Chapter 2 The Shaping of Municipal Policies on Inclusion



This chapter contextualises developments in Europe at city level and considers the ways in which they have been addressed in the research literature. It explains the national policy frameworks within which local authorities must navigate their approach to precarious migrants and summarises the state of play on inclusion. A key theme is the contrast between national and municipal approaches (Kaufmann & Strebel, 2021; Fernández-Suárez & Espiñeira, 2021; Ambrosini, 2021b). There is also a paradox of simultaneous policies of formal exclusion and formal inclusion, within and between each tier of governance (Chauvin & Garcés-Mascareñas, 2012). In consequence, tensions can arise. The chapter also considers the significance of municipal framing of their rationales for service provision to precarious migrants; the range of actors involved in delivering services; and the factors which shape their mutual or conflicting interests; as well as the role of discretion at the service front line in shaping whether individuals receive the services they need. Our view on local policies and practices is informed by an interest in how social problems are perceived and framed by public authorities, their administrations and civil society actors—and how they seek and find solutions for them. We thus adopt an approach which recognises the importance of structural, organisational and cultural factors in shaping urban policy and practice, as well as the agency of individual actors (DiGaetano & Strom, 2003). In the course of this chapter, we identify gaps in the existing evidence and analysis which are addressed later in the book.

2.1 Evolving National and European Policy Contexts

Over recent decades, European countries have continued to grant only selective entry to migrants (Moffette, 2018; Sohn & Buergenthal, 1992). Highly skilled workers are typically offered greater freedom to enter while lower-skilled workers can be left with little choice, if they need to migrate, to do so without authorisation (Weiner, 1996). Attempts have been made to curb the movement of unwanted

migrants through more stringent policies on detention and return; and this has been coupled with greater international cooperation in turning back aspiring migrants at borders (Castles et al., 2014). To further deter migrants, some European countries have made irregular entry or irregular stay a criminal rather than administrative offence. This trend towards "crimmigration" (Menjívar et al., 2018; Van der Woude et al., 2017; Garcia Hernandez, 2017)—that is, the intertwining of immigration and criminal law—rapidly developed in the 2000s, ¹ including, for example, penalties on landlords who rent to migrants with an irregular status (Delvino & Spencer, 2019: 39).

Due to the limited deterrent effects of both external and internal controls (Andersson, 2016), national governments have also enacted policies that have dramatically reduced unwanted migrants' access to basic welfare services, hoping to drive them to return to their home countries (Ataç, 2019; Freeman, 1994; Vollmer, 2011; Schweitzer, 2017; Glennerster & Hodson, 2020; DeVerteuil, 2015). In the UK, the Government was particularly overt in its intention to create a 'hostile environment' (Kirkup, 2012), and scholars have confirmed a trend in UK national policy and practice to that end (Schweitzer, 2017; Glennerster & Hodson, 2020; DeVerteuil, 2015). A similar hostile trend can be observed in Austria (Peyrl, 2018; Wodak, 2018), while in Germany there are also deterrence measures—not withstanding that, as we shall see, there are also national policies in each country that ensure a level of inclusion in public services.

Rather than deterring migrants from entering or encouraging them to return or move on, research suggests that this approach has resulted "in the production of a legally vulnerable, irregular workforce of 'illegal aliens'" (De Genova, 2006: 61). De Genova thus speaks of "inclusion through exclusion" which is "accomplished only insofar as their incorporation is persistently beleaguered with exclusionary campaigns that ensure that this inclusion is itself a form of subjugation" (De Genova, 2013: 1184). As a case in point, the COVID-19 pandemic highlighted the profound problems that arise from the fact that precarious migrants are marginalised even though their labour power is central to many sectors of the labour market (Benson, 2021; Guadagno, 2020; Tagliacozzo et al., 2020).

2.2 Countertrend: Formal Inclusion Policies

Restrictive policies vis-a-vis migrants with precarious status are the norm in both the practice and rhetoric of national governments. There are, nevertheless, many instances of national law providing migrants with some access to welfare services, regardless of status (Spencer, 2016; Chauvin & Garcés-Mascareñas, 2012). This is

¹Only three EU countries do not use any criminal sanctions (or administrative sanctions replicating criminal punishment) against irregular entrants (Malta, Portugal and Spain) or overstayers (France, Malta and Portugal) (Delvino, 2020; FRA, 2014).

particularly evident in relation to healthcare and education, to which there have been notable extensions of access in the past decade.² These measures have been introduced in part to acknowledge obligations resulting from international human rights law or EU Directives but, significantly, also because of competing policy imperatives such as the protection of public health, as well as humanitarian concerns.

Spencer and Hughes (2015a, b) mapped national healthcare and education entitlements of irregular migrants across the (then) EU28. In most EU countries children with an irregular status enjoyed an explicit or implicit right to education, with only five countries³ explicitly denying access. In contrast, they found a highly uneven geography of entitlements with regards to health care, identifying a polarisation between countries providing access only to emergency healthcare and countries providing access to both primary and some secondary care. While children with precarious status were also subjected to restricted access to healthcare services in several countries, in 12 European countries they had wider access. Furthermore, pregnant women were entitled to some degree of maternity care in 21 countries (in three countries, including Austria, this is restricted to birth); and many allowed access to testing and treatment for communicable diseases. National responses to the COVID-19 pandemic, allowing a level of access to testing and treatment for the coronavirus, illustrated the willingness of national governments, in some circumstances, to permit access to health care services regardless of status (Mallet & Delvino, 2021).

Regulations differ between European countries: In Austria and Germany, for instance, rejected asylum seekers pending deportation are entitled to stay in accommodation centres, enabling them to access services such as education and health care (Ataç, 2019; Heegaard Bausager et al., 2013). In the UK, municipalities have a particular duty to provide accommodation and limited welfare support to children and their parents if the children would otherwise be destitute (and thus 'in need'), regardless of their immigration status (Price & Spencer, 2015). There are further examples to be found in EU law of exceptions that are made to protect the rights of migrants with precarious status—such as provisions in the Victims Directive (2012/ 29/EU) that apply regardless of status (PICUM, 2015), and basic entitlements to healthcare and education provided in the Returns Directive (2008/115/EC). While the latter includes certain safeguards, Lutz (2018) argues that these do not reflect all of the human rights to which migrants in an irregular situation are entitled under international law. Migrants with precarious status thus remain subject to a highly uneven degree of formal access to basic services, leading to what Spencer (2016) refers to as a 'postcode lottery' of entitlements across the EU.

²See Lundberg and Spång (2017) for instance on reforms in Sweden in 2013; and PICUM on the extension of access to healthcare in Finland to cover 'necessary care': that is, care that healthcare professionals deem necessary, albeit with an expectation to pay if able to do so. Blog 'Finland: New law expands healthcare for undocumented migrants', 24 January 2023. https://picum.org/finland-new-law-expands-health-care-undocumented-migrants/

³Bulgaria, Finland, Hungary, Latvia, and Lithuania, as of 2015.

2.3 Inclusive Policies at the Local Level

National governments are primarily responsible for immigration controls and welfare policies. There are nevertheless varying degrees of overlapping responsibility with regional and local authorities for the policies that shape public health and welfare services, not least with regard to social services and access to them. Municipalities across Europe, moreover, have differing levels of responsibility for delivering services, and degrees of autonomy in doing so. Cities that have the status of a federal state, such as Berlin, Hamburg and Bremen in Germany, or Vienna in Austria, have vastly greater autonomy than cities in a unitary state, where only limited powers are devolved, such as Ireland (CEMR, 2011).

In recent years there has been a growing scholarly recognition of a 'local dimension of migration policymaking' (Caponio & Borkert, 2010; Flamant, 2020). Most interactions between migrants with precarious status and the state occur at the local level. This is where the negative impacts of migrant exclusion from the welfare system are also most felt. Consequently, there are municipalities all over Europe that have developed policies and practices to address the specific needs of migrant populations, including to a growing extent those with precarious status. While constrained by national policies, they argue that their economic and social policy and humanitarian responsibilities mean that they cannot ignore anyone's basic needs. Some cities have provided a level of access to services that stretches the limits of their authority, mitigating to a degree the impact of national restrictions (Potochnick et al., 2017; Schweitzer, 2017; Campomori & Ambrosini, 2020). Some municipalities, or certain departments within them, facilitate access to their regular services. Others provide targeted services for those migrants not entitled to regular services or because it is necessary to meet their particular needs. Still others finance or partner with NGOs to provide services for migrants with precarious status in multiple ways (Patuzzi, 2020).

Not all cities take an inclusive stance. In addition to those cities that resist inclusive measures, implicitly aligning with restrictive national policies, other municipalities have explicitly aimed to create a hostile environment. Ambrosini (2013), for instance, found exclusionary mechanisms in the Northern Italian province of Lombardy. Municipalities introduced deterrent measures that went beyond national requirements to keep migrants from residing in their area, and in their discourse framed migrants as a security threat. Measures ranged from intensified controls to identify irregular migrants and additional requirements when registering in the municipality, to restrictions when accessing social services (Ambrosini, 2013: 144ff.).

Such practices do not remain uncontested by civil society actors (Ambrosini, 2013; Lebuhn, 2013; Ambrosini & Boccagni, 2015; Caponio & Cappiali, 2018). Several restrictions at municipal level have had to be withdrawn following successful legal interventions (Ambrosini, 2013: 149). Ambrosini (2021a, b) thus conceptualises asylum and immigration policies as a 'battleground', building on analyses

by scholars that have pointed to the importance of 'border struggles' (De Genova, 2015).

As cities do not necessarily take more inclusive approaches towards migrants than national or federal governments, it is important to investigate why local approaches differ; and to explore the differing approaches within municipal authorities. A municipality, we shall argue, should not be seen as either inclusive or exclusive of precarious migrants but rather as an institution which internally may take differing and inconsistent approaches, a fragmentation that needs to be explained.

2.4 Civil Society Actors

To the extent that municipalities take an inclusive approach, they often rely on civil society actors, in particular NGOs, to provide services and as sources of information and expertise (Andreotti et al., 2012). We adopt a broad understanding of the term NGO to include non-governmental and faith-based organisations welfare organisations, as well as community based groups playing wider roles. The extent to which NGOs are engaged in service provision to precarious migrants depends, in part, on their role within the model of welfare provision in that country, and the role that they generally play in a particular municipality (Caponio, 2010). It further depends on the bargaining processes between them and governmental bodies, in local partnerships and networks, to which we return below.

NGOs regularly constitute a vital part of the city's support infrastructure for migrants, whether or not commissioned and funded by the municipality (Ataç et al., 2020). They also play the role of intermediaries, raising awareness among migrant communities about their rights and the services accessible to them. Often it is only through these trust building relationships that migrants with precarious status dare to approach public services. These mediation efforts by civil society actors can be understood as a form of relational work and of care work which remains largely invisible but is central to creating an 'infrastructure of solidarity' (Schilliger, 2019, 2020).

Schilliger emphasises that civil society actors also negotiate for migrants, case by case or strategically. The role they play as advocates for individuals and families with precarious status has been found to be a significant factor in whether a municipality is responsive to their needs (de Graauw, 2016; Price & Spencer, 2015). They thus form a vital and multi-layered part of a city's social infrastructure. Their advocacy extends further into demands for changes in policy and practice. Activist groups may play an important role in negotiations with city councils, especially in cities with progressive local governments (Holm & Lebuhn, 2020). Nicholls and Uitermark (2016) critically note that NGOs thereby also serve as an extension of the local authority and can become part of a web of governance "rather than an uncontrollable and tangled site that nourishes multiple resistances" (Nicholls & Uitermark, 2016: 32). Politicians and civil society organisations including NGOs,

where they share a concern for migrants, can indeed be part of solidarity movements which work together to make the municipal area more inclusive. These movements may operate at two levels, aiming to shift the narrative at EU and national level, as well as within the city itself, in each case acting as 'discursive counterweights' to right-wing voices promoting a security narrative (Wenke & Kron, 2019: 7; Ambrosini, 2021b). NGOs also offer important services outside of the governance mechanisms of municipal policies and sometimes counter to the expressed municipal interests.

There is a great diversity of civil society actors with differing missions, expertise, funding and relationships to government actors (Ataç et al., 2023). In the context of municipalities which take not one but multiple differing approaches towards precarious migrants, it is important to know how these actors navigate their relationships with their municipal counterparts. Local government actors for their part may be selective in their relations with NGOs, for instance by prioritising organisations with whom there is sufficient agreement on goals to be able to build stable relationships. Relations will be shaped by the expertise and capacities NGOs have that municipal departments need; by the municipality's level of autonomy within vertical multilevel governance structures (see below); and by the extent to which an NGO is in a position (through separate funding perhaps) to bargain for its own approach towards precarious migrants to be accepted (Nicholls & Uitermark, 2016; Ataç et al., 2020; de Graauw, 2016; de Graauw & Vermeulen, 2021; Holm & Lebuhn, 2020).

2.5 Pathways to Key Local Services

Municipalities may offer one or more services to precarious migrants to meet a range of needs, from access to healthcare, shelter or education to legal assistance (facilitating regularisation or voluntary return), social counselling (such as orientation and signposting to services), support in securing labour rights, and protection for victims of crime. Exploring in a little more depth how some services are provided provides insights into the ways in which municipalities can accommodate or circumvent restrictive national policy frameworks.

In healthcare, for instance, where regulations may allow access beyond emergency care to some primary and secondary care services, administrative and practical barriers can nevertheless prevent access in practice. Individuals may be reluctant to use healthcare services because, despite eligibility, they fear being exposed to the immigration authorities and subsequently deported (Larchanché, 2012). They can also be anxious about receiving bills for the treatment that they are not able to pay. Administrative personnel can deny access if they themselves are not aware of the rights that migrants with precarious status do have. Apart from human rights considerations, this is problematic for those cities that are healthcare providers or if it runs counter to their public health responsibilities (Spencer & Hughes, 2015a; Mallet-Garcia & Delvino, 2020).

Local authorities have implemented measures to overcome such barriers. Overcoming concern that personal data will be passed on to the immigration authorities is among the most important. While doctors are generally obliged to respect medical confidentiality, the administrative staff of welfare and social departments who are responsible for reimbursement, may not be—and indeed in Germany are required to provide that information except in emergency cases. Funding an NGO to provide medical services is one way in which a requirement to alert immigration authorities when encountering migrants with irregular status can be avoided. Local authorities may themselves set up or support medical facilities that offer additional health care for those people whose entitlements are restricted to emergency care; or reserve parts of the municipal budget to cover the costs of external providers. To decrease administrative barriers for migrants who want to access health care services, some municipalities (like the City of Ghent and Berlin) have issued their own medical cards confirming entitlement to treatment. Several Dutch cities work with NGOs that not only provide medical care but also issue confirmation to hospitals and doctors that treatment costs will be reimbursed (Delvino & Spencer, 2019: 52ff).

Migrants with precarious status also face difficulties related to housing. They are often unable to afford private housing and are not entitled to public accommodation in most countries. Access to public shelters for homeless people is often hindered by the necessity to show a residence permit to prove entitlement to this service. Some municipalities, such as Dublin and Liverpool, facilitate access to night and day shelters by refraining from checking an individual's status, at least initially. Oslo and Stockholm are among those that fund NGOs which provide shelter to anyone in need. Sometimes the provision of shelter to migrants with precarious status is accompanied by additional services such as legal advice (as in Utrecht and Ghent). There are also initiatives supporting access to private housing markets, for instance through mediation between landlords and tenants, as in the case of the Autonomous Community of Madrid (Delvino & Spencer, 2019: 40ff).

According to the Istanbul Convention (Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence), ratified (as of 2022) by 37 European States, women experiencing violence should have a human rights-based entitlement to access women's shelters regardless of their residence status. However, women's shelters often remain barred to women with precarious status. In Germany, for instance, the Job Centre or social welfare office pays the shelter daily rates—rent, ancillary costs and heating costs as well as care services—but only for women entitled to social benefits. For women without such entitlements, this poses a practical barrier, as they would need to cover the daily fees themselves (Dinkelaker & Schwenken, 2020: 163ff.). In contrast, women's shelters which receive a fixed amount of public funding may accept women regardless of their status, as examples from several German municipalities show (Dinkelaker & Schwenken, 2020: 166; FN 5). Delvino and Spencer (2019: 47f.) report a similar approach of facilitating access in the Swedish cities of Gothenburg and Stockholm, which reimburse non-profit shelters for women escaping violence.

While national regulations in most European countries entitle all children, implicitly or explicitly, to access school (Spencer & Hughes, 2015a), children with

precarious status may nevertheless encounter barriers to attendance, including school registration procedures or financial requirements such as tuition fees. Migrants who fear exposing their immigration status may refrain from sending their children to school. Those who attend school may not be able to take official exams and those beyond school age are usually not entitled to attend further education or training (Delvino & Spencer, 2019: 56).

Corresponding to these challenges, local administrations in several European cities have introduced measures to ensure the universal right to education. Besides rights-based reasoning, such measures are also seen as likely to prevent juvenile criminality and social exclusion and to increase chances for regularisation of the respective young people because of evidence of 'integration'. Measures include ordinances instructing kindergartens not to require any documentation of regular residence, such as in Turin and Genoa before this requirement had been introduced nationwide. In Barcelona and Madrid, as in other Spanish cities, everyone can register with the municipality as a local resident irrespective of their legal status. A proof of this registration is sufficient to be enrolled in a local school. The city of Ghent has reserved part of its municipal budget to cover the cost of some school places so that schools do not bar pupils with precarious status, and it provides free public transportation for all students. Some municipalities also offer additional educational programmes for migrants regardless of status such as mentoring and adult language classes (Delvino & Spencer, 2019: 58ff).

2.6 Firewalls to Preserve Confidentiality

The checking of identity documents and legal status has become a practice that is no longer merely associated with border crossing. They are often checked by welfare agencies, municipal administrations, local police, universities, hospitals and banks as a prerequisite to the entitlement or denial of services and access to public goods (Ataç, 2019; Fauser, 2019; Lebuhn, 2013; Schilliger, 2020).

Crépeau and Hastie (2015) highlighted the importance of establishing firewalls which ensure the separation of immigration enforcement activities from public service provision, wherever possible, in order not only to safeguard migrants' fundamental rights but also broader public interests (Crépeau & Hastie, 2015: 158). While academic attention to the concept of firewalls in relation to migrants' data has otherwise not been extensive, policies on the national, regional, and local level that resemble firewalls are being discussed within academic debates on sanctuary cities (Hermansson et al., 2020: 4). Bauböck and Mourão Permoser (2023) argue that the builders of firewalls are not only motivated by wanting to ensure migrants' access to services, regardless of status, but also by concern not to jeopardise, by collaboration with immigration authorities, the effective delivery of public services to their target population, necessary to achieve social policy objectives such as public health. Thus, they argue, humanitarian and organisational goals are mutually reinforcing. Where governments agree that access to services should be

protected, firewalls may be approved or required by national law. Where that consensus is lacking, immigration authorities may challenge the lack of information sharing, leading service providers to stress their need for organisational autonomy to deliver their own organisational tasks. Crépeau and Hastie (2015) document some of the firewall practices of local and regional authorities in Europe, the United States and Canada, as do Delvino and Spencer (2019) who note that, for firewalls to work effectively, some cities have instructed "local police bodies not to patrol or apprehend [...] migrants seeking medical, educational, legal or other assistance at or next to facilities established to provide such services" (2019: 70).

One way of removing the need for firewalls is the so-called "don't ask, don't tell" policy where no information is sought from service users on their immigration or residence status. In Berlin and Hamburg, parents' associations and other civil society activists mobilised against data collection on immigration status in educational institutions and subsequently many school authorities revised their data collection practices. A "don't ask, don't tell" policy was introduced in Toronto following the mobilisation of a broad alliance of local actors in 2004. Reflecting on its implementation, Schilliger (2019) underlines the need to generate awareness of the policy among migrants and administrative staff so that city residents may become aware of, and able to assert, their rights. In the form of multilingual flyers, posters and community workshops, the Toronto Solidarity City Network activists spread information about municipal services throughout the city, and a hotline was set up for reporting cases where access was not adequately provided (Schilliger, 2019: 103). While Delvino and Spencer emphasise the importance of firewalls, they argue that the simplest way to ensure access is to remove any requirement to notify service providers of immigration status (Delvino & Spencer, 2019: 29).

Another measure used to facilitate access to services is the introduction of local civic cards, a practice drawn from experience in US cities. Zurich is in the process of considering the implications, costs and potential benefits of a card, which has to be of value to all residents if it is to be widely held and thus not identify those with a precarious status (Delvino & Spencer, 2019: 67ff; Antoniadis & Meier, 2023). Another alternative is regularisation programmes like Operation Papyrus in Geneva, where the city authority together with local NGOs and unions successfully lobbied the Swiss federal government to agree to a regularisation scheme. They framed it as a humanitarian and labour market regularisation programme, formulating criteria that defined who was eligible to apply (Kaufmann & Strebel, 2021).

2.7 Tensions and Alliances in Multi-level Governance

To understand the differing policies adopted by municipal authorities and departments within them, it is helpful to consider the wide assemblage of actors engaged with precarious migrants on differing governance levels and in different sectors, and the relationships between them. Internally, there are elected representatives and officials, those engaged in municipalities and those in partner public bodies such as the police. Outside of the public sector, there is, as we saw, the wide field of civil society actors, including welfare providers, migrant-led organisations, trade unions, neighbourhood and faith-based organisations, communities and grassroots activists. To these external actors we can add the courts, to which municipalities turn for support for their position but where they are also subject to litigation challenging their decisions.

Rather than focusing solely on the different actors engaged, a governance perspective facilitates a more systematic examination of relations between different structures and their implications in turn for patterns of interaction (Schiller, 2018: 204). In the context of policies towards migrants, relationships have been analysed in the literature using the concepts of multi-level governance (MLG) with regards to vertical and horizontal working relationships. All states are structured along multiple layers of government and public policy emerges from the interactions between institutions, organisations and individuals operating at different levels. The concept of vertical MLG thus extends the focus from the formal division of responsibility between tiers to the relationships between actors within them and the interests and power relationships that shape their interactions. While vertical MLG thus denotes the relationship between higher and lower tiers of government, the horizontal dimension refers to relationships within one level (and thus, we shall argue, below, that 'multi-level' governance is perhaps not optimal terminology for its analysis). It is used in relation to cooperation between municipalities and to relations with non-state actors (Caponio & Jones-Correa, 2018).

In migration studies, the concept of MLG has been employed primarily in the context of the 'shifting down' of powers and responsibility to regional and local authorities. Less common are studies that explore the parallel processes of 'shifting out' responsibilities to NGOs, yet a MLG perspective considers how policies unfold at the intersection of the vertical and horizontal dimensions (Caponio & Jones-Correa, 2018). Spencer (2018) has looked at that intersection in relation to irregular migrants, finding that the often-problematic MLG relationship between higher tiers and municipalities is a contributory factor to the close engagement between municipalities and NGOs in relation to that group of residents.

MLG as a concept has a normative tone, opening the door to assessment of the nature of the relationship—whether consensual or conflictual for instance—and migration scholars have indeed suggested differing forms that vertical MLG relationships can take. Where municipalities have stretched their authority to be more inclusive of migrants with precarious status, it has been noted that their practices can lead to tensions between governance levels as they encroach on a policy area typically under national purview (Campomori & Ambrosini, 2020; Villazar, 2010). That has led in some cases to litigation, but in others to negotiated solutions where re-framing of the problem by both national and local authorities has brought greater consensus. Alternatively, low-visibility provision is deployed to avoid such tensions from arising (Spencer, 2018). The concept of vertical MLG has been helpful in analysing the ways in which national-local government relationships unfold (Ataç et al., 2020; de Graauw, 2020), Scholten (2013) using it to develop a four-fold typology of relationships that consider, first, the degree of autonomy a municipality

has on 'integration' issues and, second, whether there is shared framing of the issues concerned.

Scholten's typology (2013) has four ideal types. The first is *centralist*, a top-down relationship in which municipalities are implementing a strong, national policy framework. The problem is framed by both national and local governments as one needing a national solution so that local policy merely follows central rules. Effective centralist MLG requires policy coordination but no reconciliation of perspectives as framing of the problem and of the solution is already shared. In a localist MLG relationship, in contrast, the problem is seen as requiring a local solution so that responsibility for policy and its implementation is devolved to the local tier. In his third ideal type, Scholten uses the term *multi-level governance* for relationships in which there is shared responsibility between tiers and framing of the problem is also shared; that is, a consensual relationship. Spencer (2018) suggests that using the term 'multi-level governance' only for this type of relationship is problematic given MLG is also used as a generic term for relationships whether effective or not. Finally, Scholten characterises relationships where a level of responsibility is shared but framing of the problem and solution is not—as 'decoupling'. Where the relationship is decoupled, there is no effective policy coordination and interactions between tiers are conflictual (2013: 221).

The COVID-19 pandemic highlighted the shared framing that can emerge even in relation to a contentious issue such as migrants with an irregular status. Exposing the importance of including migrants with precarious status within healthcare provision, it led national governments to build stronger ties with local authorities on issues such as contact tracing, vaccinations regardless of status, and shelter for those who were street homeless or released from migration detention (Mallet & Delvino, 2021). Municipal objectives are thus not necessarily as much in conflict with national government objectives as some tensions suggest. Indeed, the contribution of municipal services to regularisation of status and voluntary return, through provision of legal advice for instance, contributes to the effective management of migration, while their contributions to the protection of public health and to crime prevention are also in line with national goals.

Spencer (2020) draws on Guiraudon and Lahav (2000) in suggesting that local authority policies on inclusion of precarious migrants may not represent the loss of control by national governments that it might appear. Local authorities are part of the state and, indeed, share the state's international human rights obligations regardless of the degree of autonomy they may have (UNHRC, 2014: 19; Oomen & Baumgärtel, 2018). Lahav (1998) argued that European states address the challenge of managing migration by devolving responsibility to public and private actors in order to open up new opportunities for regulation—in effect reinventing forms of state control. In this perspective, rather than representing a loss of control at the national level, engaging local actors in managing migration creates new opportunities for control while reducing the risk of a negative political reaction at the national level for potentially unpopular measures (Lahav, 1998: 689). 'This multifaceted devolution of migration policy has not resulted in states losing control over migration', Lahav later wrote with Guiraudon:

Rather, it shows the adaptiveness of agencies within the central state apparatus in charge of migration control and their political allies. By sharing competence, states may have ceded exclusive autonomy yet they have done so to meet national policy goals, regaining sovereignty in another sense: capabilities to rule. (Guiraudon & Lahav, 2000: 164)

Lebuhn likewise situates these developments within, rather than in conflict with, local border management. With the signing of the Schengen Agreement over 20 years ago, external nation state border enforcement has mostly been eliminated in parts of Europe, while borders are increasingly enforced within the nation state, including at the local level. New actors are involved in the process of border and immigration management, including semi-public and private actors. As we saw, in the absence of 'don't ask, don't tell' policies, the checking of identity documents and legal status is a practice that has extended from border crossings to public services. (Atac, 2019; Fauser, 2019; Lebuhn, 2013; Schilliger, 2020). Glick Schiller and Çağlar (2009) termed this development 'the local turn of migration management' (Glick Schiller & Cağlar, 2009; Zapata-Barrero et al., 2017). As border control and bordering practices have dispersed across a range of agencies and spaces, this tactic has been met by some resistance, not least by organisations, movements and individuals who pursue humanitarian agendas (Ambrosini, 2022). Their expressions of "de-bordering solidarity" (ibid: 8) include various forms of support, advice, shelter, and resources, aiming at direct and immediate help rather than political protest (which may accompany the practices but not necessarily so).

2.8 Horizontal Governance Arrangements

Studies have also explored municipalities' horizontal governance relationships with other municipalities and towns and with civil society. We suggest that the concept of 'levels' is less appropriate for conceptualising these relationships, as 'levels' necessarily suggests a hierarchy in the relationship. There is no hierarchy in relationships between municipalities within the same tier of government, while with NGOs the distribution of power in the relationship is a matter for empirical investigation. For that reason, when referring to relationships between municipalities, between municipalities and civil society actors, and indeed between departments within a municipality, we shall use the more neutral term horizontal governance arrangements. We nevertheless recognise that these relationships take place in a multi-level governance setting: that is, they are influenced by, and may in turn influence, relationships between the municipality and the regional and national tiers of government with which it interacts.

There has been a proliferation of transnational municipal networks in the migration field (Lacroix, 2021), not unconnected to the 'local turn' in migration related policies (Caponio & Borkert, 2010; Zapata-Barrero et al., 2017). Research has focused on the 'symbolic' and 'instrumental' functions that these networks serve for municipalities (Caponio, 2018; Oomen, 2019a). Ataç et al. (2020) found that the relationships that Amsterdam, Stockholm, and Vienna have with NGOs influence

the scope of services provided; and that alliance-building between cities is critical for strengthening their political standing (as Caponio, 2018 and Oomen, 2019a found in relation to cities' migrant policies more generally). Analysing Milan and Barcelona, Bazurli (2019) stressed the importance of alliance-building as a strategy to promote inclusive local practices and policies within an otherwise unreceptive, hostile context. Spencer (2022) found symbolic and instrumental functions very significant for the European city network that focuses on irregular migrants, the City Initiative on Migrants with an Irregular Status in Europe (C-MISE). The symbolic functions were clearer when disaggregated into the four functions of legitimation (of an individual's authority); substantiation (of a policy or practice); framing (of problems and solutions) and advocacy, that are embraced by that term.

A key feature of relationships between municipalities and NGOs, on the other hand, is the distribution of power—the extent to which the municipality is in the determining position on policy and practice outcomes: that is, whether there is a steep or flat hierarchy in the power differential. A second feature is the degree of intensity in the relationship: how independent or close is their working relationship (Schiller, 2018: 207). From that observation, Schiller argues that it is possible to identify four different relationships between municipalities and NGOs according to their degree of hierarchy and intensity. A steep hierarchy and low degree of intensity in the relationship is seen where policies are imposed, top down, and NGOs are merely informed. In contrast, a more consultative and coordinated relationship is in place where there is a flat hierarchy but also a low degree of intensity. Where there is a steep hierarchy and intense interaction, Schiller characterises the relationship as one of co-optation: NGOs are highly involved in the design and/or implementation of policies, but the state actors only cooperate with NGOs that hold, or are willing to conform with, their views. Finally, a flat hierarchy and intense interaction is characterised as a relationship of cooperation and coproduction. Here, the views of both the state and non-state actors inform the policy making process (and this is in fact the only relationship which Schiller considers merits the term governance). Her model is intended to be non-normative; and to facilitate analysis of relationships that evolve between these types rather than to suggest that they are fixed in any one form (Schiller, 2018: 208).

Scholten's typology for vertical multi-level governance relationships between municipalities and higher tiers, to which we referred above, and which focuses like Schiller on the power relationship, can also be applied to these horizontal governance arrangements with NGOs. That is, a centralist relationship, where the municipality dictates the terms on which the NGO will, for instance, provide a funded service; localist, if the NGO is funded but left to devise its own approach; a partnership approach where there is in effect a shared responsibility and shared framing of the solutions needed; and decoupled where responsibility is shared but views differ on approach, policy coordination is poor and interactions are conflictual. In their systematic account of modes of urban governance, DiGaetano and Strom (2003) further distinguish five modes: clientelism, corporatism, managerialism, pluralism and populism. Of those, close relations between public sector and civil society are characteristic for corporatist, pluralist and populist approaches, with

significant differences as to how power and resources are allocated, and decisions are taken and implemented. We draw on these conceptualisations of governance, considering the hierarchy in power relations, intensity of the interactions, and whether there is shared framing, when we discuss our findings on relationships between municipalities and NGOs in the three cities, in Chap. 7 below.

2.9 Horizontal Governance Within Municipalities

While the literature has identified many ways in which municipalities take an inclusive approach towards precarious migrants, it is in fact often only one or more of its services that do so rather than a policy adopted by the city council as a whole. Cities such as Barcelona, which has a published strategy setting out its approach across council services (Ajuntament de Barcelona, 2017) are the exception, not the rule. Elsewhere, while one department takes an inclusive approach, another may be noticeably more resistant, as Price and Spencer (2015) found in relation to municipal responses towards destitute migrant families with precarious status in the UK. Authorities which do adopt a cross-municipality approach may set up an inter-departmental committee to facilitate that, whether on a permanent basis (as e.g., in Ghent); or to address a particular issue, as in Zurich in 2017 under the Mayor's Department to review and report on the situation relating to services, to inform its policy and practice development (Delvino & Spencer, 2019: 17).

There might seem to be a straightforward separation between the political, decision-making sphere of the elected representatives and the implementation role of the administration, but the dynamic of these relationships is complex (Caponio, 2010). Politicians set the overarching policy frame, but that may not be consistent between policy arenas. Officials operate within that inconsistent space; but they also develop policy from the bottom up in response to the challenges that they face in their jobs and the vision that they bring to it of what they want to achieve and their own role within it (Schiller, 2016; Hoekstra, 2018; Flamant, 2020). Understanding a city's immigration and migration policy history may further explain the wide variety of local responses, frames and discourses (Gebhardt, 2016). Flamant (2017, 2020) argues the importance of scrutinising the curricula and biographical aspects of elected officials, as they might contribute to significant turns in the policy process. Politicians, Caponio (2010) finds, are more likely to pursue consensus building measures that are in line with their perception of their electorates' interests and preferences; while officials are more likely to have goals shaped by their role and the organisational culture in which they have been socialised in the workplace. Understanding organisational cultures thus contributes to understanding the approaches that are taken (DiGaetano & Strom, 2003).

While focusing on the nature of these relationships and their implications, the literature has paid less attention to the internal governance arrangements within municipalities in relation to migrants, and the challenge of migrants with a precarious status in particular. Exploring that issue in our study we found it helpful to

explore the horizontal governance arrangements within each authority (or the absence of them) to see what part they may play in resolving differing framing of the 'problem' of precarious migrants and the 'solutions' that are thus proposed. We therefore return to this in Chap. 7 below.

2.10 Municipal Framing of Inclusion

The tensions between vertical governance levels contributes to a trend by municipalities to adopt different brands, concepts and labels to communicate their approach externally and to provide a framework for staff development of policies and practices. For some it is also a tool in advocacy for policy reforms on a wider canvas. Cities have taken a lead in pushing for reforms on topics ranging from climate change to affordable housing, as well as the inclusion of marginalised and vulnerable groups. Some do so through transnational or national networks that encapsulate their brand, such as 'Solidary Cities', 'Human Rights Cities', 'Welcoming' and 'Inclusive Cities'. While these networks have the function of enabling municipalities to share learning and ideas, they also have 'symbolic' functions, strengthening the position of municipalities internationally and providing them with more leverage in relation to their national governments (Bauder, 2017; Broadhead & Kierans, 2019; Fourot et al., 2021; Gebhardt & Güntner, 2021; Oomen et al., 2018; Spencer, 2022).

The concept of 'Sanctuary Cities' first appeared in the US where it generally refers to cities limiting cooperation with the federal immigration authorities and gained momentum with the election of Donald Trump in 2016, pioneering a broader international trend towards the local inclusion of migrants with precarious status (Bauder, 2017; Blokland et al., 2015; de Graauw, 2020; Lambert & Swerts, 2019). Many local governments in North America have now adopted this label and introduced regulations to protect their residents with precarious status, some now using the terminology of 'Don't ask, don't tell' policies, establishing firewalls and introducing City IDs. Municipalities thereby in effect support the enactment of citizenship not based on legal status but on presence and residence in the city (Kaufmann, 2019). In contrast, in the UK, the focus of sanctuary cities is asylum seekers and refugees. Bauder has shown that there are differing targets for these approaches: legal, discursive, identity formative and scalar. Thus, the focus in the US may be on policy change relating to migrants without a regular status, while in the UK the focus is in part on shifting the discourse, aiming to create a more welcoming narrative towards newcomers. Bazurli and de Graauw have analysed sanctuary policies to assess the extent to which they are symbolic or substantive, conformist or confrontational, identifying city specific and supra-local contextual factors to explain those variations (2023). Additionally, most 'sanctuary cities' seek to foster a collective sense of identity among all residents in the city and thereby, to a certain extent, call upon the idea of urban citizenship. The fourth aspect Bauder identifies is one of scale: cities attempt to re-scale migration policies and practices to take greater control of migration related policies away from the national level (Bauder, 2017).

Some civil society and municipal actors are using concepts such as 'spatial justice' or 'right to the city' to organise and mobilise for their goals (Oomen et al., 2018; Oomen, 2019b; Schilliger, 2019). These debates are inspired by Lefebvre's famous essay "the right to the city" (Lefebvre, 1968/1996). The process of urbanisation opened up questions of social inclusion, social rights and justice within public space. This claim to the city can be summarised as a demand for parity of participation in urban democracy by local residents (Oomen & Baumgärtel, 2014). This poses anew the question of citizenship. While citizenship based on nationality has been the monopoly of the national state, debates on 'urban citizenship' challenge this discussion (Baubock, 2003; Varsanyi, 2006). Discourse and social movements relating to this concept vary with national and local contexts and are reflected in differing policies and legal frameworks. Urban or regional forms of citizenship emerge when local policy instruments are introduced that guarantee or extend social participation not only for citizens but for all residents in a city. Some local actors rely on the concept of urban citizenship when advocating for greater inclusion of migrants and for the implementation of policies such as City IDs. It is not known, however, how widely this concept has inspired local actors rather than, for instance, a humanitarian frame that justifies interventions based on individuals' basic needs (Lebuhn, 2013; Blokland et al., 2015; Schwiertz & Schwenken, 2020; Gebhardt, 2016), one of many questions to which our research focus on framing was addressed.

Those municipalities (or departments within them) which adopt inclusive practices towards migrants with precarious status have been found to use a range of differing framings to explain their approach in relation to different services. Spencer and Delvino (2019) found six distinct frames. Within an 'inclusive security frame', municipal policy makers argue for interventions to increase security, prevent crime and disorder. That is mainly to protect vulnerable migrants regardless of status, however, not as one might anticipate from that term, to protect the local population from an unwanted migrant community (Caponio, 2014). With a 'humanitarian frame', Delvino and Spencer follow Caponio's finding that there is a concern with the health and wellbeing of all local residents, stressing vulnerabilities (and therefore 'deservingness') of children. Similarly, a 'human rights frame' was reflected by some policy makers, referring to a general or national human rights ethos. Acknowledging the economic contribution of migrants with irregular status, a 'deserving workers' frame was used, the migrants' contribution being seen as entitling them to basic rights and services. Some municipal actors, explaining that the city's economy, tourist industry and image would be harmed if migrants with precarious status were excluded, put a 'socio-economic frame' forward. They fear that exclusion would threaten not only public cohesion but also public health and undermine the municipality's efforts to address issues such as homelessness or street prostitution. Finally, within an 'efficiency frame' it is seen as more cost-effective and efficient to serve the whole population rather than fund the administration of an exclusion process requiring checks on status (Spencer & Delvino, 2019).

Some cities explicitly claim a mandate under international human rights law to justify the provision of services when national governments have failed to honour their obligation to do so. Oomen and Baumgärtel (2018) highlight the increasing

importance of local authorities in that respect, within the multi-layered human rights system in Europe. By invoking responsibilities derived from international law, local authorities have occasionally decoupled their policies from those taken at the national level, a practice the authors term 'legalization from below' (Oomen & Baumgärtel, 2018: 613). They illustrate this with an example from the Netherlands. In 2012, the Dutch government had prohibited municipalities from providing irregular migrants with access to emergency shelters. Following a collective complaint by several civil society groups to the European Committee on Social Rights (ECSR), the Committee criticised this denial as countering Dutch obligations under the European Social Charter (ESC). When the government suggested a compromise to local authorities—that access should only be provided for those migrants who cooperate in their own expulsion—local authorities in Utrecht, Amsterdam and other Dutch cities rejected it, arguing that the ECSR's decision endorsed their responsibility to provide services. According to O'Cinneide (2020: 67) this case "shows how even apparently 'soft' human rights standards like the ESC framework can be invoked to contest exclusionary policies directed against irregular migrants" and the way in which different actors are involved in these dynamics.

What is missing in the literature is, however, an understanding of how these differing frames are used by different municipal departments in relation to different services, and why these frames are adopted. We also do not know if there is a connect or disconnect between a municipality's overall branding of its mission and the frames and practices of its service providers in relation to migrants with precarious status. Does a 'Human Rights City' branding extend to measures relating to these residents, for instance, and if not is this a failure of governance or a deliberate decision to limit an inclusive approach to other residents? Further, a focus on the rationales relating to women is absent in the literature and was among the issues addressed in our study.

2.11 Deservingness

While a range of frames may be articulated by policy makers, service providers also develop their own rationales for the ways in which they use their discretion to include or exclude. Local access to welfare services is thus not only defined by national regulations or municipal policy but through the discretionary power of 'street-level bureaucrats' (Lipsky, 1980). Lipsky explored the way in which these institutional gatekeepers decide on access to services case by case. Local government departments are functionally differentiated, and their actions are based on different policy problems, priorities and values. The organisational culture, as well as whether a migrant is perceived as threatening or deserving, may impact on the scope of services, and who gets what under which conditions (Lipsky, 1980; Landolt & Goldring, 2015; Chauvin & Garcés-Mascareñas, 2012). Social recognition "affects the work of public institutions and their staff, influencing the effective application of rules" (Ambrosini, 2017: 1824).

Willen defines deservingness as articulated in a moral register that relates to specific situations and to the presumed characteristics and behaviour of the individual concerned (Willen, 2012). It plays a role in determining national and local policies and in their implementation towards different categories of migrants: children, for instance, may be seen by policymakers and by service providers as more deserving than their parents because of their greater need and because they are not considered responsible for their irregular situation. Hence, they may be granted greater access in law to welfare services and be the recipients of more favourable consideration by service providers (Spencer, 2016). Chauvin and Garcés-Mascareñas (2014) highlight two groups of irregular migrants that are deemed deserving. Deservingness may, on the one hand, result from a perceived vulnerability—due to persecution in their home country, being minors, or in need of medical assistance (see also Atac, 2019). Such persons 'deserve' social care and support for better societal inclusion. The debates in the context of human trafficking show in a similar way the production of 'deserving and undeserving' victims, which is also highly gendered. On the other hand, other groups are deemed 'deserving' by demonstrating their willingness to contribute either as good citizens, through their 'integration level' or by demonstrating cooperation, as in the case of rejected asylum seekers. This is discussed as 'performance-based deservingness' which works as a tool to enable access to welfare services (Ataç, 2019). Gender can play a decisive role in being perceived as 'deserving'. Ambrosini elaborates on the way in which women with an irregular status working in domestic care in Italy are perceived as useful and necessary workers and therefore separated from the otherwise imagined threat posed by male migrants. This allows women easier access and agency, despite their insecure and possibly exploitative circumstances (Ambrosini, 2015). The outcome of the intervention of service providers may thus not always correspond with the aims of policy makers: rather, the street-level application of immigration policies leads to diverging outcomes across welfare services (Ambrosini, 2013; Spencer, 2016). Decisions by sympathetic service providers may run counter to, rather than in line with, official policies (Van der Leun, 2006).

2.12 Conclusion

In this chapter we set municipal interventions within the evolving national and European regulatory frameworks governing migrants' access to services, positioning them in this regard in a multi-level governance approach. Despite notable incidences of inclusive policies at national and European levels, the default position of national governments and the European Union remains one of exclusion. Measures at the municipal level to bring greater inclusion in services may thus seem in conflict with those of higher tiers and can give rise to tensions. We drew attention to the ways in which, alternatively, there can be shared framing of the issue and of how municipal measures can contribute to national policy objectives. At the local level, the concept of horizontal multi-level-governance (or as we would term it, horizontal governance

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arrangements) has been helpful in analysing relationships between municipalities and other cities and provides a framework for analysing relationships with NGOs operating in the migration field; but there has been less focus on relationships between departments with differing mandates *within* the municipal authority itself.

There is a lack of empirical research that provides an in-depth understanding of how cities navigate their way within national legal frameworks and, where relevant, an intervening regional tier. Further, there is little understanding of the internal operation of municipalities in relation to this issue, such as whether there is a corporate or fragmented approach; nor the implications of this for horizontal governance processes, on the one hand, and for framing of the rationales for inclusion within service provision, on the other. What drives the approaches of individual departments; and is there a coherence or disconnect between each city's branding of its approach and the practices which have emerged: practices which facilitate or obstruct the migrants' access to the services that they need?

We address these and related questions through an in-depth analysis of the policies and practices of Cardiff, Frankfurt and Vienna, three cities operating within contrasting national and European policy frameworks and governance arrangements. We set out relevant context for those cities in Chap. 3. In Chaps. 4, 5 and 6 we report on our findings on each city, and, in Chap. 7, we compare these findings to draw out their significance.

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