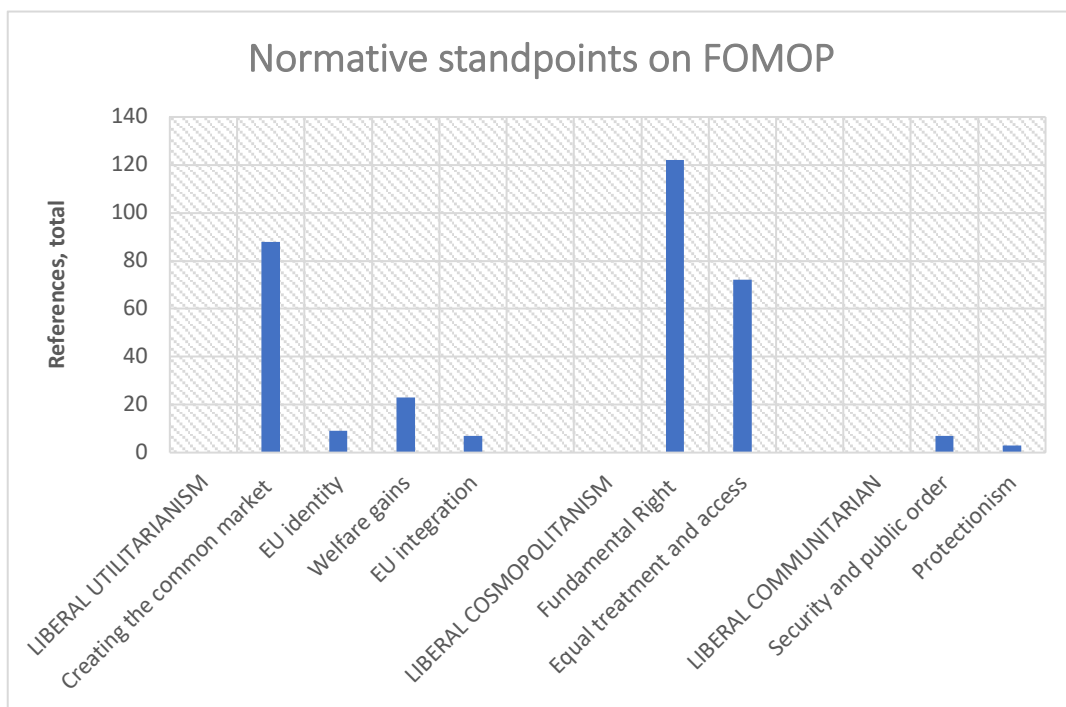


Figure 2 – Distribution of coded categories across the material

framework. Although this is still true when looking at absolute numbers for the time period addressed in this analysis, the gap seems to have decreased significantly over the studied time period.

One coded category within the framework of liberal utilitarianism is particularly prominent; the establishment of the internal market.

The EP frequently focuses on FOMOP as an instrumental element in establishing a common EU market, oftentimes addressing the potential benefits of increased interaction between the Member States:

[...]whereas FOM, in particular, that of workers, is a right that is enshrined in the Treaties (Article 45 TFEU) and constitutes a fundamental driving force for the completion of the Single market (European Parliament report 2017 (2018/2103(INI)))

Stresses that, according to the Commission, despite high unemployment rates, there are two million job vacancies in the EU, and that in 2013 only 3,3 % of the active population works in another Member State, indicating a level of mobility that remains low in comparison with levels in the United States and Japan; recalls that divergences in labour mobility rates points –which in the case of the Member States hardest hit by the crisis can range up to ten percentage points – can be affected positively using the tool of the EURES platform; expresses its continuous support for the principle of free movement (European Parliament resolution (2014/2222(INI)))

As the quotes above illustrate, justifications related to the Single market are often linked to worker mobility, which is a group most frequently mentioned in these contexts. This aligns with liberal utilitarian “indicator” identified by Roos and Westerveen, which views the principle of intra-European movement, and especially worker mobility, as an essential element in establishing a common EU labour market and a trigger for European political integration. Furthermore, FOMOP as an instrument for a well-functioning internal market is at times justified with specific arguments highlighting free movement as a mechanism for market correction. Here, Roos and Westerveen (2020, p.4) draw on the framework by Mundell (1961), who offers an explanation for FOMOP as a mechanism able to correct markets, especially during times of asymmetric shocks to the economic system. Arguments relating to free movement and effects on economic mechanisms can also be seen in concrete numbers, such as in the quote below.

[...] whereas maintaining internal border controls in the Union or reintroducing such controls in the Schengen Area has a serious impact on the lives of European citizens and all those who benefit from the principle of free movement within the EU, and seriously undermines their trust in the European institutions and integration; whereas maintaining or reintroducing internal border controls entails direct operational and investment costs for cross-border workers, tourists, road freight transporters and public administrations, with crippling effects on the economies of the Member States; whereas estimates of the costs linked to the reintroduction of border controls range between EUR 0,05 billion and EUR 20 billion in one-off costs and EUR 2 billion in annual operating costs¹; whereas cross-border regions are particularly affected; (European Parliament resolution on report (2017/2256(INI)))

According to Roos and Westerveen (2019, p.8), a peak for expressions of the utility of FOMOP as a tool to help balance economic shocks is observable at the height of the economic crisis from 2009 to 2011. During the observed time period for this analysis, no such economic crisis occurred. However, the findings of Roos and Westerveen and a trend towards an increased number of arguments related to a well-functioning internal market observed in this thesis shows a need to consider future research on whether this type of argument is strengthened in the event of a potential or rather expected, economic crisis in the aftermath of the current COVID-19 pandemic. A call for safeguarding the FOMOP as an instrument for a well-

functioning internal market in response to the COVID-19 crisis can already be found in the analysed material:

[...] the Single market is the source of our collective prosperity and well-being and that it is a key element of the immediate and continuous response to the COVID-19 outbreak; strongly supports the Commission's call on the Member States to allow frontier workers to continue crossing borders, in particular in sectors for which continued free movement in the EU is deemed essential (European Parliament resolution (2020/2616(RSP))

Other groups standing out as more frequently mentioned across the material are women, LGBTI people, people with disabilities and Roma people, although more frequently mentioned in relation to justifications linked to human rights, such as in the quote below.

Recalls that people belonging to the Roma minority are entitled to freedom of movement, and urges the Member States, and regional and local authorities, to safeguard it and not to plan settlement policies based on ethnic reasons; is concerned that people belonging to the Roma minority are disproportionately subjected to forced evictions in many Member States (European Parliament report (2016/2009(INI))

Although an emphasis is placed on human rights, fundamental rights and anti-discrimination in relation to these groups, one can also find positions expressing an objective of an effective internal market. In the quote below, both concerns regarding anti-discrimination, fundamental rights and a call for a more effective labour market are expressed, which is a common “grouping” of justifications found in the studied documents.

Expresses its concern at the fact that so few within the Roma community are active on the labour market; points to the need to strengthen the role of NGOs involved with this ethnic minority with a view to encouraging Roma to participate in the labour market; also points out that NGOs have an important role to play in informing Roma about their rights or helping them to report cases of discrimination, which will ultimately serve to improve data collection (European Parliament resolution (2015/2116 (INI))

Justifications related to the utility of establishing the Single market do not only include generic expressions such as stating its mere importance. Examples of actual or presumed positive effects of FOMOP can be found throughout the analysed documents. Often times it is described as a central element of the success of the Single market, and throughout the analysed time period, the EP highlights FOMOP as a promoter of convergence and European integration. These more concrete views of the effects of FOMOP are coded as “welfare gains” and “EU integration” (see Figure 2). An example of the latter is illustrated in the excerpt below.

[...] FOMOP of persons, goods and services on which the Single market is based [...] this FOMOP is both a powerful catalyst for EU integration, job creation and the development of sustainable tourism and is a key factor in the performance of European trade, industry (European Union report (A8-0287/2016)

These utilitarian expressions, that is, expressions or justifications highlighting the utilitarian good of a well-functioning Single market, is at times used as a critique against those putting up obstacles with regard to the full implementation of the internal market. In a report on EEA-Switzerland from 2015 (2015/2061(INI)), the *Committee on the Internal Market and Consumer Protection* (Rapporteur Andreas Schwab), for example, expressed:

[...] Acknowledges that the strong relations between the EU, the EEA EFTA countries and Switzerland go beyond economic integration and the extension of the Single market, and contribute to stability and prosperity to the benefit of all citizens and businesses, including SMEs; underlines the importance of ensuring the proper functioning of the Single market in order to create a level playing field and generate new jobs;

Here, “relations” refer to earlier paragraphs stating, amongst other things, the agreements on free movement between EFTA countries. Not only is the establishing of the Single market considered important for the labour market, the formulation “go beyond economic integration and the extension of the Single market” suggests that the utility of FOMOP is considered much greater than just relating to worker mobility, thus widening the scope of justifications related to the utilitarian good.

A general focus in the contexts of FOMOP and the internal market is efficiency, which is a theme running through the majority of the analysed documents. Concerns regarding efficiency are raised in several contexts but most commonly in relation to discussions on opportunities for economic prosperity, equal treatment and the overall mechanisms for the internal market. Considering the liberal utilitarian frame calls for efficiency align with the normative ethical context derived from works such as Mill’s, where an inefficient Single market ought to be considered unjustifiable, as it would not generate utility. Furthermore, inefficiency would hinder the market correction mechanisms considered essential within the normative framework of liberal utilitarianism why expressions of efficiency to a larger extent have been interpreted as utilitarian rather than cosmopolitan or communitarian. However, at times efficiency is also linked to ensuring fundamental rights, why no separate coded category labelled “efficiency” is visible under either category of normative political standpoints. Instead, for the utilitarian frame, these standpoints have been coded as either “Creating the common market”, “Welfare gains”, or “EU integration”, depending on the coded context.

Efficiency, as interpreted in this thesis, is often linked to conditionality, that is, a view that FOMOP is a conditional right that can and should be restricted under certain circumstances (Maas 2013, p.9). While Roos and Westerveen argue that these expressions of liberal *communitarianism* aren’t as prominent for the EP, the importance of efficiency seems to be emphasised to a larger extent during the addressed time period of this analysis.

Although the EP continues to mainly oppose restrictions on the FOMOP, in line with Roos and Westerveen's results, in order to streamline the internal market to its full potential, the EP seems to favour certain restrictive measures as long as they are proportionate:

[...] considers that the restriction of someone's freedom of movement, which is a fundamental right, can only be decided if the necessity and proportionality of the measure are properly evaluated by a judicial authority (European Parliament report (2015/2063(INI)))

This result aligns with Roos and Westerveen's observation and main conclusion of a changed EU institution discourse where more emphasis is placed on FOMOP as a conditional right rather than an absolute right. Findings in this analysis show that this proposed development is visible also for the selected time period and, what is more, for the EP - an institution which Roos and Westerveen attributed less importance of a changed discourse towards conditionality of FOMOP. Roughly a fifth of all codes in the analysed documents in some way address justified restrictions FOMOP. As conditionality isn't coded under the respective categories in the framework by Roos and Westerveen, this set of codes are left out from figure 2. Furthermore, considering that expression of conditionality can be found in different contexts aligning with both the utilitarian, cosmopolitan and communitarian frame, a given setting for this category of codes was not found. Although expressions of conditionality are most commonly found in the utilitarian context, expressed as necessary in order create an effective Single market, it was also visible as justifications for restrictionist measures thus falling under the communitarian frame. At times, conditionality was furthermore found in relation to securing equality and ensuring FOMOP as a fundamental right, as shown with the extraction below, thus also visible for a more cosmopolitan frame.

Underlines that free movement of workers is a fundamental principle of the Union and one of the biggest advantages of the Single market as long as it constitutes an advantage for both sides of the working relation and it ensures protection of workers' rights and the abolition of any discrimination based on nationality between workers of Member States as regards employment, remuneration and other conditions of work and employment. (European Parliament report (2018/2219(DEC)))

A category of contexts related to conditionality but not directly connected to utilitarian, cosmopolitan or communitarian standpoints is an emerging "health frame". It is identified as emerging since it is predominantly visible for the year 2020 and is understood as a conditionality related to justifications on temporary restrictionist measures when health concerns are imminent. The exert below illustrates an example of how this is expressed in relation to the COVID-19 pandemic.

[...] stresses that border controls, health screenings and restrictions on movement must remain proportionate and exceptional and that all freedom of movement should be re-established as soon as it is deemed safe with regard to national situations on COVID-19;

recalls that the principle of equal treatment is not limited to cross-border and seasonal workers only in essential sectors and occupations, but extends to all such workers who need to cross internal borders, given that the sectors in question are also open to local workers in the host Member State of work; calls on the Member States which have not yet done so to lift as soon as possible all travel restrictions and discriminatory confinement and quarantine measures for cross-border and seasonal workers to avoid labour shortages in key sectors and for the benefit of the workers, while ensuring their health and safety (European Parliament resolution P9_TA(2020)0176, (2020/2664(RSP))

Although some uncertainties of the interpretation of Court of Justice case law defining the scope of internal security have been identified by legal scholars (Montalado 2020, p. 6), in a set of guidelines for border management measures to protect health and ensure the availability of goods and essential services, the Commission (2020) clarified that the Member States may reintroduce temporary border controls at internal borders if justified on the grounds of public health. As such, no real obstacles to the measures taken so far exists. In the studied material, the EP acknowledges this to some extent. However, at the same time, arguments that address FOMOP as a conditional right that can be restricted under certain circumstances in this context are almost always followed up with calls for proportionality and the need to establish a balance between a well-functioning internal market and restrictionist measures in order to protect the health of citizens. Given the formulation above that “restrictions must remain proportionate and exceptional and that all freedom of movement should be re-established” and the deeming of some restrictionist measures being unlawful (see extraction below), these expressions by the EP are interpreted as concerns regarding permanent implications of more extensive reimposed border controls possibly connected to the loopholes identified by Montalado (2020). The extraction above furthermore illustrates the prominence of the utilitarian focus, once again emphasizing the cross-border movements of workers.

whereas freedom of movement has been restricted across the Member States through obligatory or recommended self-isolation and bans on non-essential movement; whereas as a response to the COVID-19 pandemic, most Schengen Area states have reintroduced internal border controls or have closed such borders, whether partially, totally, or to certain types of travellers, including EU citizens and their family members or third country nationals residing on their territory or that of another Member State; whereas there was a clear lack of coordination among Member States and with the Union institutions when these measures were introduced; whereas some Member States have introduced unlawful and discriminatory restrictions by not allowing residents of another EU nationality to enter their territory (European Parliament Motion For A Resolution (B9-0343/2020))

Though most prominent in relation to the COVID-19 pandemic, some health-related concerns and reflections on the need for restrictions on FOMOP are found in other contexts, such as when signs of re-emerging of swine flu were noticeable in 2018:

whereas the freedom of movement established by the Treaty of Rome is likely to aggravate this situation very quickly (European Parliament Motion for Resolution (B8-0476/2018 1.10.2018))

These mentions are relatively isolated but anchors health as an important framing or dynamic in relation to FOMOP.

Lastly, the view of FOMOP as instrumental for creating the identity of a common Europe is mentioned only a few times in the studied material. As in the examples below, this is oftentimes mentioned more indirectly, and the category cannot be considered as prominent in the EU discourse.

whereas the right to freedom of movement and its exercise are central to EU citizenship and complement the other freedoms of the EU internal market; whereas young Europeans are particularly attached to freedom of movement, which is ranked among EU citizens, in terms of recognition and popularity, as the EU's most positive achievement after ensuring peace (European Parliament (P8_TA(2017)0487)

As the discussion on the utilitarian standpoints show, the EP strongly emphasises the functioning of the Single market and, in this context, often justifications derived from a utilitarian “agenda” of utilizing FOMOP as an instrument for economic prosperity and the overall well-being of its citizens. At the same time, many justifications identified as liberal utilitarian are often expressed in connection with cosmopolitan standpoints emphasising FOMOP as a fundamental right. Looking at this observation, FOMOP, in many ways, is defined by the EP as an absolute right conditioned based on its utility. In other words, while FOMOP as a fundamental right is prominent even within the utilitarian frame, a pragmatic or ambivalent attitude towards FOMOP can also be identified. The results presented by Roos and Westerveen are thus challenged with a result placing the EP in an internal “conflict” between utilitarian and cosmopolitan standpoints. In 2020 this “conflict” is to some extent linked to a health frame where unprecedented events may have forced a pragmatic stance in the EP, as has been observed in many other organizations during this year. At the same time, justification of restrictions on FOMOP as a reaction to the COVID-19 pandemic is not the most prominent arguments put forward. Instead, these restrictions are seen as a “necessary evil”, focusing on the need to quickly re-establish an efficient internal market and ensure FOMOP. Another dynamic often linked to conditionality is security and welfare protection. Since this, to a greater extent, falls under the communitarian framework, this will be discussed under section 5.2.3.

5.2.2 Liberal Cosmopolitanism

As shown in Figure 2, during the studied time period, EP positions predominantly align with the liberal cosmopolitan view, emphasising FOMOP as a fundamental right. Throughout the analysed documents, FOMOP as a fundamental right is understood as a cornerstone of Union citizenship which citizens enjoy as a result of their countries' membership in the EU (Maas, 2013, p. 9) and is frequently referred to as a pillar of the EU as shown below.

The free movement of people within the Schengen Area has been one of the biggest achievements of European integration, [...] and that FOMOP is a fundamental right and a pillar of EU citizenship (Motion for resolution B8-0837/2015).

[...] with respect for the fundamental rights [...] including FOMOP, pursuant to Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (Report on the situation of fundamental rights in the European Union (2014/2254(INI)).

[...] highlights the importance of FOMOP and residence as one of the principal fundamental rights guaranteed by the EU (Report on the situation of fundamental rights in the European Union in 2017 (2018/2103(INI))

As illustrated in the paragraphs, the EP highlights FOMOP in the context of the right to mobility itself, seemingly stressing its instrumental value for autonomy and the exercise of individual freedom as such (Bauböck 2009, p. 7). As illustrated in table 1, a third sub-category was added to the main category, "fundamental right", expanding the codes to also include "human rights". References to the Charter of Fundamental Rights, which enshrines the right of EU citizens to move and reside freely within the territory of the member states and which places human rights principles at the core of European Union law, are common. Furthermore, at times, references to FOMOP specifically mention it as a human right, as shown below, why this has been regarded as a separate category.

restrictions on the marines' freedom of movement are unacceptable and represent a serious breach of their human rights (European Parliament Report (P8_TA(2015)0013))

having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Parliament Report (2015/2321(INI))

FOMOP as a human right is also mentioned more indirectly, as in the quote below.

[...] Consequently, EU policies must be designed to defend and promote human rights and decent work [...] any breach of these rights, circumvention by means of other policies such as freedom of movement, or political pressure to reform labour rights in such a way as to downgrade the initial standards, is contrary to wider application of decent-work standards. (European Parliament Recommendation (A8-0243/2015))

In this context, the role of the EP, and more interestingly, its own perceived role, is in some documents underlined where the EP as a guardian of fundamental rights is emphasized:

whereas the protection of vulnerable adults exercising their freedom of movement within the Union is a cross-border issue and therefore affects all Member States; whereas this issue demonstrates the importance of the role which the Union and its Parliament must play in responding to the problems and difficulties which European citizens encounter in the exercise of their rights, particularly in cross-border situations (European Parliament Resolution (P8_TA(2017)0235))

According to Roos and Westerveen (2020, p. 4), autonomy as a liberal principle strongly connects to equal citizenship (Marshall 1964) why in the case of the EU, “it would be unjust to deny individuals the right to mobility on the basis of a nationality that they cannot freely choose”. This liberal cosmopolitan reasoning can be found in statements favouring equality and calling for anti-discriminating measures, as in the section below.

[...] FOM shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment (European Parliament Report (2015/2325(INI)))

Just as in the liberal utilitarian frame, some groups are more frequently mentioned than others and in this context as more common subjects of discrimination whose right must be safeguarded. Compared to the context of liberal utilitarian positions – where women, LGBTI people, people with disabilities and Roma people stand out as more frequently mentioned groups – refugees and third-country citizens emerge as more frequently mentioned in relation to liberal cosmopolitan standpoints. An external perspective on FOMOP is thus visible for this normative political category which is not as visible for the liberal utilitarian frame. This can be observed in two main contexts; when addressing implications of the refugee crisis from 2015 and when addressing travel restrictions in relation to COVID-19. The latter is exemplified below.

Recalls that temporary travel restrictions applying to all non-essential travel from third countries to the Schengen Area have been introduced; underlines that all decisions on refusal of entry at external borders need to be in accordance with the provisions of the Schengen Borders Code, including the respect of fundamental rights. (European Parliament Motion For A Resolution (B9-0259/2020))

These more “global” perspectives on FOMOP and the inclusion of citizens outside of the EU align with the cosmopolitanism idea that all human beings are, or should be, members of a single community. Thus the EP advocate human rights not only for its own citizens but also places FOMOP in a larger perspective where it is regarded as one of many fundamental rights of all citizens of the world.

Another context where FOMOP is frequently addressed is in connection to the Freedom of Movement of workers. Interpreted within the framework of liberal cosmopolitanism, advocacy for the free movement of workers is understood as a

support for the egalitarian idea of overcoming economic as well as social inequality through mobility (Bruzelius et al., 2017). This is expressed in several documents, often formulated similar to the following example.

[...] whereas enlargement of the Schengen Area remains a key instrument for expanding the economic and social benefits stemming from the right of free movement of people, services, goods and capital to newer Member States, fostering cohesion and bridging gaps between countries and regions; (European Parliament Report (2017/2256(INI)))

However, at the same time, the EP also strongly emphasises that:

the social dimension of European integration cannot be reduced to matters related to freedom of movement; highlights, on the contrary, that ‘Doing much better together on priorities people care about’ means stronger common action to improve working conditions, reduce poverty and social and gender inequalities, provide high-quality education and training to all, accelerate the process of upward convergence in economic performance and income levels between countries (European Union Motion For A Resolution (B8-0454/2017))

Findings of this analysis show that the connection between the understanding of FOMOP as a fundamental right and the emphasis on equal treatment remains dominant during the time period addressed, why the suggested depiction of FOMOP as a measure of universal liberal principles remains a relevant starting point for analysis (Schmidt, Blauburger & Sindbjerg 2018). Despite a change in attitude over time, the liberal cosmopolitan justifications for free movement in the Union constitute a prominent basis of arguments in the European Parliament debates when looking at a cross-section of the coded material. In line with previous research, FOMOP as a fundamental right is often mentioned in combination with the call for equal treatment, emphasising that FOMOP applies to all EU citizens equally, thus granting equal opportunities. A central argument in this context is FOMOP as a justification for individual social mobility.

5.2.3 Liberal Communitarianism

Although relatively absent in EP documents, communitarian positions do appear at times. In 2015, for example, statements strongly opposed to free movement appeared, albeit very isolated

Calls for the Schengen agreements to be repealed and for national borders to be reintroduced (European Parliament B8-0740/2015)

Paul Nuttall (UK), speaking for the EFDD group, advocated “clamping down on Saudi Wahhabism” and abolishing free movement within the Schengen Area. This was echoed by ENF leader Marine Le Pen (FR), who blamed “imposed austerity” for cuts in France’s military and police budgets (European Press Release B8-0740/2015)

Just as in the examples above, these strong positions against Schengen and FOMOP in the studied material are primarily expressed by political groups in the EP associated with right-wing positions, generally expressing Eurosceptic views (Brack 2015). The first extraction is retrieved from a motion for a resolution signed by, amongst others Sylvie Goddyn, Steeve Briois, Marine Le Pen and Sophie Monte – all members of nationalist groups such as the “Identity and Democracy Group” and “Europe of Nations and Freedom Group”. The second, from a press release on a plenary session where MEP Paul Nuttall for “Europe of Freedom and Direct Democracy” (EFDD) and once again Marie Le Pen are vocal opposer of FOMOP. Given the amount of media coverage on Brexit during the studied time period and the fact that the Brexit Party (now renamed “reform UK”) became the largest single national party in the European Parliament after the elections in 2019 (Vasilopoulou 2020), more stands from representants from this group was expected. However, this was not the case in the studied material. Although Brexit is mentioned, it is commonly in relation to more policy-related issues regarding practical changes in connection with the UK’s withdrawal from the Union. Vocal critiques such as those put forward by Le Pen are not visible from the Brexit party. This prompts reflections on how some actors might have better chances of influencing the discourse in the EP and why. For the studied material, the importance of rapporteurs is of special interest in this context.

In a 2010 article, Costello and Thomson discuss the role of rapporteurs and the dynamics influencing EP positions on legislative proposals. The authors emphasize that while there are various levels of leadership in EP committees, the most important leadership role on any given proposal is held by the rapporteur of the responsible committee (Costello & Thomson 2010, p. 2-3; Hausemer 2006; Rasmussen, 2008). This since the rapporteurs perform a leadership role within the committee on each particular piece of legislation and has the main task of assisting the EP in forming a position on the legislative proposal in question (Costello & Thomson 2010, p. 2-3). As each party group receives a quota of points proportional to its size, with which it bids against other party groups for the right to choose the

rappporteur on each legislative proposal (Corbett et al., 2003, p. 117), this dynamic might explain why more critical voices of far-right or far-left parties have had little influence in the reports and the studied material in general. Costello & Thomson (2010, p.2) furthermore underline how the EP has “strong committees and weak parties” and conclude that rather than influenced by the interests of EP party groups, the rapporteurs’ influence is motivated primarily by national interests. Thus, many interesting dynamics related to EP party groups and the role of the rapporteur, which has not been analysed in this thesis, could have implications for the discourse why a discursive analysis drawing on the results by studies such as Costello and Thomson’s is suggested for future research.

Although direct expressions against Schengen are rare in the studied material, restrictionist arguments are at times expressed through reference to the maintenance of public security. This aligns with the communitarian perspective, where restrictions and border closure would be justified in case of potentially dangerous threats against public order in the liberal state (Turner 2007). As exemplified below, security is linked, among other things, to increased uncertainty and perceived problems with an increased influx of people to Europe but also to health, see excerpt number two below. Interestingly, communitarian standpoints are not as common for the year 2020 even if justifications on temporary restrictions are made (as discussed under section 5.2.2), such as in the examples presented below.

The EU must never again lose control in the way it did during the refugee crisis. The free movement of people requires shared external borders [...] (European Parliament Press release 03-04-2019)

[...] whereas a new chapter in the crisis is emerging with the outbreak of African swine fever in Europe; [...] whereas the FOMOP established by the Treaty of Rome is likely to aggravate this situation very quickly (European Parliament motion for resolution B8-0476/2018)

Instead, this analysis finds a marked increase in anti-restrictionist positions in 2020 (see figure 3). In this analysis, this is primarily understood as explicit calls for the abolition of border controls, a separate category of positions visible for most of the analysed years. These positions are rarely explicitly justified with standpoints falling within the normative theoretical framework and are thus not coded and presented in figure 2. The call to return to a normal functioning internal market as soon as the conditions allow are justified on the basis of arguments closest to the liberal utilitarian framework but more often are expressed without any real argument or justification, thus seemingly being regarded as a purpose of its own. However, the increased anti-restrictionist positions do say something about the strength of the liberal communitarian frame in the studied material since this identified framework *does* favour protective measures restricting FOMOP, at least to certain EU citizen groups. The standpoints presented above as more cosmopolitan, increasingly visible for 2020, goes against these positions, as do anti-restrictionist positions in general why the liberal communitarian framework is challenged, especially in the year 2020.

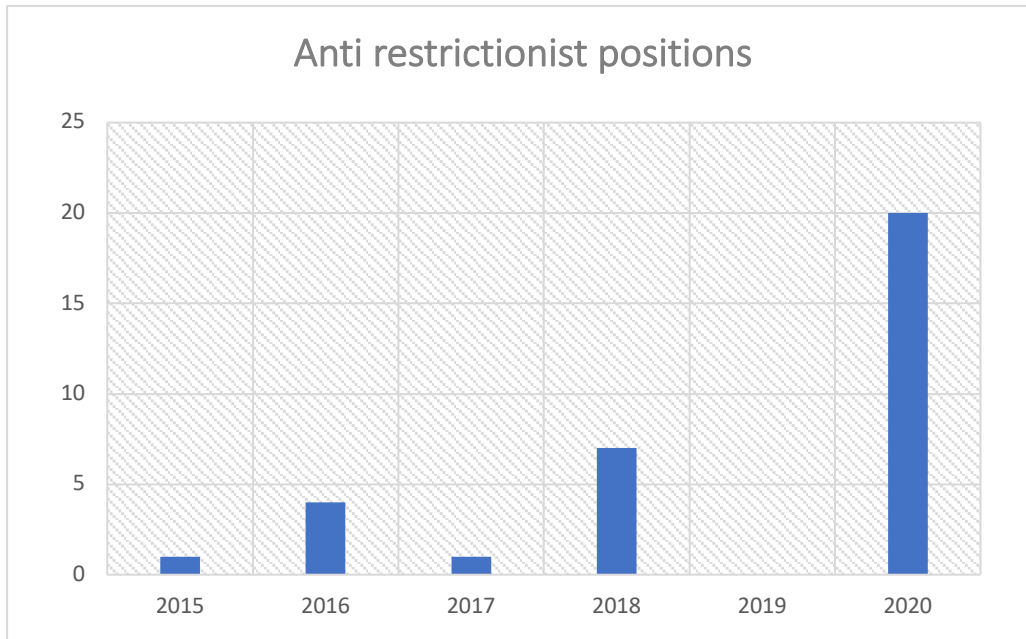


Figure 3

Just as this analysis identified a “Health frame”, presented under section 5.2.1, this thesis argues that a “Security frame” is visible in the studied material. This is understood as a discussion framed by references to the maintenance of public security, which is strongly linked to the “refugee crisis” and a perceived terrorist threat throughout the material. At times this is expressed as more restrictionist arguments such as below.

Recognising that exceptions can be made to the freedom of movement on the grounds of public policy or national security. Any limitation on the exercise of those rights and freedom is to be subject to the respect of the conditions enshrined in Article 52(1) of the Charter (European Parliament Report (A8-0228/2016))

More commonly, however, a discussion on public security is found within a more utilitarian or cosmopolitan frame:

Notes that the European Union and its Member States are facing unprecedented challenges, such as the refugee crisis, the foreign policy challenges in the immediate neighbourhood and the fight against terrorism, as well as globalisation, climate change, demographic developments, unemployment, the causes and consequences of the financial and debt crisis, the lack of competitiveness and the social consequences in the several Member States, and the need to reinforce the EU internal market, all of which need to be more adequately addressed;[...] Recalls that the internal market, facilitating the free movement of goods, persons, services and capital is a cornerstone of the EU; also recalls that exceptions to the internal market create distortions of competition within the Union and destroy the level playing field; (European Parliament Report (A8-0386/2016))

[...] whereas, following recent terrorist attacks on EU territory, certain anti-terrorism policies and measures are likely to compromise fundamental rights and freedoms in the EU; (European Parliament Report (A8-0230/2015))

Although security, refugees and terrorist threats are very prominent topics throughout the analysed documents, identified as a security frame, the public debate more influenced by anti-immigrant sentiments has not established itself in the analysed discourse. Instead, cosmopolitan and utilitarian stands are more common within this context.

The liberal communitarian stance focusing on local labour conditions and how heightened competition brought on by migrant workers can threaten local labour standards and wages (Walzer 1983, p. 56) has not been identified in the studied material. Labour market protectionism is instead rejected, and communitarian stances in general relatively rare. However, although not justified by referring to heightened competition brought on by migrant workers, an emphasis is often placed on the importance of safeguarding wages and social standards whilst improving further mobility throughout the Union, as shown below.

[...] calls, in this regard, on the Commission and the Member States to improve further EU labour mobility through instruments like EURES while upholding the principle of equal treatment and safeguarding wages and social standards. (European Parliament Report(2014/2222(INI))

Just as this analysis identified a “Health frame”, presented under section 5.2.1, this thesis argues that a “Security frame” is visible in the studied material. This is understood as a discussion framed by references to the maintenance of public security, which is strongly linked to the “refugee crisis” and a perceived terrorist threat throughout the material. At times this is expressed as more restrictionist arguments such as below.

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[...] calls, in this regard, on the Commission and the Member States to improve further EU labour mobility through instruments like EURES while upholding the principle of equal treatment and safeguarding wages and social standards. (European Parliament Report(2014/2222(INI))

Lastly, just as for Roos and Westerveen's analysis, the code "fraud" was added outside of the normative political categories based on a number of extracts that argued that safeguarding FOM requires protecting it from potential abuse and fraud. Roos and Westerveen (2019, p.12) argue that events such as EU enlargement evoked fear of social and wage dumping and illustrate how, in the 2010s, communitarian positions claiming that "restrictions had to be implemented in order to uphold the rights associated with FOM" entered the Commission's discourse.

At that time, the Commission was grappling with the issue of EU migrants who did not formally qualify for FOM rights but still claimed access to welfare benefits in their host state. While these incidents were manageable for authorities, member state governments nevertheless expressed fears that 'welfare migration' or 'benefit tourism' could threaten the legitimacy of FOM (Roos & Westerveen, 2019, p.12)

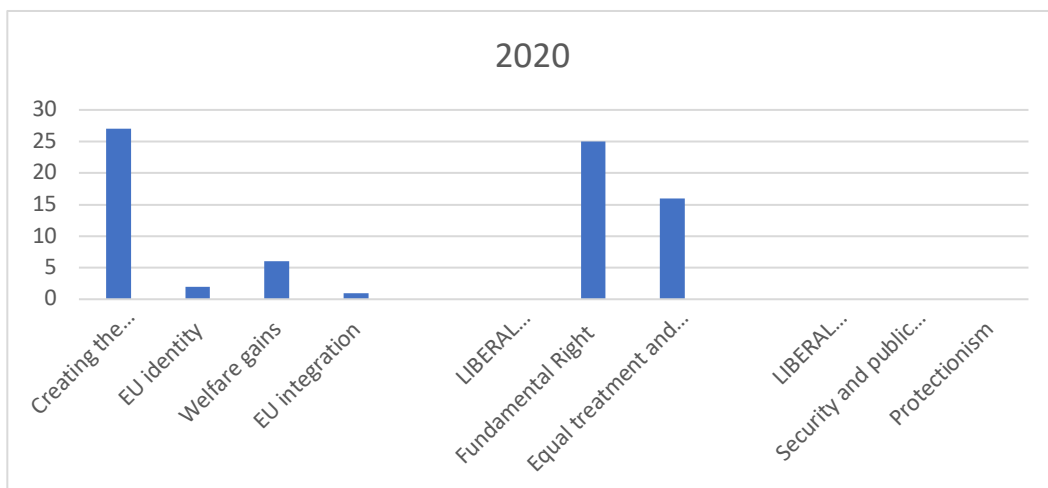
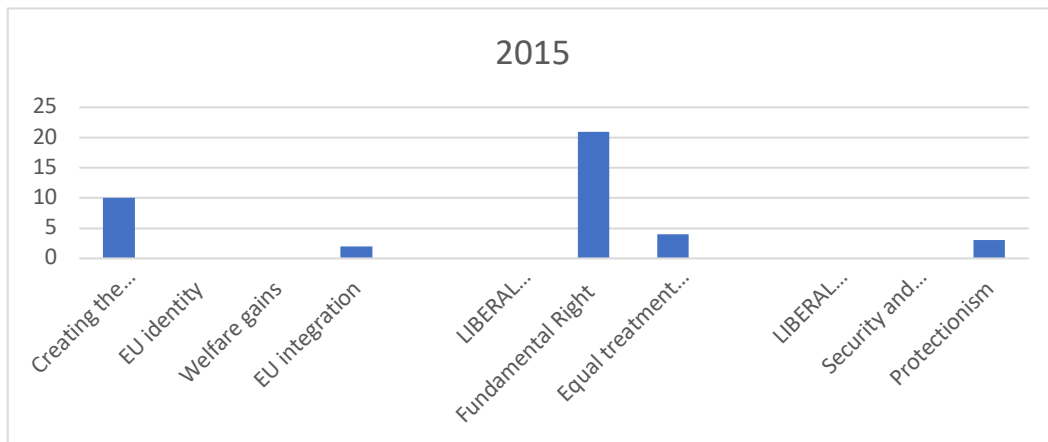
The authors furthermore argue that the crucial conclusion of the European Council on this matter was to restrict equal treatment rather than to call for additional safeguards to prevent fraud. While extracts arguing that safeguarding FOM requires protecting it from potential abuse and fraud has been observed in this analysis, the analysis by Roos and Westerveen illustrates the need to contextualize the developments of the EP positions on the matter, which has been left out considering the scope of this thesis.

While Roos and Westerveen (2019, p. 13) conclude that the FOMOP-related discourse over the time period 2004 to 2016 altered to increasingly favour

communitarian positions towards FOMOP within EU institutions, this has not been found to be the case for the European Parliament in the material studied in this analysis. The communitarian positions observed have been few and increasingly challenged by utilitarian and cosmopolitan stands.

5.3 Changes in positions over time

The figures below aim to provide a brief overview of the change in normative positions identified between the years 2015 and 2020. As shown below, the years 2015 and 2020 constitute two contrasting images where the liberal cosmopolitan frame, which dominated the discourse for 2015, has been overrun by the liberal utilitarian frame in 2020. Although a cross-sectional analysis of the total amount of references identified shows that the liberal cosmopolitan frame is slightly more dominant when looking at the total of the five year period (see figure 2), this analysis has identified a development where the importance of FOMOP for establishing the internal market has become more prominent in EP discourse. Looking at an evaluation throughout time, the idea of EP as a defender of FOMOP as a fundamental right, as presented by Roos and Westerveen, is challenged by a discourse where the establishing of the Single market has increased in importance.



6 Conclusion

The analysis above sought to identify the political discourse in the EP between the years 2015 and 2020, a time period in many ways marked by transformative change, crisis and unprecedented challenges within the EU. During the studied time period, traces of several events, which had an impact on the public and popular debate, has sought its way into the discourse in the EP, changing the dynamics of underlying normative foundations of FOMOP. Two mainframes were detected relating to such events; a health frame and a security frame. In the discussion above, the two different frames are connected to a separate category of codes labelled “conditionality”, identified as justifications on certain restrictionist on FOMOP, which in theory could be categorized under more than one normative political framework. However, these frames are also understood as two predominant contexts in which FOMOP is discussed and justified, where health is predominantly visible for the year 2020 and in relation to the covid-19 pandemic, and a security frame when addressing the refugee crisis, terrorist threats and certain fraudulent practices. Compared to events such as Brexit, these contexts to a larger extent dominate the analysed material together with the context of worker mobility and anti-discrimination of certain groups. For the liberal utilitarian frame, these groups include women, LGBTI people, people with disabilities and Roma people. Within contexts of the liberal cosmopolitan frame, refugees and third-country citizens emerge as more frequently mentioned as subjects to discrimination. This actualizes a certain power dimension in the discourse where the frequency of mentions of certain groups in relation to whose rights must be safeguarded could have implications on certain policy outcomes. Although many minorities are included, the fact that some groups are so explicitly mentioned gives rise to reflections on which groups might have been left out and why, and whether the EP’s views on this particular subject may have an impact on the equal treatment of citizens of the Union. In this context, the EU’s commitment to non-discrimination becomes particularly interesting. As the discussion of the institutional dynamics and policy-making within the policy area has shown, to investigate this empirically ought to be difficult, not the least, since the EP’s actual influence seems to differ from its institutionally given power. However, for the purposes of understanding the changing discourse in a larger context, this would be desirable. The same goes for a more extensive study also including external perspectives on FOMOP where the EP still predominantly has a consultative role. As this perspective, to a larger extent, would relate to the relationship of the EU and third countries, an interesting discussion, for example, related to the liberal cosmopolitan frame, could be reached.

While the EP still predominantly advocates a view of FOMOP as a fundamental right, positions that strongly emphasises the functioning of the Single market and justify FOMOP from a utilitarian point of view have increased

significantly when looking at a cross-section analysis of the material. This adds a new dimension to the conclusions presented by Roos and Westerveen on the EP as an actor first and foremost safeguarding FOMOP as a fundamental right enjoyed equally by all citizens. Although the utilitarian view does not directly contradict FOMOP as a fundamental right, the number of positions emphasising the need to streamline the Single market and adjust the FOMOP so that it serves as an instrument for this purpose suggests that the EP increasingly approaches the normative political frames dominant for other institutions as presented by Roos and Westerveen. That is, a development towards a view where an EU of equal rights and opportunities for all European citizens is being challenged by the idea of the EU as a marketplace to which access is conditional. However, in order to examine whether this can be said to be true also for the studied time period, an analysis of the discourse of *all* institutions during the years 2015-2020 would need to be made.

Lastly, in 2020, the liberal utilitarian and market-related positions compete with a noticeable increase of anti-restrictionist positions and explicit calls for the abolition of internal border controls. These calls are normally not justified with references to a certain normative political framework and highlights an interesting contradiction where the EP seems to advocate first and foremost an open Europe but not necessarily for the sake of “openness” as such or as a fundamental right of citizens, but rather as an unquestionable pillar of the EU which should be maintained. Here the EP seems to depart from idealistic views of FOMOP in favour of a pragmatic view where “freedom in moderation”, that is, freedom under certain conditions, seems to be the preferred way forward. Thus, even though the normative political frameworks sought to offer clearly defined positions on free movement, the concept of freedom evidently remains subject to debate in its own right, where a conditioned freedom raises many questions about the philosophical meaning of the term. As expressed in the British period drama “The Duchess” where one of the main characters replies to a politician advocating the extension of the vote to more men, however not all men since it must be “freedom in moderation”:

One is either free, or one is not. The concept of freedom is an absolute. After all, one cannot be moderately dead or moderately loved or moderately free. It must always remain a matter of either-or.

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8 Appendix

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8.2 Figure of Schengen States 2021

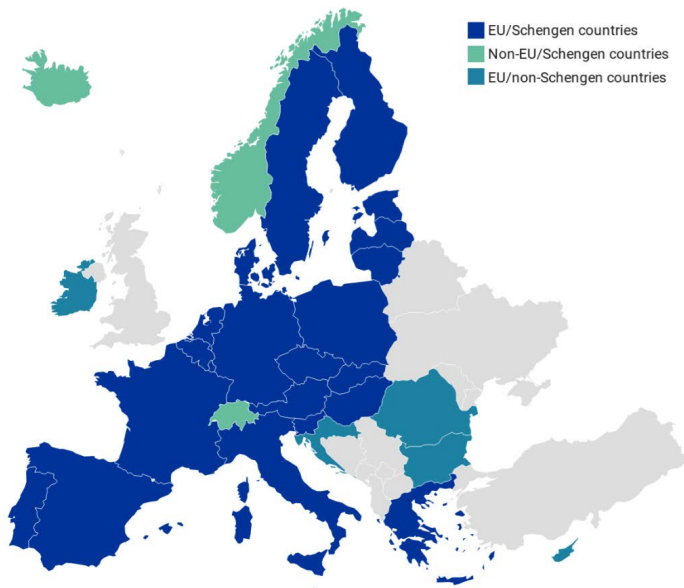


Figure 4 - The Schengen States as of 2021
Source: Policy Department for Citizens' Rights and Constitutional Affairs Directorate-General for Internal Policies. PE 658.699- November 2020