

# Justice in EU Immigration Policy?

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## *Abstract*

We assume that states may refuse admission to non-citizens in the exercise of their sovereign powers. This assumption arises throughout public international law, even as regards refugees, and is central to migration control practices. However, this assumption requires scrutiny. I aim to rebut the conceptualisation of statehood which lends credence to the notion that excluding non-members requires no justification. Having stripped away this impediment to normative scrutiny, I examine the various competing rationales for controlling admissions. My category of ‘admission-seekers’ includes all who seek entry, be it for protection, opportunity or pleasure. I resist the temptation to treat migrants as falling into easily distinguished categories from the outset, be it forced or voluntary, refugee or economic migrant. For now, treating all admissions-seekers together is more revealing, although of course, very different considerations will apply in different scenarios. Who should get in? In what numbers and under what conditions? What criteria may be taken into account? How should the rights, needs and interests of would-be migrants be regarded in the process? Are their rights, needs and interests to be accorded equal weight as the rights, needs and interests of citizens? The issue of admissions is fraught, because it is the very point where principles and prudence are so interwoven as to be indistinguishable. The philosophical literature I discuss takes the ethical issues from the point of view of states and individuals. However, my ultimate aim is to develop a normative framework for admissions to the EU. Accordingly, I attempt to analyse how relocating this issue in the EU’s postnational constitutional space should alter our conceptualisation of justice in immigration.

*Part I* sets the scene, arguing that the kernel of old-style sovereignty around admissions, based on understandings of exclusive control over territory and membership, warrants re-conceptualisation in light of human rights, the porosity of borders, and the ambiguities surrounding the notions of ‘illegal’ or ‘irregular’ migrants and ‘jurisdiction’.

*Part II* contextualises the admissions issue, by providing an overview of the manner in which the EU and its Member States admit, deflect, deter and punish would-be migrants from outside the EU.

*Part III* considers the growing body of literature on migration in political philosophy, across different philosophical traditions, and how these arguments run in the EU context.