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Increasing public perceived legitimacy of the European Union through the integration of psychological insights into law

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1.1 RELEVANCE AND AIMS

Over the past three decades, the European Union (EU) has become increasingly contested.¹ While recruiting participants for my research during the Dutch national elections in November 2023, I encountered responses that vividly reflected this sentiment. When I asked people to participate in a study on the EU, approximately half of them responded negatively: 'I want to have nothing to do with the EU'; 'We should stop with that nonsense'; 'Brussels? Burn it down to the ground!'. These responses certainly did not come from everyone, but they illustrated how the EU's public legitimacy cannot be taken for granted, anymore. The recent electoral success of right-wing nationalist parties across the continent,² which stir nationalist sentiment and demonize international organizations,³ only underscores this observation.

Reduced public perceived legitimacy poses a significant threat to the EU's ability to effectively address the significant challenges it faces. To meet these challenges, the EU requires a stable foundation of legitimacy that enhances its decision-making capacity and ensures compliance with its

1 Liesbet Hooghe and Gary Marks, 'A Postfunctional Theory of European Integration: From Permissive Consensus to Constraining Dissensus' (2008) 39 *British Journal of Political Science* 1.

2 These parties made electoral gains in recent national elections (for example the Freedom Party of Austria in Austria; Vlaams Belang in Belgium; the Conservative's People's Party in Estonia; Alternative für Deutschland in Germany) or are in government now (for example Patriotic Movement in Croatia; the Civic Democratic Party in Czech Republic; the Finns party in Finland; Fidesz in Hungary; Brothers of Italy in Italy; the Freedom Party in the Netherlands; the Slovak National Party in Slovakia).

3 Thorbjørn Jagland, 'An Analysis of Democracy, Human Rights and the Rule of Law in Europe, Based on the Findings of the Council of Europe Monitoring Mechanisms and Bodies' (Council of Europe 2017).

rules and policies.⁴ Consequently, one key challenge for the EU is to restore trust and legitimacy among its citizens, a challenge explicitly recognised by the European Commission.⁵

The law plays a vital role in the functioning and legitimation of the EU. However, although law holds the potential to increase perceived EU legitimacy, traditional legal research falls short in understanding *how* this can be achieved, because it lacks the tools to examine when and why the EU is legitimate in the eyes of citizens. By contrast, social psychological research offers valuable empirical insights into the underlying factors that shape people's perceptions of the EU's legitimacy. Insights from social psychology can therefore inform and complement EU legal research to guide efforts to strengthen public perceived legitimacy of the EU.

This dissertation argues that integrating EU law with social psychology is required to help address the public legitimacy challenge of the EU. Adopting a unique and interdisciplinary approach, it is structured into three interconnected parts, with each part informing the next. First, the research investigates the psychological processes that drive people's perceptions of EU legitimacy, focusing specifically on the role of social identity and moral values. Second, these insights are used to develop and test strategies aimed at increasing legitimacy, designed with sensitivity to the unique nature and limitations of the EU legal framework. Third, the focus shifts from empirical research to integrating these findings into EU law, proposing legitimacy-enhancing strategies that align with the internal logic of the EU legal order and remain within the legal limits imposed by its foundational principles.

Together, these three steps provide a practical, evidence-based roadmap for increasing public perceived legitimacy of the EU. Such efforts are essential to ensuring the future and problem-solving effectiveness of a partnership that has historically brought safety, progress, and economic welfare, and continues to be a crucial collaboration between European states in an increasingly globalized world.

1.1.1 From broad acceptance to a divided audience

In the mid-20th century, a new form of cooperation emerged on the European continent. Having witnessed the destructive power of two world wars, several states sought to prevent future conflicts by signing the Treaty of Paris and establishing the European Coal and Steel Community in 1951. By regulating the production and distribution of coal and steel, and thereby military equipment, at a supranational level, Belgium, France, Germany,

4 Thomas Sommerer and Hans Agné, 'Consequences of Legitimacy in Global Governance' in Jonas Tallberg, Karin Bäckstrand and Jan Aart Scholte (eds), *Legitimacy in global governance: Sources, processes, and consequences* (Oxford Academic 2018).

5 European Commission. Directorate General for Communication., 'White Paper on the Future of Europe: Reflections and Scenarios for the EU27 by 2025.' (Publications Office 2017).

Italy, Luxembourg, and the Netherlands believed they could avert another war. A few years later, the common goals of economic prosperity and the peaceful use of atomic energy drove further cooperation with the establishment of the European Economic Community and the European Atomic Energy Community through the Treaty of Rome in 1957.

In those days, European integration was seen as an economic 'elite-project' that did not engage the wider public, as it did not raise highly politicized issues.⁶ The creation of a single market affected traders, but had little impact on the general public. Even after two landmark judgments by the European Court of Justice, *Van Gend en Loos*⁷ and *Costa v. ENEL*⁸, transformed the European Community from a regular intergovernmental organization governed by international law into a supranational polity with an autonomous system of law defined by constitutional principles,^{9,10} people remained largely indifferent towards or accepting of supranational authority. Consequently, public opinion on European integration during this period has been characterized as 'permissive consensus'.¹¹

However, this changed as the scope and depth of integration expanded. Following the first enlargement in 1973, when Denmark, Ireland, and the United Kingdom joined, Greece acceded in 1981 and Spain and Portugal in 1986. The Maastricht Treaty, signed in 1992 after the fall of the Berlin Wall, significantly extended European integration to foreign and security policy as well as to justice and home affairs, and launched the Economic and Monetary Union. The introduction of EU citizenship marked the beginning of greater social and fundamental rights for citizens. The co-decision procedure, or ordinary legislative procedure, placed the now directly elected European Parliament on a more equal footing with the Council of Ministers, allowing both institutions to adopt, amend, or reject legislative proposals from the European Commission, and to exercise budgetary functions. In sum, the EU evolved into a supranational political system with substantial authority. As a consequence, European issues became part of national electoral processes and increasingly engaged the public.¹² Moreover, European integration itself became increasingly politicised,¹³ characterised by greater

6 Hooghe and Marks, 'A Postfunctionalist Theory of European Integration' (n 1).

7 *Van Gend & Loos v Netherlands Inland Revenue Administration* [1963] ECJ 26-62.

8 *Flaminio Costa v ENEL* [1964] ECJ 6-64.

9 Alec Stone Sweet and Thomas L Brunell, 'Constructing a Supranational Constitution: Dispute Resolution and Governance in the European Community' (1998) 92 *American Political Science Review* 63.

10 In these judgments, the Court ruled that Community Law creates rights for citizens that may be invoked before national courts, and that Community Law is always supreme over national law.

11 Leon N Lindberg and Stuart A Scheingold, *Europe's Would-Be Polity: Patterns of Change in the European Community* (Prentice-Hall 1970).

12 Hanspeter Kriesi, 'The Role of European Integration in National Election Campaigns' (2007) 8 *European Union Politics* 83.

13 Pieter De Wilde and Michael Zürn, 'Can the Politicization of European Integration Be Reversed?' (2012) 50 *JCMS: Journal of Common Market Studies* 137.

polarization of opinions, interests, and values, and a heightened public engagement in EU policymaking.¹⁴ Thus, the EU entered a period of ‘constraining dissensus’, marked by increased public contestation and debate over its policies.¹⁵

This shift in public opinion became evident in the 21st century. Following the accession of Austria, Finland, and Sweden in 1995, the 2004 enlargement expanded the EU from 15 to 25 members. Among the new Member States – the Czech Republic, Cyprus, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia, Slovakia – were countries from central and eastern Europe, some of which former Soviet republics. The Treaty establishing a Constitution for Europe sought to accommodate this enlargement by inter alia improving decision-making procedures – especially in view of future enlargements to Bulgaria and Romania in 2007 and Croatia in 2013 -, and to unite and simplify earlier amending treaties.¹⁶ Partially in response to the pressure to involve the wider public in EU decision-making, several Member States held referendums on the ratification of the Constitutional Treaty in 2005. The Dutch and French electorates rejected the Constitutional Treaty with respectively 62% and 55% of the votes against it. These outcomes were partly driven by the referendum campaigns that framed the Constitution and the enlargement as a threat to the domestic economy and social model (from the political left) and as a threat to the national culture and identity (from the political right).¹⁷ In 2008, the people of the only Member State subjecting the Lisbon Treaty to a popular vote – Ireland – rejected the Lisbon Treaty in a first referendum. And a few years later, in 2016, dissatisfaction with the EU culminated when the majority of citizens in the United Kingdom voted to leave the EU, causing the first Member State withdrawal.

Clearly, the era in which European integration can be pursued through elite decision-making is over. Instead, there is an ongoing debate about the EU’s future, its relation to the Member States, and even the willingness of countries to remain within the EU.¹⁸ Public indifference towards the EU has diminished and has been partially replaced by scepticism.

14 Pieter De Wilde, ‘No Polity for Old Politics? A Framework for Analyzing the Politicization of European Integration’ (2011) 33 *Journal of European Integration* 559.

15 Hooghe and Marks, ‘A Postfunctionalist Theory of European Integration’ (n 1).

16 ‘Laeken Declaration on the Future of the European Union (15 December 2001)’ (2001) 12 *Bulletin of the European Union*.

17 Marcel Lubbers, ‘Regarding the Dutch ‘nee’ to the European Constitution: A Test of the Identity, Utilitarian and Political Approaches to Voting ‘no’’ (2008) 9 *European Union Politics* 59; Sara B Hobolt and Sylvain Brouard, ‘Contesting the European Union? Why the Dutch and the French Rejected the European Constitution’ (2011) 64 *Political Research Quarterly* 309.

18 Pieter de Wilde and Hans-Jörg Trenz, ‘Denouncing European Integration: Euroscepticism as Polity Contestation’ (2012) 15 *European Journal of Social Theory* 537.

1.1.2 The EU as problem-solving authority

In the face of a divided audience, the EU is tasked with addressing major societal challenges that transcend national borders.¹⁹ Many of the issues confronting people all over the globalized world are not confined by geographical boundaries. Europeans, too, have faced transnational problems over the past decades. For instance, after the financial crisis that began in 2007, several EU Member States teetered on the brink of bankruptcy because they were unable to refinance their government debts. Climate change has brought increased water floods, extreme temperatures, and windstorms to the continent. The COVID-19 pandemic forced people into lockdowns and claimed countless lives. Technical innovations have raised new issues, such as the spread of misinformation and digital unsafety, which are particularly concerning in light of the changing geopolitical landscape, where European countries may no longer be able to rely on the United States. And, an enduring issue, but recently intensified and heightening public anxieties, is the large influx of people fleeing unsafe areas and seeking refuge in the EU, leading to tensions in countries struggling to accommodate these asylum seekers.

Just as in the early decades of European integration, when European states collaborated to prevent war and improve living standards, states today are more likely to effectively address contemporary cross-border challenges by cooperating than by acting alone.²⁰ Since these problems have a continental, if not global reach, they require a continental response. A common framework of rules, principles, and procedures enables people to coordinate complex forms of cooperation, facilitating problem-solving effectiveness.²¹ The EU has been remarkably successful in establishing such a legal framework, which includes supranational political institutions, a supreme and autonomous system of rules, and a court that ensures the uniform interpretation and application of these rules.

For example, in response to the abovementioned challenges, the European Stability Mechanism was set up to provide financial support to members unable to refinance their state debts.²² Unprecedented legally binding climate norms were introduced to achieve climate neutrality in Europe by 2050.²³ The COVID-19 pandemic prompted the creation of a recovery plan to mitigate its socio-economic consequences, particularly aiding countries

19 Luuk Van Middelaar, *Alarums & Excursions: Improvising Politics on the European Stage* (Agenda Publishing 2019).

20 This is a common claim in the international relations literature, see for example Robert O Keohane, 'The Demand for International Regimes' (1982) 36 *International Organization* 325; Dorothee Allain-Dupré, 'The Multi-Level Governance Imperative' (2020) 22 *The British Journal of Politics and International Relations* 800.

21 Keohane (n 21).

22 Treaty Establishing the European Stability Mechanism (ESM) (2012) OJ C 306/1.

23 European Commission, 'The European Green Deal' COM (2019) 640 final.

most in need.²⁴ The EU increasingly focuses on strengthening its geopolitical role.²⁵ And a set of regulations was adopted to manage the influx of migrants based on the principle of solidarity between Member States.²⁶ The EU has thus become the focal problem-solving authority for addressing many of the problems confronting its nearly 450 million citizens. Such advanced cooperation among European states would have been unimaginable only a few decades ago.

1.1.3 The importance of legitimacy

Yet, to be an effective problem-solving authority, the EU needs more than just a legal framework for adopting and enforcing laws; it requires legitimacy in the eyes of citizens to make this legal framework effective. As previously indicated, citizens are no longer indifferent towards the EU, many have even become sceptic. A certain amount of scepticism towards a polity can be a good thing, as it encourages political engagement and thus strengthens rather than weakens liberal democracies like the EU.²⁷ However, the EU's stability and viability are at risk when scepticism escalates into a widespread lack of public perceived legitimacy – when the majority of people stop perceiving the EU to be legitimate – or when the foundation of legitimacy is undermined by a destabilising minority.

Perceived legitimacy refers to the belief that the EU's exercise of authority is appropriate and that the EU has the right to rule. It is often asserted that authorities require this kind of broad support from their audiences in order to be effective; 'the perception of legitimacy matters, because, in a democratic era, multilateral institutions will only thrive if they are viewed as legitimate by democratic publics'.²⁸ While there are polities imaginable that exist without perceived legitimacy of their citizens, polities that thus

24 European Commission, 'Proposal for a Regulation of the European Parliament and of the Council establishing a Recovery and Resilience Facility' (2020) COM 408 final.

25 Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (2019) OJ L 130/92; European Commission, 'Shared Vision, Common Action: A Stronger Europe' COM (2020) 70 final; European Union, 'A Strategic Compass for Security and Defence' (2022) Doc. 7360/22; Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act) (2022) OJ L 277/1.

26 European Commission, 'Proposal for a Regulation of the European Parliament and of the Council on Asylum and Migration Management' COM (2020) 610 final; European Commission, 'Common Implementation Plan for the Pact on Migration and Asylum' COM (2024) 251 final.

27 Pippa Norris, *Democratic Deficit: Critical Citizens Revisited* (1st edn, Cambridge University Press 2011); William Mishler and Richard Rose, 'Trust, Distrust and Skepticism: Popular Evaluations of Civil and Political Institutions in Post-Communist Societies' [1997] *The Journal of Politics*.

28 Allen Buchanan and Robert O Keohane, 'The Legitimacy of Global Governance Institutions' (2006) 20 *Ethics & International Affairs* 405.

depend on force and coercion to retain authority,²⁹ these are not only normatively less desirable with regards to liberal democratic standards, but also less likely to be effective. Without perceived legitimacy, it is harder to propose ambitious new policies and to secure compliance by constituents.³⁰ For example, a recent development, possibly driven by a decline in public perceived legitimacy of the EU, is that national politicians increasingly express the aim to opt out of the common European migration and asylum policy.³¹ Such actions could significantly undermine the EU's ability to effectively regulate migration and asylum. In an extreme scenario, a lack of perceived legitimacy could even lead to the EU's dissolution if all, or sufficient key Member States decide to withdraw. Conversely, a high level of legitimacy allows the EU to draw from a reservoir of support or goodwill from the public when it must make difficult or unpopular decisions, which can be especially valuable in times of crisis.³²

According to some, there is reason for concern because the EU suffers from a legitimacy crisis or a legitimacy deficit.³³ This concern is linked to broader, longstanding worries about the global decline of democracy and the erosion of trust in authorities.³⁴ However, there is debate about the extent to which the EU is truly experiencing a legitimacy crisis.³⁵ A crisis of legitimacy is thought to occur 'when the level of social recognition that its identity, interests, practices, norms, or procedures are rightful declines to the point where the actor or institution must either adapt or face

29 Rick Trinkner and Tom R Tyler, 'Legal Socialization: Coercion versus Consent in an Era of Mistrust' (2016) 12 *Annual Review of Law and Social Science* 417.

30 Sommerer and Agné (n 4).

31 For example, the Dutch and Hungarian governments have requested an opt-out from EU migration and asylum rules, with Dutch far-right PVV leader Geert Wilders even calling it a 'mini-Nexit', <<https://www.euractiv.com/section/politics/news/wilders-rejoices-over-unlikely-dutch-eu-migration-opt-out-request-dubs-it-mini-nexit/>>.

32 Tom R Tyler, 'Psychological Perspectives on Legitimacy and Legitimation' (2006) 57 *Annual Review of Psychology* 375; David Easton, 'A Re-Assessment of the Concept of Political Support' (1975) 5 *British Journal of Political Science* 435.

33 Vivien A Schmidt, 'The Eurozone's Crisis of Democratic Legitimacy. Can the EU Rebuild Public Trust and Support for European Economic Integration?', *European Economy - Discussion Papers* (Directorate General Economic and Financial Affairs (DG ECFIN), European Commission 2015); Akasemi Newsome, Marianne Riddervold and Jarle Trondal, 'The Legitimacy Crisis: An Introduction' in Marianne Riddervold, Jarle Trondal and Akasemi Newsome (eds), *The Palgrave Handbook of EU Crises* (Springer International Publishing 2021).

34 See for example Michel Crozier, Samuel P Huntington and Jōji Watanuki, *The Crisis of Democracy: Report on the Governability of Democracies to the Trilateral Commission* (New York University Press 1975).

35 Tom Ward, 'The European Union: A Crisis of Legitimacy?' (2010) 9 *European View* 115; Christopher Lord, 'Legitimacy Crisis in the European Union', *Theorising the Crises of the European Union* (Routledge 2020); Jacques Thomassen, Rudy Andeweg and Carolien van Ham, 'Political Trust and the Decline of Legitimacy Debate: A Theoretical and Empirical Investigation into Their Interrelationship' in Sonja Zmerli and Tom WG van der Meer (eds), *Handbook on political trust* (Edward Elgar Publishing).

disempowerment'.³⁶ Whether this accurately describes the EU's current situation is hard to determine, partly because it remains unclear even how to measure perceived EU legitimacy, a topic that will be explored later in this chapter. Nevertheless, regardless of the supposed existence and magnitude of the current legitimacy crisis, there is broad consensus that perceived EU legitimacy should be safeguarded and strengthened at all times, especially if the EU is to meet the major challenges ahead.³⁷

1.1.4 Research aims and assumptions

In this dissertation, I propose that addressing the challenge of achieving and maintaining high levels of public perceived EU legitimacy requires three steps, which later in this chapter will be further developed into three research questions.

First, it is essential to understand how people's beliefs in EU legitimacy develop. What factors and processes lead them to confer or withhold legitimacy from the EU? While empirical research on the perceived legitimacy of the EU is expanding, scholars have in particular called for more research on the role of individual and contextual factors in shaping these legitimacy beliefs.³⁸ Since social psychology is dedicated to understanding how an individual's behaviour is influenced by its social context, social psychological theories and methods are used to address this gap.

Second, with a better understanding of these dynamics, it is possible to test the psychological effectiveness of potential strategies to safeguard and increase EU legitimacy. 'Legitimation strategies' are intentional practices that aim to increase perceptions of legitimacy among a certain audience, such as the wider public, and include discursive practices (e.g., communicative or symbolic policies) and organisational practices (e.g., institutional and organisational reforms, substantive changes to policies or legal norms).³⁹ This second step involves empirically testing which legitimation strategies could be effective, based on an understanding of the psychological mechanisms established in the first step. During the second step, it is important to keep the EU's organizational and legal context in mind, and integrate that knowledge in empirical research designs, in order to increase their relevance for the final step.

Third, effective legitimation strategies should be integrated into EU law. Behavioural knowledge alone cannot achieve societal change; systemic changes (i.e., changes to an organization's policies, rules, norms, or institu-

36 Christian Reus-Smit, 'International Crises of Legitimacy' (2007) 44 *International Politics* 157.

37 European Commission. Directorate General for Communication. (n 5).

38 Lisa Dellmuth and Bernd Schlipphak, 'Legitimacy Beliefs towards Global Governance Institutions: A Research Agenda' (2020) 27 *Journal of European Public Policy* 931.

39 Jennifer Gronau and Henning Schmidtke, 'The Quest for Legitimacy in World Politics – International Institutions' Legitimation Strategies' (2016) 42 *Review of International Studies* 535.

tions) are also required.⁴⁰ This step of integration has two dimensions. On the one hand, EU law is not rigid or static, but a dynamic instrument.⁴¹ It has the ability to adapt to changing circumstances and to accommodate societal change, for example through amendment and interpretation of primary and secondary norms,⁴² or through soft law.⁴³ Therefore, there is flexibility to explore how the law can be changed so as to increase perceived legitimacy of the EU. On the other hand, systemic changes must fit with the EU's legal framework. Any policy or legal proposal should remain within the internal logic and coherence of the law. This is especially crucial for the EU, whose functioning depends strongly on its legal system. A legitimation strategy should, for example, fit with the legal principles that have been developed by the Court of Justice of the European Union (CJEU). These principles (e.g., primacy, direct effect, sincere cooperation, mutual trust, non-discrimination, effectiveness, fundamental rights) are part of EU primary law, have ecumenical scope and constitutional status, and are an integral part of the CJEU's judgments.⁴⁴ Therefore, they constrain the flexibility of EU law whilst also underpinning its effectiveness.⁴⁵ Thus, while EU law has demonstrated its capacity to flexibly adapt to society's continuously changing demands, its potential for flexibility is not limitless.

Taken together, the overarching aim of this dissertation is to investigate how perceived legitimacy of the EU can be increased in a way that is both psychologically effective and legally feasible. In other words, the goal is to critically examine how the law can be shaped in such a way that the EU becomes more legitimate to citizens, while also taking into account legal limits, so that the EU can generate the legitimacy it needs for good and effective governance. The upcoming paragraphs outline the conceptual and theoretical framework used in this dissertation, describe the research questions and methodology, and explain how the remainder of this article-based

40 Nick Chater and George Loewenstein, 'The I-Frame and the s-Frame: How Focusing on Individual-Level Solutions Has Led Behavioral Public Policy Astray' (2023) 46 *Behavioral and Brain Sciences* e147.

41 The law has proven to be crucial in driving the profound changes that the EU has undergone since its inception, see JHH Weiler, 'The Transformation of Europe' (1991) 100 *The Yale Law Journal* 2403.

42 Interpretative methods can be used by both the EU legislature and the Court of Justice of the European Union, see for example Kai P Purnhagen and others, 'More Competences than You Knew? The Web of Health Competence for European Union Action in Response to the COVID-19 Outbreak' (2020) 11 *European Journal of Risk Regulation* 297; Miguel Poiars Maduro, 'Interpreting European Law: Judicial Adjudication in a Context of Constitutional Pluralism' (2007) 1 *European Journal of Legal Studies* 137.

43 Oana Stefan, 'COVID-19 Soft Law: Voluminous, Effective, Legitimate? A Research Agenda' (2020) 5 *European Papers* 663.

44 Takis Tridimas, 'The General Principles of EU Law and the Europeanisation of National Laws' (2020) 13 *Review of European Administrative Law* 5.

45 Armin Cuyvers, 'The Legal Space for Structural Differentiation in the EU: Reciprocity, Interconnectedness and Effectiveness as Sources of Constitutional Rigidity' (2023) 2022 7 *European Papers* 11651190.

dissertation is structured. Additionally, the main findings of each chapter are highlighted at the end of this chapter.

Before proceeding, it is important to explicate the underlying research assumptions. This dissertation is built on the premise that Europeans are, in a way, condemned to cooperation due to the continental scope of key societal issues, making the EU a necessary and desired polity. Furthermore, it assumes that public perceived legitimacy is required for an effective EU. While these assumptions can be critically examined, existing scientific evidence supports rather than refutes them,⁴⁶ hence they form the starting point of the current research. It is also important to emphasize that the goal of this dissertation is not to ‘convince’ citizens of the EU’s legitimacy or to advocate for closer European integration. Instead, the premise of this dissertation is that legitimacy must be earned by identifying the conditions under which citizens accept the EU as a legitimate system of governance, so that these conditions can subsequently be realized through law.

1.2 CONCEPTUAL AND THEORETICAL FRAMEWORK

1.2.1 Legitimacy: a multidimensional concept

1.2.1.1 *Normative, empirical, and relational legitimacy*

Legitimacy is a complex, multidimensional concept that remains contested, hence requiring further explanation. Traditionally, two main types of legitimacy are distinguished: normative and empirical legitimacy. The normative conception of legitimacy, or rather the various normative conceptions of legitimacy, define the standards that an authority should meet to claim the right to rule.⁴⁷ From this perspective, legitimacy is assessed by evaluating to what extent authorities meet a certain set of normative criteria that, within a particular socio-political context, are deemed to justify the exercise of power.

Multiple competing sets of normative standards for EU legitimacy have been developed, which can be broadly categorized into ones that focus on input, output, or throughput. Input refers to democratic participation in policymaking by the people, output to the policy outcomes produced for the people,⁴⁸ and throughput to the quality of the process of policymaking itself.⁴⁹ The range of normative theories operationalize input, output and throughput differently, and attach different relative weight to these fac-

46 Sommerer and Agné (n 4); Buchanan and Keohane (n 29); Tyler (n 33).

47 Wilfried Hinsch, ‘Justice, Legitimacy, and Constitutional Rights’ (2010) 13 *Critical Review of International Social and Political Philosophy* 39.

48 Fritz W Scharpf, ‘Economic Integration, Democracy and the Welfare State’ (1997) 4 *Journal of European Public Policy* 18.

49 Vivien A Schmidt, ‘Democracy and Legitimacy in the European Union Revisited: Input, Output and “Throughput”’ (2013) 61 *Political Studies* 2.

tors to assess overall legitimacy, leading to different strategies to increase legitimacy.

Focusing on output, one strategy to increase EU legitimacy is to provide citizens with sufficient benefits such as security or economic resources.⁵⁰ This strategy has been particularly relevant in the first decades of EU integration, where prosperity gradually evolved from a tool for peace to a key type of output legitimizing the EU. Approaches that stress the importance of throughput, on the other hand, have pointed to the opacity of EU decision-making, which has led to increased openness and transparency in the EU legislative and policy formation processes.⁵¹ Another common strategy, focusing on input, is to improve the active participation of citizens. Since a well-functioning democracy is often considered the ultimate normative source of legitimacy, this strategy views empowering citizens to participate in EU democracy as the most promising route to legitimacy.⁵² Consequently, the need to locate and fill the EU's purported 'democratic deficit' has resulted in ongoing attempts to improve EU democratic input-mechanisms.⁵³ For example, successive Treaty amendments have consistently empowered the European Parliament, *inter alia* by greatly expanding its role as co-legislature and providing it with full budgetary powers.⁵⁴ Attempts have also been made to better connect national parliaments to EU decision-making, for example, by formally empowering them to assess the subsidiarity of EU legislative proposals.⁵⁵

Another legitimation strategy that resonates with all input, output, and throughput criteria, is to develop a common understanding of what it means to be a citizen of the EU. Here the aim is to establish a 'shared European identity', which finds meaning in the EU as a 'value-based community'.⁵⁶ Shared attachment to values and political self-identification legitimates the EU, according to this strategy, because it is an indirect way of democracy; by defining common values and goals, decisions can be made that are endorsed by the entire community. In other words, it is hoped that a better collective self-understanding will enable the EU to act on behalf of the entire community, in line with how it understands itself. The influence

50 Erik Oddvar Eriksen and John Erik Fossum, 'Europe in Search of Legitimacy: Strategies of Legitimation Assessed' (2004) 25 *International Political Science Review* 435.

51 Alberto Alemanno and Oana Stefan, 'Openness at the Court of Justice of the European Union: Toppling a Taboo' (2014) 51 *Common Market Law Review* 97.

52 Eriksen and Fossum (n 51).

53 Although some have argued that there is no democratic deficit because core principles of democracy, such as checks and balance and voter influence, are sufficiently present in the EU, see Andrew Moravcsik, 'In Defence of the "Democratic Deficit": Reassessing Legitimacy in the European Union' (2002) 40 *JCMS: Journal of Common Market Studies* 603.

54 Art. 294 of the Treaty on the Functioning of the European Union (TFEU).

55 Art. 3 of the Protocol to the Lisbon Treaty on the Role of National Parliaments in the European Union [2016] OJ C202/203.

56 Eriksen and Fossum (n 51).

of this normative strategy might be seen in the increasing emphasis in EU law on foundational principles, especially fundamental rights.⁵⁷

In sum, according to normative conceptions of legitimacy, the EU is legitimate if it meets certain objective, predetermined normative standards. However, even if those standards are met, the EU is not necessarily legitimate in the eyes of citizens. The empirical conception of legitimacy, accordingly, describes an authority as legitimate if it is perceived as such.⁵⁸ From this perspective, legitimacy is not objective but subjective, residing in the perception of individuals. It can be present or absent regardless of adherence to normative criteria of legitimacy. In other words, the EU is legitimate if its constituents recognize its authority and obey its rules because they believe that the EU has the right to govern, not because they fear sanctions for noncompliance.

Although normative and empirical conceptions of legitimacy are analytically distinct – citizens may perceive the EU as legitimate even if it violates normative criteria, and the EU may fulfil normative standards while perceived as illegitimate by citizens – the two conceptions are interconnected in practice.⁵⁹ For example, since people's beliefs arise in a social context, perceptions of legitimacy can be influenced by prevailing normative standards about legitimacy.⁶⁰ In terms of terminology, the two types of legitimacy are also entangled. For example, the degree to which an authority conforms to normative legitimacy standards can be empirically assessed, and the term normative legitimacy is sometimes used to describe people's assessments of moral legitimacy.⁶¹

Moreover, an account of legitimacy that is exclusively normative or empirical is insufficient. Focusing only on citizens' needs and desires with-

57 See in this regard for example Joined Cases C-402/05 P and C-415/05 P and C-415/05 P *Yassin Abdullah Kadi and Al Barakaat International Foundation v Council of the European Union and Commission of the European Communities* [2008] ECLI:EU:C:2008:461, where it becomes clear that the CJEU views fundamental rights as the essence of the EU legal order, trumping even obligations arising under title VII of the UN Charter. One could equally view the ongoing rule of law struggle between the EU and primarily Poland and Hungary along these lines (e.g., Case C-791/19 *European Commission v Republic of Poland* [2021] ECLI:EU:C:2021:596; Case C-156/21 *Hungary v European Parliament and Council of the European Union* [2022] ECLI:EU:C:2022:97), for example with the CJEU creating scope directly under Art. 19 TEU in light of the fundamental importance of the rule of law in the EU, paving the way for later infringement actions by the Commission. See Case C-64/16 *Associação Sindical dos Juizes Portugueses v Tribunal de Contas* [2018] ECLI:EU:C:2018:117; Case C-896/19 *Repubblika v Il-Prim Ministru* [2021] ECLI:EU:C:2021:311.

58 Hinsch (n 48).

59 Hans-Dieter Fuchs, 'Cultural Diversity, European Identity and Legitimacy of the EU: A Theoretical Framework' in Dieter Fuchs and Hans-Dieter Klingemann (eds), *Cultural Diversity, European Identity and the Legitimacy of the EU* (Edward Elgar Publishing 2011).

60 Jonas Tallberg and Michael Zürn, 'The Legitimacy and Legitimation of International Organizations: Introduction and Framework' (2019) 14 *The Review of International Organizations* 581.

61 Cq. Eric W Schoon, 'Operationalizing Legitimacy' (2022) 87 *American Sociological Review* 478.

out considering normative legitimacy standards could have negative consequences. Conversely, an exclusively normative perspective on legitimacy is not desirable either, because it might overlook features that could enhance legitimacy for citizens.

To account for these issues, research on legitimacy is shifting towards a procedural, relational or dialogical conception, which unites the normative and empirical conceptions of legitimacy.⁶² A dialogical conception of legitimacy essentially entails that legitimacy defines a relationship between an object of legitimacy and an audience of that object. The relationship is characterized by three elements: expectations, assent, and conformity. More specifically, legitimacy is first of all based on certain expectations. When the object of legitimacy then conforms to these expectations, and the audience assents positively to the relationship, legitimacy is established.

In the field of international organizations, legitimacy has also been defined as a dialogical concept. That is, legitimacy is the result of an interactive process between rulers and subjects, in which top-down legitimacy claims by political elites interact with bottom-up attribution of legitimacy by audiences.⁶³ Legitimacy therefore emerges when rulers and subjects have a shared understanding about the norms that define the appropriate exercise of power, when rulers conform to these norms, and when subjects recognize that rulers conform to these norms.

In this dissertation, I focus on one element of legitimacy as a dialogical concept, taking the audience as unit of analysis, hence the label *perceived* legitimacy to reflect this focus. This approach, however, acknowledges that perceptions of legitimacy represent only one element of the broader, multifaceted concept of legitimacy. Furthermore, while the audience can refer to anyone or any group that evaluates the legitimacy of an authority, it is important to specify the audience because the level and drivers of legitimacy attributed to the EU can differ between elites (i.e., the people who hold significant power or influence in society) and the general public (i.e., the broader population consisting of people without such influence).⁶⁴ The current research focuses on the general public, examining the legitimacy of the EU as perceived by 'ordinary' citizens. Legitimacy then becomes the 'perception among EU citizens that the EU's exercise of authority is appropriate'.

62 Achim Hurrelmann, Steffen Schneider and Jens Steffek, 'Introduction: Legitimacy in an Age of Global Politics' in Achim Hurrelmann, Steffen Schneider and Jens Steffek (eds), *Legitimacy in an Age of Global Politics* (Palgrave Macmillan UK 2007); Anthony Bottoms and Justice Tankebe, 'Beyond Procedural Justice: A Dialogic Approach to Legitimacy in Criminal Justice Criminology' (2012) 102 *Journal of Criminal Law and Criminology* 119; AE Bottoms and J Tankebe, 'Police Legitimacy and the Authority of the State' in Justice Tankebe and AE Bottoms (eds), *Criminal law and the authority of the state* (Hart Publishing Limited 2017).

63 Gronau and Schmidtke (n 40).

64 Lisa Dellmuth and others, *Citizens, Elites, and the Legitimacy of Global Governance* (1st edn, Oxford University Press 2022).

1.2.1.2 *Legitimacy and related concepts*

In the literature, the concepts of legitimacy, support, and trust are intertwined. Although scholars tend to diverge on the relationship between these constructs, most conceptualizations are grounded in Easton's well-known theory on political support.⁶⁵ In this theory, the difference between support and legitimacy is reflected in the distinction between specific and diffuse support.⁶⁶ Support is defined as 'an attitude by which a person orients himself to an object either favourably or unfavourably, positively or negatively'. This umbrella concept is further defined in terms of the type and the object of support. First, there is a distinction between support for what a political object is or represents (i.e., diffuse support) and support for what a political object does or achieves (i.e., specific support). These types of support can then be directed towards different political objects: the regime, the authorities, and the political community. Easton considered both legitimacy and trust as expressions of diffuse political support for an authority, but argued that legitimacy is rooted in norms and values, while trust is rooted in perceptions of long-term utility.

Research on public opinion about the EU often uses the concepts of support, legitimacy, and trust interchangeably. The majority of this research is based on mass public opinion surveys, such as the Eurobarometer, the European Values Study, and the European Social Survey. As these surveys are conducted among large numbers of citizens from all EU Member States, they provide insights on public attitudes which are representative for the wider population. Their results thus offer a reliable indication of trends in general public opinion. Yet, a limitation of this widely used method is its reliance on a specific and rather limited set of standard items. Typically, these items use only one question to assess beliefs about whether EU membership is a good or a bad thing, beliefs on whether one's country has benefitted from EU membership, satisfaction with democracy in the EU, and levels of trust in EU institutions. Besides measuring trust, these items seem to specifically measure support for membership of the EU, but not what is generally understood as perceived EU legitimacy.⁶⁷

The precise relationship between support, trust, and legitimacy remains a topic of conceptual debate. Building on prior research, the current research conceives of support as an umbrella concept. Support for the EU represents a general positive attitude that can be directed towards specific policies, institutions, politicians, or the idea of European integration in general. Within this framework, perceived EU legitimacy is a specific type of support, reflecting the belief that the EU has the right to rule and that its exercise of authority is appropriate or rightful. Trust in the EU can be a symptom of perceived legitimacy.

65 Thomassen, Andeweg and van Ham (n 36).

66 Easton (n 33).

67 Dellmuth and Schlipphak (n 39).

1.2.1.3 Measuring perceived EU legitimacy

Ever since empirical perspectives on legitimacy emerged as a field of study, not only the question of conceptualization has been a topic of discussion, but also the question of how to accurately *measure* perceived legitimacy.⁶⁸ Directly asking people whether they believe the EU is legitimate can yield ambiguous and unreliable responses, as people may not fully understand the concept of legitimacy or may interpret it differently. Behavioural measures that signal the presence or absence of legitimacy, such as election turnout or participation in protests, could be used, but also carry the limitation that it is not possible to determine whether these behaviours are the result of (a lack of) perceived legitimacy or of another behavioural motivation.⁶⁹

Consequently, it is common practice to assess perceived EU legitimacy through proxies in self-report studies. However, the standard items in mass surveys do not sufficiently capture the complex concept of perceived EU legitimacy. Confronted with this issue, recent work examined what exactly these items measure, conceiving of perceived legitimacy as a multidimensional belief system that consists of an essential dimension of moral convictions and an optional dimension of utility beliefs.⁷⁰ The authors of this recent work described the dimension of utility to be complementary to the morality dimension, because, in its core, legitimacy is about norms and values. Accordingly, perceived legitimacy is considered a more stable attitude, rooted in moral convictions about rightful rule, while support is believed to be dependent on more short-term self-interest calculations and outcome considerations. They found that survey items measuring support (i.e., items on the evaluation and perceived benefits of EU membership) only assess the dimension of utility but fail to capture the value dimension, which is a crucially distinctive aspect of perceived legitimacy. Trust items, on the other hand, were found more likely to contain beliefs on whether the EU conforms to one's own moral principles.⁷¹

The closest indicator of legitimacy therefore seems trust or confidence, as it captures the normative dimension of perceived legitimacy.⁷² When a person believes that an authority is legitimate, meaning that it acts appropriately, this belief is reflected in their confidence that the authority will do what is right.⁷³ Like legitimacy, trust can have various meanings, but in this context it refers specifically to political or institutional trust (i.e., 'trust in the

68 Hurrelmann, Schneider and Steffek (n 63).

69 For example, attitudes about the EU were not the only cause of voting behaviour in the 2016 Dutch referendum of the association treaty between the European Union and Ukraine Wouter van der Brug, Tom van der Meer and Daphne van der Pas, 'Voting in the Dutch "Ukraine-Referendum": A Panel Study on the Dynamics of Party Preference, EU-Attitudes, and Referendum-Specific Considerations' (2018) 53 *Acta Politica* 496.

70 Dellmuth and Schlipphak (n 39).

71 *ibid.*

72 *ibid.*

73 Trinkner and Tyler (n 30).

EU as a political system'), rather than interpersonal trust (i.e., 'trust in other people'). Trust can be directed towards the EU as a whole or towards specific EU institutions. Yet, since patterns of trust in the different institutions are very similar,⁷⁴ it appears that for the purpose of measuring legitimacy it makes little difference whether citizens are asked about their confidence in the EU in general or in specific EU institutions.

In addition to trust, the felt duty or obligation to obey is a commonly used indicator in research on the perceived legitimacy of legal authorities.⁷⁵ This concept reflects the behavioural intention to comply with an authority and its rules. Since voluntary compliance is considered a natural consequence of legitimacy, measuring people's intentions to obey can serve as an indicator of legitimacy. For example, a statement that researchers could use to measure legitimacy is 'It is important to accept decisions made by the EU, even if you think they are wrong'.⁷⁶

Finally, citizens' perceptions that the EU's authority is exercised appropriately could be measured by observing the degree to which citizens believe that the EU has the right to make decisions to influence their lives, and that the EU acts in line with their own feelings of right and wrong.⁷⁷ These positive evaluations would reflect acceptance of the EU's authority and a sense of moral alignment with the EU, which also indicate the presence of legitimacy.

In this dissertation, there are some differences across chapters in the measurement of perceived EU legitimacy, reflecting the evolution of my perspective during the research process. Some chapters assess legitimacy through trust or confidence in the EU, while others incorporate additional indicators, such as perceived lawfulness, perceived morality, and the felt duty to obey, to capture the multidimensional nature of legitimacy. This also allows for a deeper exploration of the differences between these dimensions, as examined in the respective chapters.

1.2.2 Sources of perceived EU legitimacy

1.2.2.1 *The interaction between organization, society, and individual*

As explained, this dissertation focuses on citizens' subjective beliefs in EU legitimacy. Yet, the focus on perceived legitimacy does not imply that these beliefs originate *solely* within individuals' minds. Instead, they develop through the interaction of organizational features, societal context, and

74 Linda Berg, 'Citizens' Trust in the EU as a Political System' in Antonina Bakardjieva Engelbrekt and others (eds), *Trust in the European Union in Challenging Times: Interdisciplinary European Studies* (Springer International Publishing 2019).

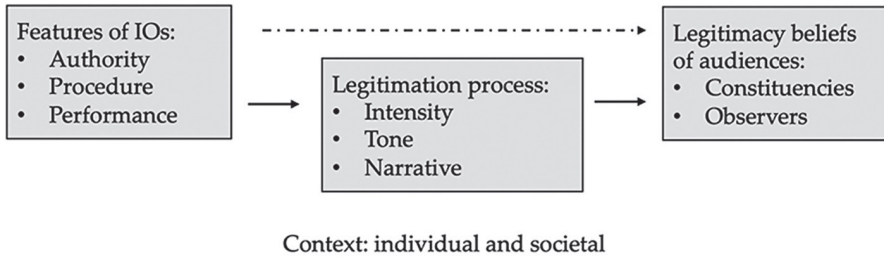
75 See for example, Jonathan Jackson and others, 'Why Do People Comply with the Law?: Legitimacy and the Influence of Legal Institutions' (2012) 52 *British Journal of Criminology* 1051.

76 Adapted from *ibid.*

77 Honorata Mazepus, 'What Makes Authorities Legitimate in the Eyes of Citizens? An Investigation of Perceived Legitimacy in Different Political Regimes' (Leiden University 2016).

individual factors. A theoretical framework that captures this interaction is one that conceptualizes the development of legitimacy perceptions of international organizations.⁷⁸ This framework, depicted in Figure 1, serves as a starting point for examining the complex processes that shape audiences' beliefs about the legitimacy of an international organization.

Figure 1. Theoretical framework on the legitimacy and legitimation of international organizations⁷⁹



In brief, the framework holds that people evaluate an organization's institutional features – primarily, the procedures through which it makes decisions and the degree to which it performs⁸⁰ – and while they do, they are influenced by legitimation and delegitimation attempts.⁸¹ This means that the organization itself, proponents, and opponents intend to legitimate or delegitimize the organization through (de)legitimation strategies: intentional attempts to justify or condemn its exercise of power and make it more or less legitimate.⁸² These attempts can take the form of rhetorical measures like framing of policies and the use of symbols (i.e., 'discursive practices') or through institutional and organisational reforms (i.e., 'behavioural practices' or 'organisational practices'), and are often accompanied by a communicative strategy.⁸³ Audiences' perceptions of legitimacy are influenced by these practices. Furthermore, an organization's objective features and legitimation and delegitimation attempts interact with societal factors (e.g., the national political regime and economic system,⁸⁴ regional inequality⁸⁵)

78 Tallberg and Zürn (n 61).

79 *ibid.*

80 See for more on how these features affect perceived legitimacy Lisa Maria Dellmuth, Jan Aart Scholte and Jonas Tallberg, 'Institutional Sources of Legitimacy for International Organisations: Beyond Procedure versus Performance' (2019) 45 *Review of International Studies* 627.

81 Tallberg and Zürn (n 61).

82 Gronau and Schmidtke (n 40).

83 Tallberg and Zürn (n 61).

84 Jan Aart Scholte, 'Social Structure and Global Governance Legitimacy' in Jonas Tallberg, Karin Bäckstrand and Jan Aart Scholte (eds), *Legitimacy in Global Governance: Sources, Processes, and Consequences* (Oxford University Press 2018).

85 Jana Lipps and Dominik Schraff, 'Regional Inequality and Institutional Trust in Europe' (2021) 60 *European Journal of Political Research* 892.

and individual factors (e.g., socioeconomic status or political ideology⁸⁶) in shaping legitimacy perceptions.⁸⁷

While research has traditionally focused on the effects of organizational features and societal context, the role of individual factors in shaping perceived legitimacy of international organizations, including the EU, has recently gained more attention.⁸⁸ This emerging line of research draws from the extensive literature on individual-level sources of support for the EU, leading to some overlap between the two fields. Several key findings from the public support literature will be briefly discussed, because it has a longer history than research on perceived EU legitimacy and has influenced its development.

1.2.2.3 *Explanations of public support for the EU*

Three explanations of support for the EU have been identified.⁸⁹ The first explanation holds that citizens make a cost-benefit analysis of their country's membership of the EU, which subsequently determines whether they support or reject membership. Evidence for this approach comes from work looking at economic indicators on the national and individual level. On the national level, studies have found that perceived national economic benefits on the one hand, and perceived threat to national interests on the other, predict support for the EU.⁹⁰ On the individual level, support has been shown to be affected by socioeconomic status, assuming that individuals with a higher socio-economic status perceive more individual economic advantages of the EU, for example through trade liberalization and free movement of workers, while individuals with a lower socio-economic status mainly perceive disadvantages.⁹¹

The second explanation holds that support is determined by feelings of national and European identity. People who hold exclusive national identi-

86 Lisa Dellmuth and others, 'The Elite–Citizen Gap in International Organization Legitimacy' (2022) 116 *American Political Science Review* 283.

87 Tallberg and Zürn (n 61).

88 Dellmuth and others (n 65).

89 Sara B Hobolt and Catherine E De Vries, 'Public Support for European Integration' (2016) 19 *Annual Review of Political Science* 413.

90 Thomas Christin and Alexander H Trechsel, 'Joining the EU?: Explaining Public Opinion in Switzerland' (2002) 3 *European Union Politics* 415; Joost Van Spanje and Claes De Vreese, 'So What's Wrong with the EU? Motivations Underlying the Eurosceptic Vote in the 2009 European Elections' (2011) 12 *European Union Politics* 405.

91 Matthew Gabel, 'Public Support for European Integration: An Empirical Test of Five Theories' (1998) 60 *Journal of Politics* 333; Armen Hakhverdian and others, 'Euroscepticism and Education: A Longitudinal Study of 12 EU Member States, 1973–2010' (2013) 14 *European Union Politics* 522; Lauren M McLaren, 'Opposition to European Integration and Fear of Loss of National Identity: Debunking a Basic Assumption Regarding Hostility to the Integration Project' (2004) 43 *European Journal of Political Research* 895.

ties are found to be less likely to support the EU,⁹² while a sense of European identity or attachment to the EU has been shown to predict higher support for European integration.⁹³ The identity explanation also includes findings that support for EU membership seems to be undermined by fear of immigrants and hostility towards other cultures.⁹⁴

The third explanation is based on the idea that the EU is too complex or remote for people to understand and evaluate deliberately, and that support for the EU is therefore influenced by informational shortcuts, especially when people have low levels of political knowledge.⁹⁵ For example, whether national parties cue the EU as a risk or opportunity for the national economy or identity in their campaigns has been shown to affect people's support for the EU.⁹⁶ Cues may also take the form of (dis)satisfaction with national institutions, which translates as a mental shortcut to levels of (dis)satisfaction with the EU.⁹⁷ Other examples of heuristics are attitudes

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- 92 Sean Carey and Matthew Lebo, 'In Europe, but Not Europeans: The Impact of National Identity on Public Support for the European Union' 6; Liesbet Hooghe and Gary Marks, 'Does Identity or Economic Rationality Drive Public Opinion on European Integration?' (2004) 37 *PS: Political Science & Politics* 415; Liesbet Hooghe and Gary Marks, 'Calculation, Community and Cues: Public Opinion on European Integration' (2005) 6 *European Union Politics* 419; Lauren M McLaren, 'Explaining Mass-Level Euroscepticism: Identity, Interests, and Institutional Distrust' (2007) 42 *Acta Politica* 233; Lubbers (n 18); Nicolò Conti, Danilo Di Mauro and Vincenzo Memoli, 'The European Union under Threat of a Trend toward National Sovereignty' (2018) 14 *Journal of Contemporary European Research* 231; Nicholas J Clark and Robert Rohrschneider, 'The Relationship between National Identity and European Union Evaluations, 1993–2017' (2019) 20 *European Union Politics* 384; Aleksandra Cislak and others, 'Brexit and Poles: Collective Narcissism Is Associated With Support for Leaving the European Union' (2020) 15 *Social Psychological Bulletin* 1.
- 93 Denis Sindic and others, 'Leave or Remain? European Identification, Legitimacy of European Integration, and Political Attitudes towards the EU' (2019) 29 *Journal of Community & Applied Social Psychology* 32; Conti, Di Mauro and Memoli (n 93).
- 94 Lauren M McLaren, 'Public Support for the European Union: Cost/Benefit Analysis or Perceived Cultural Threat?' (2002) 64 *Journal of Politics* 551; Hooghe and Marks, 'Does Identity or Economic Rationality Drive Public Opinion on European Integration?' (n 93); Claes H de Vreese and Hajo G Boomgaarden, 'Projecting EU Referendums: Fear of Immigration and Support for European Integration' (2005) 6 *European Union Politics* 59; Viren Swami and others, 'To Brexit or Not to Brexit: The Roles of Islamophobia, Conspiracist Beliefs, and Integrated Threat in Voting Intentions for the United Kingdom European Union Membership Referendum' (2018) 109 *British Journal of Psychology* 156.
- 95 Jeffrey A Karp, Susan A Banducci and Shaun Bowler, 'To Know It Is to Love It?: Satisfaction with Democracy in the European Union' (2003) 36 *Comparative Political Studies* 271; Klaus Armingeon and Besir Ceka, 'The Loss of Trust in the European Union during the Great Recession since 2007: The Role of Heuristics from the National Political System' (2014) 15 *European Union Politics* 82; Marcel Lubbers and Peer Scheepers, 'Divergent Trends of Euroscepticism in Countries and Regions of the European Union' (2010) 49 *European Journal of Political Research* 787.
- 96 Hobolt and Brouard (n 18); Michaela Maier, Silke Adam and Jürgen Maier, 'The Impact of Identity and Economic Cues on Citizens' EU Support: An Experimental Study on the Effects of Party Communication in the Run-up to the 2009 European Parliament Elections' (2012) 13 *European Union Politics* 580.
- 97 Maier, Adam and Maier (n 97); Hobolt and Brouard (n 18).

on globalization and supranational governance.⁹⁸ That is, attitudes towards national or global institutions are projected on the EU, influencing attitudes towards the EU.

1.2.2.3 *Delving into the identity explanation*

The public support literature thus defines three approaches to explaining support for the EU: the instrumental or utilitarian explanation, the identity explanation, and the cue-taking explanation. However, although these sources of support may partially explain legitimacy, conclusions about the sources of legitimacy cannot be inferred from studies on support. As previously discussed, the questionnaire items commonly used in studies to measure support for the EU do not fully capture perceived EU legitimacy, which is a distinct concept. Therefore, the factors that explain public support for the EU do not necessarily align with the reasons why citizens find the EU *legitimate*.

In particular, it has been suggested that the instrumental explanation plays a less significant role in shaping perceived EU legitimacy, while the identity explanation is expected to be more influential.⁹⁹ For example, notwithstanding the historically complex and precarious relationship between the United Kingdom and the EU, the outcome of the Brexit referendum – an outcome that could be described as reflecting a very low level of perceived EU legitimacy among citizens of the United Kingdom – was driven not primarily by economic considerations, but by identity-related concerns about immigration, culture, and diversity.¹⁰⁰

Although ‘identity’ is often considered an essential factor for EU legitimacy, also in normative discussions,¹⁰¹ and although research exploring the role of identity for perceived legitimacy of international organizations is emerging,¹⁰² empirical research examining identity in relation to perceived EU legitimacy is still scarce. Tailored research is, however, much needed, given the EU’s unique multi-level governance structure. Values and identity have already shown to have varying effects on perceived legitimacy across international organizations,¹⁰³ but the EU may be a particularly distinct case, due to for example its extensive competences and the rights it confers

98 Conti, Di Mauro and Memoli (n 93); Linus Peitz, Kristof Dhont and Ben Seyd, ‘The Psychology of Supranationalism: Its Ideological Correlates and Implications for EU Attitudes and Post-Brexit Preferences’ (2018) 39 *Political Psychology* 1305.

99 Dellmuth and Schlipphak (n 39); Tallberg and Zürn (n 61).

100 Maria Sobolewska and Robert Ford, *Brexitland: Identity, Diversity and the Reshaping of British Politics* (1st edn, Cambridge University Press 2020).

101 For example, since the beginning of European integration, the development of a European identity based on shared values has been deemed vital for the survival of the European project, Ernst B Haas, *The Uniting of Europe: Political, Social, and Economic Forces, 1950-1957* (University of Notre Dame Press 2004).

102 Dellmuth and others (n 65).

103 *ibid.*

upon citizens. Unlike other international organizations, the EU has also become the focal problem-solving authority, competing with the nation state's historical role. Moreover, identity is a broad concept encompassing a range of contents and levels. It is both a personal and a social construct, defined by, for instance, personal values, ambitions, roles, relationships, and group memberships.¹⁰⁴ Little is thus understood about the precise mechanisms by which 'identity' influences perceived EU legitimacy.

To address this gap, this dissertation delves into the role of identity in shaping individuals' beliefs about the legitimacy of the EU. Since identity is such a broad concept, the research focuses on moral values and social identity (i.e., identity defined by group membership) specifically.

Moral values and social identity are expected to be relevant because these factors strongly affect how individuals experience and interact with the world. The moral values and group affiliations central to one's self-concept can alter the way how information is selected, perceived, processed, and interpreted, often in a way that self-relevant information aligns with moral values and group memberships.¹⁰⁵ This effect is amplified when people feel threatened in their identity, because that leads to more rigid information-processing and decision-making (e.g., people rely more on prior beliefs and are less open to new information).¹⁰⁶ The EU challenges existing territorial identities through its redefinition of geographical boundaries and authority. It may therefore provoke such identity threats, affecting how people process information about it.¹⁰⁷ Consequently, the information that people use in developing legitimacy beliefs is filtered through cognitive biases,¹⁰⁸ shaped by their moral beliefs and important group affiliations.

In addition, as European integration and European issues become increasingly politicized, values and identity have become more salient in public debates about the EU. Efforts to legitimate or delegitimize the EU often appeal to people's moral values and important group memberships,

104 Vivian L Vignoles, Seth J Schwartz and Koen Luyckx, 'Introduction: Toward an Integrative View of Identity' in Seth J Schwartz, Koen Luyckx and Vivian L Vignoles (eds), *Handbook of Identity Theory and Research* (Springer 2011).

105 See for example Y Jenny Xiao, Géraldine Coppin and Jay J Van Bavel, 'Perceiving the World Through Group-Colored Glasses: A Perceptual Model of Intergroup Relations' (2016) 27 *Psychological Inquiry* 255; Chloe Kovacheff and others, 'The Problem with Morality: Impeding Progress and Increasing Divides' (2018) 12 *Social Issues and Policy Review* 218; William Hart and others, 'Feeling Validated Versus Being Correct: A Meta-Analysis of Selective Exposure to Information' (2009) 135 *Psychological Bulletin* 555; Benoît Montalan and others, 'Social Identity-Based Motivation Modulates Attention Bias toward Negative Information: An Event-Related Brain Potential Study' (2011) 1 *Socioaffective Neuroscience & Psychology* 5892.

106 Frank RC de Wit, Daan Scheepers and Karen A Jehn, 'Cardiovascular Reactivity and Resistance to Opposing Viewpoints during Intragroup Conflict' (2012) 49 *Psychophysiology* 1691.

107 Hooghe and Marks, 'A Postfunctionalist Theory of European Integration' (n 1).

108 Tobias Lenz and Lora Anne Viola, 'Legitimacy and Institutional Change in International Organisations: A Cognitive Approach' (2017) 43 *Review of International Studies* 939.

particularly national and EU identities. For example, a discourse analysis of the State of the Union addresses from the recent European Commission Presidents revealed a shift from focusing on economic benefits to emphasizing moral values. While President Barroso's speeches (2010-2013) predominantly highlighted economic advantages of EU membership, President Juncker's speeches (2015-2018) increasingly referred to ethical and social values, portraying the EU as a 'Union of values' and referencing symbols of a common European identity, such as common historical experiences.¹⁰⁹ President Von der Leyen continued this trend in her speeches (2020-2023), stressing a common group identity and shared moral values with phrases like 'a strong soul in everything we do', 'a Union grounded in values', 'Team Europe', 'Our Union', 'great European values'. She argued, for example, that 'trust in these common values brought our founders together, after World War Two', that 'these values come from the cultural, religious and humanist heritage of Europe', and that 'they are part of our soul, part of what defines us today'.¹¹⁰ Clearly these references mean to justify the EU beyond mere economic advantages.

At the same time, opponents of European integration have employed a Eurosceptic discourse that pits a common European identity and EU values against national identities and values. By contesting the legitimacy of the EU, more specifically its institutional and constitutional design, these opponents engage in acts of delegitimation in response to European actors' legitimation attempts, as well as to fill the lack of justification that is provided by those actors.¹¹¹ This side of the debate is characterized by a discourse of crisis and threat, portraying the EU as a danger to national sovereignty and identity.¹¹² For example, the absolute obligation, in principle, to follow the rulings of the CJEU over judgments from 'good old English courts' or the sovereign will of Parliament, was a prominent topic in the Brexit campaign and one of the factors that mobilized citizens in the referendum to vote against EU membership.¹¹³ Similar narratives have emerged in other Member States, where national politicians present the EU as an obstacle to

109 Pamela Pansardi and Francesco Battezzorre, 'The Discursive Legitimation Strategies of the President of the Commission: A Qualitative Content Analysis of the State of the Union Addresses (SOTEU)' (2018) 40 *Journal of European Integration* 853.

110 'State of the Union Address by President von der Leyen' (*European Commission - European Commission*) <https://ec.europa.eu/commission/presscorner/detail/ov/SPEECH_21_4701>.

111 de Wilde and Trenz (n 19).

112 Benjamin Farrand and Helena Carrapico, "'People like That Cannot Be Trusted": Populist and Technocratic Political Styles, Legitimacy, and Distrust in the Context of Brexit Negotiations' (2021) 17 *Journal of Contemporary European Research* 147.

113 See also the UK plans to remove the jurisdiction of the CJEU over the Northern Ireland Protocol (Bill proposed on 13 June 2022) for further evidence of how emotional this is for the British, or at least for a significant subsection of them.

their countries' sovereign authority and values.¹¹⁴ Furthermore, national news outlets tend to adopt nationally oriented narratives that frame the EU as fundamentally at odds with national identity.¹¹⁵

In sum, the current dissertation aims to fill a significant gap in empirical research on public legitimacy perceptions of the EU by elucidating the role of identity. Building on the theoretical framework on the legitimacy and legitimation of international organizations (Figure 1), it zooms in on how the individual-level factors of moral values and social identification interact with organizational- and contextual-level factors to affect perceived legitimacy of the EU, specifically.

1.2.3 Social psychological theories

Given the focus on moral values and social identity, a final building block of the conceptual and theoretical framework of this dissertation are the theories that help elucidate the effects of these factors. The research draws upon social psychological theories because these theories emphasize the social context as a key determinant of individual behaviour. In social psychology, theories provide a structured framework for understanding complex interactions between social-contextual and individual factors. While these theories may not predict individual behaviour with complete precision, they help researchers to reduce the complexity of social psychological processes and identify the most important factors explaining human behaviour, which subsequently enables the design of evidence-based interventions.

1.2.3.1 Social identity theory

There are numerous social psychological theories,¹¹⁶ many of which could be relevant to the behaviours examined in this research. When it comes to the explanatory effects of social identity, social identity theory is particularly applicable. Originally developed as a theory of intergroup relations, it has evolved into one of the major frameworks in social psychology and is now

114 For example, former European Commissioner, Michel Barnier, proposed a French referendum on a 'constitutional shield to disregard European law and rulings in order to regain our freedom of maneuver and interpretation', see P Dallison and E Braun, 'Barnier the Brexiteer? French Candidate Gets Tough with EU on Campaign Trail' *Politico* (9 September 2021). Poland's Prime Minister, Mateusz Morawiecki, argued in a statement to the European Parliament on 19 October 2021, that the national constitution, not EU law, sits at the top of the legal hierarchy.

115 Andrew Anzur Clement, 'Reporting on the "Ever Closer Union": Narrative Framing in National News Medias and Resistance to EU Integration' (2015) 6 *Eastern Journal of European Studies* 123.

116 See for an overview Paul AM Lange, Arie W Kruglanski and E Tory Higgins, *Handbook of Theories of Social Psychology* (SAGE 2012).

considered a core theory for understanding a broad range of individual behaviours within a social context.¹¹⁷

The tenets of social identity theory are that when people think of themselves as members of a group, they seek to make their group positive and distinct from other groups in order to achieve and maintain a positive social identity.¹¹⁸ People desire a positive social identity because it satisfies basic psychological needs such as the need to belong, the need for self-esteem, the need for control, and the need for certainty and a meaningful existence.¹¹⁹ Once an individual identifies with a certain group membership, this group membership thus determines their feelings, attitudes, and behaviours.

These claims form the basis of an extensive body of research that has engaged with and elaborated upon social identity theory. Given its broad applied relevance to various societal issues,¹²⁰ social identity theory is well-suited for the current investigation into understanding and increasing perceived EU legitimacy.

1.2.3.2 *Moral foundations theory*

Selecting a theoretical framework to study the explanatory effects of moral values is less straightforward. A first possibility is the social identity approach to morality, which posits that people's moral beliefs and behaviours are shaped by their social identities, because the groups they belong to define what is considered right and wrong.¹²¹ While valuable, this approach does not specify *which* moral values people have.

A well-known theory that does specify specific values is the Schwartz theory of basic values.¹²² A refined version of this theory describes nineteen values across four higher order dimensions – self-transcendence versus self-enhancement and openness to change versus conservatism – which function

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- 117 Naomi Ellemers and S Alexander Haslam, 'Social Identity Theory' in Paul AM Van Lange, Arie W Kruglanski and E Tory Higgins (eds), *Handbook of theories of social psychology* (SAGE 2012).
- 118 Henri Tajfel, 'Social Identity and Intergroup Behaviour' (1974) 13 *Social Science Information* 65; Henri Tajfel and John Turner, 'An Integrative Theory of Intergroup Conflict' in William G Austin and Stephen Worchel (eds), *The social psychology of intergroup relations* (Brooks/Cole 1979).
- 119 Katharine H Greenaway and others, 'Social Identities Promote Well-Being Because They Satisfy Global Psychological Needs' (2016) 46 *European Journal of Social Psychology* 294.
- 120 S Alexander Haslam, 'Making Good Theory Practical: Five Lessons for an Applied Social Identity Approach to Challenges of Organizational, Health, and Clinical Psychology' (2014) 53 *British Journal of Social Psychology* 1.
- 121 Naomi Ellemers, Stefano Pagliaro and Manuela Barreto, 'Morality and Behavioural Regulation in Groups: A Social Identity Approach' (2013) 24 *European Review of Social Psychology* 160; Naomi Ellemers and Jojanneke Van der Toorn, 'Groups as Moral Anchors' (2015) 6 *Current Opinion in Psychology* 189.
- 122 Shalom H Schwartz, 'Universals in the Content and Structure of Values: Theoretical Advances and Empirical Tests in 20 Countries', *Advances in Experimental Social Psychology*, vol 25 (Elsevier 1992).

as trans-situational and motivational guiding principles in a person's life.¹²³ However, this theory emphasizes individual differences in these values and the personal meaning of values to individuals, instead of the social meaning of values.

The current research uses moral foundations theory as a guiding framework instead, because this theory explains how shared values of groups can differ and how these shared values are related to political convictions, making it most applicable to the current research aims. The core premise of moral foundations theory is that all people possess a limited, innate set of moral foundations – originally defined as care, fairness, ingroup loyalty, authority, and purity – which underpin their moral values later in life to varying degrees, depending on cultural influences and personal characteristics.¹²⁴ Moral foundations theory may be particularly relevant to studying the effects of morality on perceived EU legitimacy because it helps explain why people prioritize certain values over others and how this creates societal conflicts. For example, it has shown to have strong predictive power in explaining political beliefs and attitudes in the United States.¹²⁵ While the political landscape in the United States obviously differs from that in Europe, moral foundations theory claims to be a universally applicable framework. It has also proven useful in the European context, such as in analysing the outcomes of the Brexit referendum.¹²⁶

Moreover, although moral foundations theory has often been applied to the American liberal-conservative divide, it is more than a theory about American politics. In fact, it was initially a theory of cultural differences in morality.¹²⁷ Moral foundations theory posits that evolutionary adaptive challenges led to the development of moral modules. Importantly, these modules not only include concerns about protecting the individual from harm and unfair treatment (i.e., individualizing moral foundations), but also concerns about protecting the ingroup and obligations of group membership, respect for authority and the social order, and protecting

123 Shalom H Schwartz and others, 'Refining the Theory of Basic Individual Values' (2012) 103 *Journal of Personality and Social Psychology* 663.

124 Jesse Graham and others, 'Moral Foundations Theory: The Pragmatic Validity of Moral Pluralism' in Patricia Devine and Ashby Plant (eds), *Advances in Experimental Social Psychology*, vol 47 (Academic Press 2013); Jonathan Haidt, Jesse Graham and Craig Joseph, 'Above and Below Left-Right: Ideological Narratives and Moral Foundations' (2009) 20 *Psychological Inquiry* 110.

125 Jesse Graham, Jonathan Haidt and Brian A Nosek, 'Liberals and Conservatives Rely on Different Sets of Moral Foundations' (2009) 96 *Journal of Personality and Social Psychology* 1029; Jonathan Haidt and Jesse Graham, 'When Morality Opposes Justice: Conservatives Have Moral Intuitions That Liberals May Not Recognize' (2007) 20 *Social Justice Research* 98.

126 David S Smith, 'Shaping the Modern World With a Stone-Age Brain: The Brexit Referendum and the Moral Foundations Theory' (2019) 7 *Journal of Social and Political Psychology* 863.

127 Haidt, Graham and Joseph (n 125).

one's physical purity or sanctity (i.e., group-binding moral foundations).¹²⁸ By exploring these moral foundations, it is possible to gain a deeper understanding of how morality may explain variations in perceived EU legitimacy.

Moral foundations theory is thus rooted in evolutionary psychology. It emphasizes that individuals have innate dispositions towards certain moral concerns – shaped by evolutionary adaptive challenges – that influence their sense of right and wrong. In contrast, social identity theory focuses on how these fundamental dispositions are coloured by group membership and what the group deems right and wrong. While these two theories may initially appear difficult to reconcile, I believe they are compatible. In Chapter 7, I will explore how the empirical findings based on these seemingly incompatible theories can be reconciled. The objective is not to discover which theory is more accurate or valid, but rather to advance an integrated understanding of how morality and social identity together explain perceived EU legitimacy by identifying common ground between the two theories.

1.3 RESEARCH QUESTIONS, APPROACH, AND METHODOLOGY

1.3.1 Research questions

Recalling the overarching aim of this dissertation, the research investigates how perceived legitimacy of the EU can be increased in a way that is both psychologically effective and legally feasible. It does so via three steps: 1) understanding how perceptions of EU legitimacy develop; 2) testing the effectiveness of potential legitimation strategies; and 3) exploring how legitimation strategies can be integrated into EU law. The questions underlying these steps are too vast to be fully addressed in a single research project. For example, it is beyond the scope of this dissertation to provide an exhaustive account of all the factors and complex processes that shape perceived EU legitimacy. Therefore, for the reasons explained in the previous sections, the current dissertation takes moral values and social identity as focus of explanation and potential source of improvement. The resulting research question is threefold:

- 1 How do moral values and social identity explain EU citizens' perceptions of the EU's legitimacy?
- 2 What strategies grounded in moral values and social identity could increase perceived EU legitimacy among EU citizens?

128 Jonathan Haidt, 'The New Synthesis in Moral Psychology' (2007) 316 *Science* 998; Haidt, Graham and Joseph (n 125).

- 3 What are the possibilities and limits within the EU legal framework to implement evidence-based EU legitimation strategies grounded in moral values and social identity?

1.3.2 An inductive and interdisciplinary approach

To address the research questions, the research takes an inductive approach. This means that the research begins with research question 1, and that the findings from this phase inform the design of studies aimed at answering research question 2. The analysis for research question 3 is then shaped and defined by the preceding research findings.

In addition, since the overarching research aim requires both a bottom-up understanding of the processes leading to perceived EU legitimacy and a top-down understanding of how those behavioural insights can be implemented, an interdisciplinary, mixed-methods approach is used. Going beyond 'multidisciplinary' research, which enriches understanding of a certain topic by examining it through the distinct lenses of separate disciplines, 'interdisciplinary' research actively integrates theories, concepts, methods, techniques, and insights from various fields.¹²⁹ This approach emphasizes the synthesis and connection of distinct knowledge systems, with the aim to generate new insights that cannot be obtained within the confines of a single discipline.

As highlighted throughout this chapter, the current research primarily integrates social psychology and EU law.¹³⁰ Research questions 1 and 2 are addressed using social psychological theories (i.e., moral foundations theory and social identity theory) and methods (i.e., surveys and experiments). These studies are designed taking into account the legal reality in the EU. This is for two reasons. First, it creates a more accurate understanding of how individual factors interact with organizational factors in shaping perceived EU legitimacy. Second, it increases their relevance to potential legal applications. Research question 3 is addressed by combining traditional legal doctrinal methods (i.e., evaluating caselaw of the CJEU and analysing the feasibility and implications of legal adjustments), with innovative analytic methods that translate empirical, behavioural insights into legal conclusions. Advantages and disadvantages of this interdisciplinary approach will be examined in Chapter 7.

129 Robert Frodeman, Julie Thompson Klein and Roberto Carlos Dos Santos Pacheco, *The Oxford Handbook of Interdisciplinarity* (Oxford University Press 2017).

130 To a lesser extent, it relies on theories and insights from political science. For example, political science research on the perceived legitimacy of international organizations forms the overarching framework for understanding the relation between organizational features, legitimation and delegitimation processes, and perceived legitimacy.

1.4 STRUCTURE OF THE DISSERTATION

1.4.1 A compilation of articles

This dissertation consists of a collection of separate scientific treatises. The chapters are based on four articles published in peer-reviewed journals and two articles submitted for publication in peer-reviewed journals. This means that all published articles have undergone, and those submitted for publication are undergoing, a double-blinded peer-review process in accordance with the guidelines of the respective journals. To maintain uniformity throughout the dissertation, the citation style of articles that originally used APA 7th edition has been converted to the OSCOLA citation style. For a similar reason, the structure of the article presented in Chapter 3 has been modified to align with the format of the other chapters.

Although I conducted the majority of the research, all articles were co-authored, reflecting the collaborative nature of research, which is particularly evident in interdisciplinary research. Throughout Chapters 2 to 6, the term ‘we’ refers to the collective authorship of the articles on which these chapters are based.

The dissertation is based on the following articles, listed in order of publication date (oldest to newest). As detailed in the next section, the chapters are organized differently. At the beginning of each chapter, the article it is based on will be indicated, along with any amendments made, additional analyses presented, and the contributions of the co-authors.

- 1 E Grosfeld, D Scheepers and A Cuyvers, ‘Value Alignment and Public Perceived Legitimacy of the European Union and the Court of Justice’ (2022) *Frontiers in Psychology* 12:785892.
- 2 E Grosfeld, D Scheepers, A Cuyvers and N Ellemers, ‘The Integration of Subgroups at the Supranational Level: The Relation Between Social Identity, National Threat, and Perceived Legitimacy of the EU’ (2022) 10 *Journal of Social and Political Psychology* 607.
- 3 E Grosfeld, A Cuyvers and D Scheepers, ‘Towards Evidence-Based Legitimacy Interventions in EU Law: Challenges and Directions for Empirical Research’ (2023) *Utrecht Law Review* 87.
- 4 E Grosfeld, D Scheepers and A Cuyvers, ‘Mapping the Moral Foundations of the European Union: Why a Lack of Moral Diversity May Undermine Perceived EU Legitimacy’ (2024) *PNAS Nexus* pgae282.
- 5 E Grosfeld, D Scheepers, A Cuyvers and N Ellemers, ‘Affirmation of EU Identity Reduces Perceived National Identity Threat and Increases Perceived Legitimacy of the European Union’. Submitted for publication in *Journal of Applied Social Psychology*.
- 6 E Grosfeld, A Cuyvers and D Scheepers. ‘The Psychological Potential of Article 4(2) TEU: Bridging the Gap Between Citizens’ Identities and the Identity Clause’. Submitted for publication in *European Law Open*.

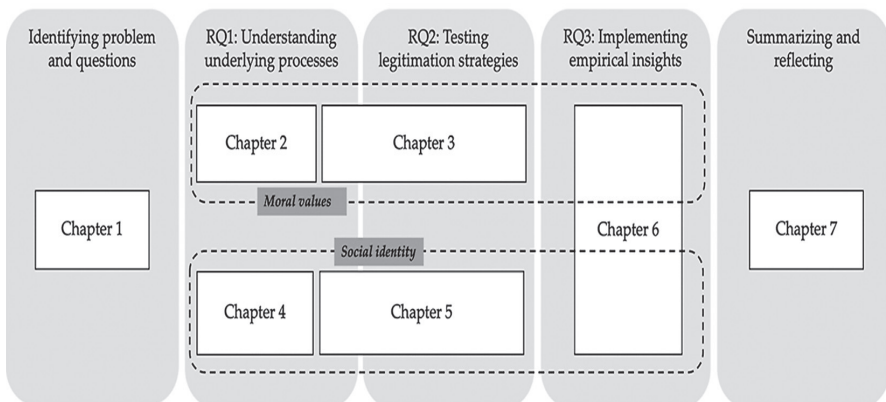
1.4.2 Overview of chapters

The current chapter, Chapter 1, outlines the overarching objective of this dissertation: exploring how empirical insights based on social psychology can inform EU law to make the EU more legitimate to its citizens. The following chapters, as illustrated in Figure 2, address the research questions designed to achieve this objective.

Chapter 2 and 3 focus on the role of moral values in explaining and increasing perceived EU legitimacy. Chapter 2 offers an initial exploration to understand this process, which then is further investigated in Chapter 3. Chapter 3 also uses these insights to develop and test a legitimation strategy grounded in moral values. Chapters 4 and 5 follow a similar structure, but with a focus on social identity. That is, both chapters report studies which aim to understand how social identity influences perceived EU legitimacy, and Chapter 5 builds on these findings to examine how legitimacy could be increased based on social identity mechanisms. Chapter 6 integrates findings from both lines of research to address Research Question 3, which concerns the implementation of legitimation strategies in EU law. Chapter 7, the discussion chapter, reflects on the findings and their implications, as well as on my personal experience with conducting interdisciplinary research.

Given the inductive research approach and the fact that the dissertation consists of a collection of separate scientific treatises developed over a period of four years, during which my understanding of the topic evolved, some overlap but also some inconsistencies between the chapters are inevitable. In the following sections of this chapter, I will elaborate on the contents of Chapter 2 to 6, the coherence among them, and the decisions I made throughout the research process.

Figure 2. Graphical presentation of the dissertation chapters



1.4.2.1 Chapter 2

Chapter 2 explores the relation between personal values and the perceived legitimacy of the EU. Although the research presented here also addresses the relationship between personal values and the perceived legitimacy of the CJEU, that analysis is less central to the primary objectives of this dissertation and will therefore not be discussed in detail here. Drawing on research on the perceived legitimacy of legal authorities, it is hypothesized that people who feel a stronger alignment between their personal values and those of the EU are more likely to perceive the EU as legitimate compared to those who do not share these values. This is expected for two reasons. First, shared values communicate to individuals that they are recognized as valued members of the group that the EU represents. As this fosters a positive EU identity, individuals are more likely to perceive the EU as legitimate. Second, the conviction that the EU acts in accordance with one's own values provides a normative validation of its authority, also reinforcing its legitimacy.

An online survey study conducted among 1136 citizens from six EU Member States (Finland, France, Germany, Italy, Netherlands, Poland) assessed the importance participants place on certain values, their perception of how strongly the EU endorses these values, and their perceptions of EU legitimacy. The study focused on six values: democracy, liberty, fairness, the rule of law, respect for national authority, and respect for tradition. These values were chosen because they are endorsed by the EU, albeit to varying degrees,¹³¹ and because they reflect both individual-focused values and group-focused values, aligning with the principles of moral foundations theory. This selection therefore offers a first insight into how moral foundations in the EU context relate to perceived EU legitimacy. Legitimacy was measured through two indicators: trust in the EU and a felt duty to obey the EU.

In this study, perceived EU legitimacy was relatively high, averaging 4.62 on a 7-point scale,¹³² and was positively associated with higher education levels and a more left-wing political ideology. The results indicated that participants strongly endorsed the values of democracy, liberty, fairness, and the rule of law, more so than they believed the EU did. On average, participants perceived the EU to endorse respect for national authority and respect for tradition to an equal extent as they did themselves: respect for national authority medium to high, and respect for tradition medium. For

131 Democracy, freedom, equality, and the rule of law are foundational EU values protected under Article 2 of the Treaty on European Union. The preamble to that treaty emphasizes the desire to respect the peoples' history, culture, and traditions. Article 4 and 5 describe the principle of conferral, according to which competences not conferred upon the EU remain within the Member States.

132 Meaning that, on average, participants responded to items measuring perceived EU legitimacy with a score between 'neither agree nor disagree' (4) and 'somewhat agree' (5).

all the values examined, perceived EU legitimacy increased when participants believed that the EU endorsed those values.

This increase was most pronounced among participants who strongly supported binding values (i.e., rule of law, respect for national authority, respect for tradition). These participants typically reported slightly lower beliefs in EU legitimacy, unless they believed that the EU shared their values. Conversely, this effect was not observed among participants who strongly supported individualizing values (i.e., democracy, liberty, fairness), possibly because their perceptions of EU legitimacy were already high, indicating a possible 'ceiling effect'. Despite the study's limitations, which are detailed in Chapter 2, the findings suggest that a sense of value alignment with the EU plays an important role in shaping beliefs about the EU's legitimacy.

1.4.2.2 Chapter 3

The study reported in Chapter 2 highlighted a potential effect of value alignment on perceived EU legitimacy, indicating that perceived EU legitimacy is influenced by people's personal values and by how people perceive the EU's values. This finding prompted a further investigation into the role of morality in shaping perceived EU legitimacy. One limitation of the previous study was that it did not adequately measure moral foundations, as it did not employ the validated moral foundations questionnaire.¹³³ Additionally, Chapter 3 sought to explore the observation that participants believed that within the EU, respect for national authority and respect for tradition are valued less than democracy, liberty, fairness, and the rule of law. This raised the suspicion that – also given the EU's origins as a peace project – the EU currently resonates better with individualizing moral foundations than with binding moral foundations. Supporting this expectation, Chapter 3 presents the results of a text analysis of all State of the Union speeches delivered by European Commission presidents from 2010 to 2023. This analysis revealed that these speeches appealed significantly more to care- and fairness-related values than to loyalty-, authority-, and purity-related values.

Chapter 3 further examines whether fundamental moral value differences among citizens, coupled with the EU's presumed preference for values associated with individualizing foundations, can explain variations in perceived EU legitimacy. To investigate this, an online survey study was conducted among 595 participants from six Member States (France, Germany, Italy, Netherlands, Poland, Sweden). The study assessed participants' reliance on moral foundations and perceived EU legitimacy, using a single item measuring confidence in the EU. In addition, the study measured to what extent participants found a selection of forty core EU legal norms right

133 For example, the rule of law is not clearly related to the moral foundations because it loaded on both individualizing and binding moral foundations in the factor analysis, nor did this study measure a value related to the care/harm foundation.

or wrong and which moral arguments influenced these judgments. The list included the EU's most important rules and principles, covering areas such as constitutional setup and decision-making procedures, general principles of EU law, market freedoms, fundamental rights, and secondary legislation in various fields of EU competence. Each participant was presented with descriptions of thirteen of these rules and asked to rate how right and wrong they found each one. The average of these ratings served as a measure of the participant's moral alignment with EU law.

In this study, perceived legitimacy averaged 6.71 on a 10-point scale. The first key finding is that moral alignment with EU law was lower among participants who endorsed binding moral foundations more strongly and higher among those with strong individualizing moral foundations. This difference in moral alignment explained the extent to which participants perceived the EU as legitimate. Specifically, individuals with stronger binding moral foundations tended to perceive the EU as less legitimate due to their lower alignment with its values.

The second key finding of this study is that, overall, citizens generally agreed with many of the legal norms presented. For example, the foundational EU values as outlined in Article 2 of the Treaty on European Union (TEU) were supported by 97.5% of the sample, the principle of non-discrimination by 96.6%, judicial independence by 97.6%, and the duty to respect national identities by 93.1%. Two norms were notably contested by a significant portion of the sample. First, 51.1% of respondents, primarily those with strong individualizing moral foundations, opposed limitations on the right to reside in another Member State for people with insufficient financial means, viewing this rule a violation of the Care and Fairness foundations. Second, 31.6% of respondents, mostly those with strong binding moral foundations, opposed the primacy of EU law over national law, perceiving it as a violation of the Authority foundation. These findings suggest that the EU may emphasize values related to individualizing moral foundations more than those associated with binding moral foundations. While this may weaken perceived EU legitimacy among individuals with strong binding moral foundations, it is important to note that many EU legal norms and values still enjoy broad support across the population.

The final study reported in Chapter 3 tested two potential legitimation strategies that were designed based on the findings on morality. Given the positive relation between moral alignment with the EU and perceived EU legitimacy, and since people relying on 'binding' moral foundations tend to have lower moral alignment with the EU, this study investigated whether furthering moral alignment through EU communications and legal norms could increase perceived EU legitimacy among individuals with strong binding moral foundations. These strategies were termed *moral reframing* and *moral rebalancing*. Moral reframing involved adjusting the rhetorical language used to describe a legal norm, reflecting a discursive practice within the framework of legitimacy and legitimation of international orga-

nizations. Moral rebalancing involved altering the actual legal content of the norm, reflecting a behavioural or institutional practice.

In an online experiment with 567 Dutch participants, both strategies were applied to the principle of primacy of EU law. The reformulations of this principle were developed in collaboration with a panel of EU legal experts, who ensured that the reformulations did not transgress the outer boundaries of the legally feasible within the framework of EU law. Perceived EU legitimacy was measured with multiple items assessing trust in the EU, the perceived morality of the EU, the perceived lawfulness of the EU, and the felt duty to obey the EU.

In this study, perceived EU legitimacy averaged 3.15 on a 5-point scale. The findings revealed that framing the principle of primacy in a way that appealed to the loyalty foundation (i.e., emphasizing that primacy helps to protect national constitutional identity and traditions) or to economic benefits (i.e., emphasizing that primacy helps to protect economic growth and prosperity) led to higher perceived EU legitimacy among participants who strongly endorsed binding moral foundations. Importantly, these frames did not *reduce* perceived EU legitimacy among participants who strongly endorsed individualizing moral foundations. On the other hand, making the primacy of EU law conditional upon other values (i.e., the strategy of moral rebalancing), did not increase perceived EU legitimacy among participants with binding moral foundations. Moreover, this approach actually reduced legitimacy among participants who endorsed individualizing moral foundations.

Chapter 3 concludes that while citizens broadly endorse EU values, certain legal norms may conflict with people's values of protecting national identity or authority. This concern, whether stemming from fundamental moral beliefs or political beliefs rooted in group norms, is shared by many EU citizens. To enhance perceived legitimacy, it could be effective to highlight aspects of EU law that safeguard national identity or authority in public communications. Beyond rhetorical strategies, it is important to explore how this value can be meaningfully incorporated in EU law. Yet, this requires further empirical research to understand potentially adverse effects of legal adjustments. While legal reform may be necessary, restricting the absolute nature of primacy seems neither effective nor desirable. Therefore, an alternative approach must be sought to ensure respect for national identities within the framework of EU law.

1.4.2.3 Chapter 4

Chapter 4 delves into the effects of social identity on perceived EU legitimacy, with a particular focus on national and EU identities. This chapter explores how national identification, EU identification, and dual national-EU identification are related to perceived EU legitimacy, and whether these relations are moderated by perceptions of the EU as a threat to national

identity.¹³⁴ To address these questions, the same dataset used in Chapter 2 was analysed, for it included the relevant measures. The analyses described in this study were conducted separately for each of the proxies of perceived EU legitimacy: trust in the EU and felt duty to obey the EU.

Interestingly, participants scored higher on a measure of EU identification than on a measure of national identification. When asked whether they identify exclusively with their nationality, with their nationality and then the EU, with the EU and then their nationality, or with the EU exclusively, most participants indicated to identify first with their nationality and then with the EU. This suggests that while people still primarily see themselves as nationals of their country, they may feel prouder of their EU membership than national membership. People with an exclusive national identity reported significantly lower perceived EU legitimacy than people who also identified with the EU, regardless of whether their EU identity preceded or followed their national identity. Furthermore, both indicators of legitimacy were positively predicted by EU identification and dual national-EU identification, measured on a continuous scale. A stronger national identification was also associated with slightly higher beliefs in EU legitimacy. However, when participants experienced a threat to their national identity, stronger national identification predicted lower trust in the EU and a weaker sense of having to obey the EU. Overall, the perception of a threat to national identity was strongly related to lower perceived EU legitimacy.

These findings indicate that individuals' perceptions of the EU as a threat to their national identity – whether defined as a threat to national sociocultural identity or national authority – pose a risk to public perceived legitimacy of the EU. While a strong national identity alone does not appear to harm perceived EU legitimacy, it can do so when people feel that their national identity is threatened. On the other hand, any form of identification with the EU, even if secondary to national identification, positively predicts perceived EU legitimacy. This is in line with the conclusions from Chapters 2 and 3 that moral alignment with the EU enhances its perceived legitimacy, as shared morality is a key indicator of a common identity. So, both a sense of EU identity and a sense of shared values with the EU are crucial for people to perceive the EU as legitimate. From the study in this chapter, it follows that the EU should not only work to promote a common EU identity and align with citizens' values, but also to avoid posing a threat to citizens' national identities.

134 Chapter 4 refers to threat to national sociocultural identity and threat to national power, but as these constructs yielded almost similar results, I refer to the overarching concept of threat to national identity here. Note that this also includes threat to national power or authority.

1.4.2.4 Chapter 5

Chapter 5 presents three studies designed to further explore the impact of national and EU identity on perceptions of EU legitimacy and to investigate a potential legitimization strategy based on social identity. The first two studies served as preliminary investigations into the relation between national identity threat and perceived EU legitimacy. The first was an online study involving 303 individuals from France and the Netherlands, while the second study, conducted in a polling station during the Dutch national elections, surveyed 150 Dutch individuals. In both studies, national identity threat was experimentally induced, followed by an assessment of perceived EU legitimacy, measured as confidence in the EU. The findings revealed that participants exposed to the national identity threat manipulation reported a slight decrease in perceived EU legitimacy. Additionally, both studies confirmed that self-reported national identity threat is negatively associated with perceived EU legitimacy, even after controlling for political ideology.

In the third and main study, an intervention aimed at reducing national identity threat was developed and tested. This online experimental study was conducted among 904 individuals from twelve EU Member States: Austria, Belgium, France, Germany, Greece, Ireland, Italy, Netherlands, Poland, Romania, Slovenia, and Sweden. The study examined whether positively affirming either national identity or EU identity could alleviate national identity threat and enhance perceptions of EU legitimacy. In addition, it investigated whether the effectiveness of these affirmation strategies was influenced by the strength or content of individuals' national identification. It was hypothesized that for individuals with high national identification, affirming their national identity would be more effective in reducing identity threat. Conversely, it was expected that EU identity affirmation would have a greater impact on those with weaker national identification.

To tailor the national identity affirmation to each nationality, lists of positive aspects of national identities were compiled in collaboration with nationals from the twelve participating Member States. Participants were then randomly assigned to one of three conditions: national identity affirmation, EU identity affirmation, or a control group (no affirmation). Those in the affirmation conditions read a relevant list of positive elements, ranked them by importance, and reflected on why the top-ranked element made them proud to be a national or EU citizen. Perceived EU legitimacy was measured using a composite score of items assessing trust in the EU, perceived morality of the EU, perceived lawfulness of the EU, and felt duty to obey the EU. The average score across participants was 4.67 on a 7-point scale.

The results indicated that participants who engaged in EU identity affirmation reported lower feelings of national identity threat and higher perceptions of EU legitimacy. These effects were notably smaller for those who affirmed their national identity. Interestingly, the strength of national

identification did not moderate these effects, but the content of national identity—i.e. how individuals construe their national identity—did influence the effectiveness of the two affirmation strategies.

Exploratory moderation analyses revealed that national identity affirmation only reduced national identity threat for individuals who were both strongly attached to their nation and held an ethnic conception of national identity. Conversely, EU identity affirmation reduced national identity threat primarily for those who were either not strongly attached to their nation or those who were strongly attached but maintained an inclusive, non-ethnic view of national identity. Across all groups, regardless of how they construed their national identity, participants expressed the most pride in certain elements of EU identity, including: the protection of fundamental human rights and dignity, the freedom to live and work anywhere within the EU, and the principle of equality among Member States and their citizens.

This chapter concludes that the EU offers many citizens a positive social identity, particularly grounded in core values such as human rights, freedom, and equality, which play a key role in shaping this identity. Emphasizing these positive aspects of EU identity appears to help individuals mitigate feelings of national identity threat, suggesting that this could be an effective strategy for strengthening the EU's perceived legitimacy. However, the effectiveness of this approach is limited when individuals view their national identity as exclusive and incompatible with other territorial identities. For such individuals particularly, the EU's legitimacy may hinge on its ability to respect and affirm their national identity alongside fostering a broader European identity.

1.4.2.5 Chapter 6

Chapter 6 explores how the empirical insights described in the previous chapters could inform EU law with the aim of increasing public perceived legitimacy of the EU. In the first part of the chapter, the key findings from the empirical work are summarized. These are: 1) a strong EU identity, rooted in shared values, exists and fosters perceived EU legitimacy; 2) national identity undermines perceived EU legitimacy when seen as exclusive to EU identity or as threatened by the EU; and 3) respect for national identities enhances perceived EU legitimacy among those with an exclusive or threatened national identity. Considering the need to both protect national identities and promote EU identity to safeguard public legitimacy of the EU, the question raised in this chapter is whether the legal institutionalisation of the EU's duty to respect national identity has succeeded in achieving those aims. This duty is, among other places in EU law, particularly manifested in Article 4(2) TEU. In the second part, Chapter 6 examines the current interpretation of this legal provision by the CJEU and evaluates it in line with the social psychological insights.

The CJEU's leading application of Article 4(2) TEU is as a justification of non-compliance with EU law by national measures. In other words, Member States can invoke Article 4(2) TEU to derogate from certain norms of EU law, and the CJEU then decides whether the derogation based on national identity is justified. When looking at the recent case-law, it appears that, in the CJEU's use of Article 4(2) TEU, the balance seems to be tilting towards protection of supranational principles, identity, and values, rather than the protection of distinct national identities. This suggests that the EU's overarching integration goals are prioritized over the protection of national authority and diversity. The chapter evaluates whether this is problematic, based on an empirical, psychological point of view.

The answer is nuanced. On the one hand, limiting national diversity where fundamental EU values are at risk may not necessarily make the EU more legitimate from the perspective of most citizens, given their strong EU identity. On the other hand, a common identity and EU values are not a source of legitimacy for citizens with an exclusive national identity, which also form a substantial group. In addition, overall public perceived EU legitimacy, also among those who do identify with the EU, is likely to benefit from a stronger protection of national identity.

Therefore, this chapter argues that there is a sufficient common EU identity, defined by shared values, to legitimately justify restricting respect for national identity when core EU values are at stake, but that public perceived legitimacy of the EU is nevertheless likely to improve with stronger legal protection of national identity than currently provided. It is proposed that EU law should therefore evolve towards an approach in which respect for national identity could be enhanced, without compromising the core principles and values of EU law.

After discussing the challenges of translating psychological insights into law, associated with the fact-value gap, the chapter presents four suggestions that could be implemented within the EU legal framework. These suggestions aim to inspire and inform further legal research on the duty to respect national identities in EU law. The four suggestions are: improving judicial dialogue, respecting certain substantive areas of national identity, enlarging the margin of discretion for national courts in defining their own constitutional identity and balancing it against EU law, and referring more explicitly to national identity in case law.

1.4.3 Data

In line with open science practices, all preregistrations, data, analysis code, and materials have been made available on my profile on Open Science Framework (<https://osf.io/e74hg/>). Table 1 provides an overview of each dataset collected and used in this dissertation.

Table 1. Overview of datasets

<i>Dataset</i>	<i>Chapter</i>	<i>Collection</i>	<i>N</i>	<i>Sample</i>
1	2, 4	November, 2020 (Prolific)	1136	Dutch, French, Finnish, German, Italian, Polish
2	3	January, 2022 (Prolific)	595	Dutch, French, German, Italian, Polish, Swedish
3	3	November, 2022 (Prolific)	195	Dutch
4	3	December, 2022 (Flycatcher)	567	Dutch
5	5	October, 2023 (Prolific)	303	Dutch, French
6	5	November, 2023 (on-site)	150	Dutch
7	5	March, 2024 (Prolific)	904	Austrian, Belgium, Dutch, French, German, Greek, Italian, Irish, Polish, Romanian, Slovenian, Swedish

1.5 FINAL INTRODUCTORY REMARKS

The conversations I had at a Dutch polling station during the 2023 national elections revealed that people are not hesitant to express their discontent with the EU. This discontent is a logical consequence of the politicization of European integration and is a symptom of a healthy democracy. People increasingly see themselves as holders of a political mandate that they can, rightfully, exercise to influence European decision-making. However, if this discontent escalates into a public legitimacy crisis, the EU's effectiveness as a problem-solving authority could be severely compromised. Even if such a crisis does currently not exist, it is crucial to prevent one from arising. Therefore, it is important to rethink how the EU should be structured through EU law in order to maintain and increase public legitimacy, a question far more important than the often debated question of 'in or out of the EU'. This interdisciplinary dissertation, grounded in original social psychological research, offers an evidence-based perspective on how the EU legal system could be adapted to foster a more legitimate EU.