

The Meritorious ‘Other’: The Interconnection of Merit and Race in EU Migration and Asylum Law

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Abstract

Adopting a law-in-context approach, this article suggests that merit-based migrant selection in the European Union (EU) is implicitly shaped by racial dynamics. With a focus on EU law and more specifically on cases from the Netherlands and Germany, it argues that the growing emphasis on merit enables a limited number of ‘racialised others’ to counterbalance the structural disadvantages associated with their citizenships, whilst simultaneously legitimising the exclusion of those considered insufficiently meritorious within the same group. By bridging two distinct strands of scholarship – critical analyses of the racial dimensions of migration policy and studies of merit-based selection mechanisms – this article advances existing debates on EU migration and asylum governance. It posits that the normative appeal of merit acts to justify existing hierarchies and to obscure the underlying racialisation processes that sustain them.

Keywords: EU migration and asylum law; merit; race; selection; stratification; worth

Introduction

Over the past decade, scholarship on European Union (EU) migration and asylum law has increasingly emphasised the growing role of merit and deservingness in the selection and regulation of migrants. Parallel to this development, a critical strand of research has shed light on the racial and ethnic dimensions of European migration policies, tracing their roots to the colonial histories that continue to shape Europe’s self-understanding and governance structures. This article seeks to bridge these two bodies of literature by advancing the argument that merit and race constitute two faces of the same coin. It suggests that the contemporary merit-based selection of non-EU migrants within the EU indirectly rests on racialised hierarchies. The growing prominence of merit in migration selection processes enables a small number of meritorious ‘racialised others’ to offset the disadvantages associated with their citizenships, whilst excluding those deemed insufficiently meritorious or lacking the potential to transcend such structural barriers.

Methodologically, the article adopts an EU law-in-context approach (Neergaard and Wind, 2012), which entails analysing legal norms within their broader social, political and economic settings. Drawing on insights from critical race theory, political science and pragmatic sociology, this approach allows us to question the supposed neutrality of migration law and to reveal how seemingly objective legal categories – skills, productivity or integration – encode assumptions about ‘worth’ (Twining, 1997). It thereby enables a critical examination of the criteria through which non-citizens are rendered ‘worthy’ of

residence and rights and of how these determinations are entangled with race and legitimised through the discourse on merit.

The article proceeds in three steps. Section I situates the analysis within existing legal and political science scholarship, exposing an apparent paradox: whilst merit increasingly structures access to migration channels, citizenship remains the principal determinant of entry to the EU. The figure of the ‘racialised other’ – non-white, non-Western and non-Christian – remains central to selection processes. Section II introduces the theoretical framework. Building on Boltanski and Thévenot’s (2006) *economies of worth*, we identify four relevant worlds of worth – the domestic, civic, industrial and market worlds – through which migrants’ value is assessed. These worlds underpin hierarchies of selection and exclusion that sustain subtle yet consequential racial and social stratifications across the EU’s migration regime. Section III argues that these hierarchies are normatively justified through the logic of merit, which individualises responsibility by requiring migrants to overcome, through their skills or resources, the structural disadvantages attached to holding a ‘bad passport’ (Kochenov and Lindeboom, 2020). Merit thus functions as a legitimising device that masks an underlying system of race-based selection.

The concept of ‘selection’ is used here in a broad sense, extending beyond visa and residence permit allocation to include differentiated access to residence rights, social benefits and integration obligations, such as mandatory courses, fines or sanctions for non-compliance. The analysis focuses exclusively on non-EU nationals, encompassing economic migrants, family members of non-EU citizens and beneficiaries of international protection.

The article engages with key EU legal instruments regulating long-term migration, asylum and seasonal work – the Blue Card Directive (2021/1883), the Family Reunification Directive (2003/86), the new Qualification Regulation (2024/1347), the Resettlement Regulation (2024/1350) and the Seasonal Workers Directive (2014/36). Taken together, these instruments reflect the EU’s ambition to develop a common migration and asylum policy whilst preserving EU member states (MSs)’ discretion over integration measures and admission numbers when it comes to labour migration [Article 79(4) and (5) of the Treaty on the Functioning of the European Union]. The analysis focuses in particular on the legal frameworks and implementation practices of Germany and the Netherlands. These two EU MSs are particularly illustrative, as both have been pioneers in shaping the EU’s migration and integration agenda.

By tracing how merit and race converge within EU-level migration and asylum governance, this article aims to expose the persistent entanglement of ostensibly neutral, merit-based selection criteria with enduring hierarchies based on race. By focusing on the main instruments of EU law and on the migration and asylum systems of Germany and the Netherlands, the analysis seeks to pave the way for more systematic and comparative research into how meritocratic logics sustain racialised forms of exclusion across Europe’s migration regime.

I. Merit-Based Selection and Origin-Based Selection: A Paradox?

Whether it concerns residence status, visas or rights, migrants are treated very differently across the EU and its MSs by being allocated to multiple and complex legal categories. In recent years, the sorting of migrants has changed through a growing emphasis on merit-related criteria such as skills. The merit-based approach to migrant selection has

become a defining feature of the EU's migration framework. Scholars have increasingly highlighted the importance of merit-based selection (Bonizzoni, 2018; de Haas et al., 2023; Joppke, 2024) and, more generally, deservingness, whether it comes to migration *stricto sensu* (Ammann, 2020; Shachar, 2016), refugees (Welfens, 2023) or freedom of movement (Ganty, 2021; Loxa, 2025). This change has led Shachar (2016) to argue that selection by merit is a new paradigm for EU migration policy supplanting selection by origin. Similarly, Joppke (2024, p. 7) has identified the rise of neoliberal nationalism in immigration policies in Western countries, qualifying it as 'ethnically anonymous'.

Nonetheless, citizenship – and, by extension, origin and race – continues to play a predominant role in EU migration and asylum law. The literature argues that exclusion at the borders is based on race (Achiume, 2022), including in the EU (Costello and Foster, 2022; Ganty and Kochenov, 2024; Górska and Górak-Sosnowska, 2025). Those drowning in the Mediterranean come from the Middle East and the former colonies, not from the United States and Japan (Shatz, 2023). Those persecuted in the Białowieża Forest are not 'Westerners' either but mainly from Africa and the Middle East. The racism of the EU's border and migration management more generally has been demonstrated (de Vries and Spijkerboer, 2021; Erel et al., 2016), including its push-back practices (Krepa and Mondal, 2023). EU border management reflects a racial hierarchy justified on a Western–non-Western divide, even in refugee protection (Sosa Popovic and Welfens, 2024).

This trend in EU migration and asylum law underscores how deeply rooted the EU's framework is in the concept of the 'other' (Hall, 2021, pp. 374–385; Benson and Sigona, 2024), the stranger 'who does not fit the cognitive, moral, or aesthetic map of the world' (Bauman, 1995, p. 1): that is, who is not a (white) Western European Christian (Kundnani, 2023). In other words, today's 'other' is an emanation of the EU project: a person with a 'wrong' passport (Kochenov, 2019; Milanović, 2016) is as racialised as borders are (Achiume, 2022; Munshi, 2016). The centrality of the 'racialised other' within the EU becomes quite clear if, with Hanssen and Jonsson (2014), we acknowledge that the EU's coloniality is still pervasive and that cosmopolitan Europe is a myth (Balibar, 2001). Generally, there is a non-explicit 'colonial and racist imaginary of "Europe" that permeates the narratives of EU leaders, as Europe is primarily referred to as "white" and "Christian" ' (Oleart and Roch, 2025, p. 19).

The 'other' is conceived in a racial hierarchical order. This racialisation is based on imagined geographies (Said, 1978) that change over time and across societies. The fluidity of these racial hierarchies is important to understanding this article's argument: racial categories evolve depending on many elements, including geopolitical context. As Lewicki (2023, p. 1481) shows, 'racism has geopolitical-economic [...] dimensions'. The 'racialised others' are those culturally constructed as undesirable and viewed as a potential threat, broadly conceived. We use the term 'racialisation' to refer to mechanisms of othering that operate through race, ethnic and national origin, citizenship and religion. Although these categories are usually analytically distinguished, they function as interrelated proxies in the social construction of the 'other' in this context. The concept of racialisation captures the process through which such markers are mobilised to produce and reproduce hierarchical distinctions. As Lamont et al. (2014, p. 587) observe, racialisation is a cultural process 'through which social markers or biological and phenotypic differences between human bodies are imbued with meaning by social actors'. In this sense, racialisation entails generalising across diverse ethnicities, cultures,

nationalities and religions and constituting social hierarchies that extend beyond biology or phenotypes. Consistent with certain insights from critical race theory, we understand race not as a biological or fixed attribute assigned to groups but rather as ‘an organizing principle of social stratification’ (Gonzalez and Mutua, 2022, p. 128). Specifically, within this racialisation process, religion – and in particular Islam – plays a central role. As critical scholars have demonstrated (Garner and Selod, 2014), religion and race are often inextricably intertwined. Vakil (2010, p. 276) succinctly puts it: ‘Religion is “raced”, and Muslims are racialized’. This dynamic becomes even more pronounced in the context of migration. Accordingly, when referring to the ‘racialised other’, we include perceived Muslim identities within this conceptual framework. In this vein, public and political discourses surrounding EU migration and asylum mirror the system’s racialised dynamics, depicting the ‘racialised other’ – often conflated with Islam (Vieten, 2018) – as a multi-faceted threat to European economic, cultural and security values (Blumer, 1958; Kundnani, 2023).

Yet this raises a central question: how can we reconcile the formal neutrality of merit-based selection criteria with the persistent realities of racialised exclusion? This apparent paradox warrants further critical examination. Extensive scholarship has shown how merit operates as a racialised construct in North American contexts – not only in education (Roithmayr, 2021) but also in migration and citizenship. Elrick’s (2022) analysis of Canada demonstrates that despite the formal abolition of explicit racial criteria, the points-based system introduced in 1967 remained deeply intertwined with racial logic, including in relation to Chinese migrants (Shi, 2004). Likewise, the debates surrounding the proposed US Comprehensive Immigration Reform Act of 2007 revealed how ostensibly neutral meritocratic frameworks can reproduce racial hierarchies (Pottie-Sherman, 2013). More broadly, Johnson (2009) shows that US immigration law continues to indirectly disadvantage non-white migrants through ostensibly objective economic and skills-based criteria.

The racialisation of seemingly objective, and particularly merit-based, criteria remains an under-examined dimension within EU and MSs’ migration and asylum law – an issue that the remainder of this article will explore.

II. Worth as the Selection Rationale

The legal criteria and categories, policies and justifications to include or exclude at the borders and beyond, all apparently objective, are not explicitly based on race. We argue that migrants are differentiated by law and policy based on their estimated worth, evaluated on the basis of a combination of economic, cultural and axiological criteria.

To capture the idea of worth in EU migration and asylum law, we use the *economies of worth* framework defined by Boltanski and Thévenot (2006). The authors distinguish six worlds of worth that explain how a society defines worthiness. The *industrial* world of worth concerns labour, productivity, effectiveness and hard work. The *market* world includes the realms of money, purchasing power and investment. The *domestic* world is about the figure of the *bonus pater familias* – that is, trustworthiness, good manners and tradition. The *civic* world implies duty, solidarity and participation: the values of this world concern the commonwealth in terms of rights and responsibilities. The *inspired* world encompasses creativity, art and inventiveness. The world of *fame* concerns

popularity, public recognition and celebrity. Of course, these worlds of worth co-exist and overlap. They are normative principles and moral norms that help identify whether someone is worthy.

We demonstrate below that worthiness in EU migration and asylum law is primarily grounded in four of these worlds of worth: the domestic, civic, market and industrial.¹ Worth in the *domestic* and *civic* worlds is mainly assessed through 'integration duties' ([Worth in the Domestic and Civic Worlds Through Integration Duties](#) section). Worth appreciated through economic added value and productivity is associated with the *market* and *industrial* worlds ([Industrial and Market Worlds of Worth Through Economic Added Value](#) section). These worlds of worth are interconnected, with important consequences in terms of racial and social stratifications ([Linking the Worlds of Worth and Stratification](#) section).

Worth in the Domestic and Civic Worlds Through Integration Duties

The domestic and civic worlds of worth often converge in EU migration and asylum law. Indeed, both the figure of the *bonus pater familias* (which mainly relates to the private sphere) and the values and moral norms of the host society (which rather concern the public sphere) are framed as essential for collective welfare and societal participation and for the appreciation of a person's worthiness. In essence, there is a strong expectation that the 'other' should demonstrate their worth as 'good citizens', reflected in both private and public spheres. This blending of the domestic and civic worlds of worth is reflected in the concept of 'integration' in the EU and MSs' law and policy. The concept of integration entails reproducing and respecting the values and 'lifestyle' of European host societies in both the private and the public spheres.

Today, there is a consensus in most EU MSs that integration has to be managed, whether this concerns admission at the border or diversity within the EU and access to rights. The once *laissez-faire* approach to integration has given way to a more interventionist model aimed at preserving cultural, linguistic and values-based homogeneity in line with an imagined national ideal (Joppke, 2007, 2017), a shift often described as a 'civic turn' (Mouritsen et al., 2019).

In this context, Western EU MSs are imposing integration duties on their mainly non-Western non-EU 'others' – the racialised 'other' – prior to and following the granting of residence permits, colouring the EU's and other MSs' migration laws (Bonjour, 2014). Their ability to impose such integration conditions in the framework of family reunification or international protection has been inscribed into EU instruments. Language, shared values and culture are being defined and conveyed to migrants through mandatory integration programmes and tests (Kostakopoulou, 2010), and the European Court of Justice (ECJ) has validated the idea of such tests, albeit setting some limits on their modalities (Ganty, 2025). If integration duties vary in their content and intensity, they appear all to be oriented towards the main target: an imaginary homogeneous society with purported coherence of culture, values and language (Hachimi Alaoui and Pélabay, 2020). Non-EU migrants are expected to demonstrate their understanding and allegiance to this

¹The world of fame and the inspired world play marginal roles and are usually linked to the market and industrial worlds.

imaginary society and its codes to prove their worthiness in the civic and domestic worlds.

Not all non-EU migrants are subjected equally to integration requirements in the EU. Whilst mobile EU citizens and their family members are exempted altogether, even amongst third-country nationals, integration obligations apply unevenly – particularly pre-departure tests. Their explicit or implicit targets are the ‘racialised others’, namely, migrants holding non-Western citizenships. In contrast, Western non-EU migrants and their family members are often presumed to possess sufficient civic and domestic ‘worth’ and are therefore exempted from proving it. This differential treatment is most visible in the field of family reunification, where Article 7 of the Family Reunification Directive (2003/86/EC) permits MSs to impose integration measures as a condition for entry. The Netherlands offers a telling example: applicants must pass a basic knowledge and language test prior to entry, yet nationals of selected ‘Western’ countries are exempt (*Vb* 2000, Annex 2). According to the Dutch government, such individuals are assumed to understand the ‘social relations, values and standards’ of Dutch society² and are therefore ‘socioeconomically and culturally closer’ to it (Goñda et al., 2021). Germany has adopted comparable exemptions for Western migrants, revealing a shared assumption that whiteness and Westernness are proxies for integration potential. This selective logic aligns with Schinkel’s (2018) diagnosis that the integration discourse does not apply to the ‘imagined white citizen’, exposing its racialised function. Scholars have further shown that integration tests operate as instruments of selection, disproportionately affecting racialised populations who historically rely on family reunification channels (FitzGerald et al., 2017). The racial character of these measures becomes even clearer when citizenship of the ‘right’ country fails to guarantee exemption. This was notably the case for Dutch citizens of Caribbean origin – the so-called ‘Blacks of the Kingdom’ (Besselink, 2008, pp. 147–148) – who had previously been compelled to undergo civic integration (*inburgering*) courses or face administrative fines until the Council of State declared the requirement unlawful and repealed it after 18 months’ application (*Wi* 2008).

Beneficiaries of international protection – ‘racialised others’ par excellence (Sosa Popovic and Welfens, 2024) – have increasingly been subjected to mandatory civic integration requirements in several MSs, including Germany and the Netherlands (European Migration Network, 2019). Sanctions for non-compliance range from reduced social benefits to financial penalties and restrictions on residence permits. These obligations operate as instruments for assessing refugees’ civic and domestic worth, and, as elaborated below, their content is often underpinned by implicit, racialised and colonial rationales of stigmatisation and hierarchisation. The new Qualification Regulation (2024/1347) now explicitly allows such duties, thereby consolidating practices previously upheld by the ECJ, albeit with some constraints. In the Netherlands, refugees who failed their integration tests were, until the *Keren* case (C-158/23), required to repay state loans used to finance their courses – amounting to up to EUR 10,000. Only Ukrainians benefiting from temporary protection did not have to comply with such obligations, reflecting more broadly a differentiated approach to protection.³ Although the Court found the practices

²See *Travaux préparatoires II* 2004–2005, 29700, No. 6, p. 31; 2003–2004, 29700, No. 3, p. 19.

³See https://www.rijksoverheid.nl/onderwerpen/opvang-vluchtelingen-uit-oekraine/aankomst-verblijf-en-registratie?utm_source=chatgpt.com#anker-5-inburgering-en-taalles.

of requiring costly courses and loan repayment to be disproportionate, it nonetheless upheld a general obligation to integrate – a requirement that to some extent mirrors Germany's model of compulsory participation in language and orientation courses (§ 44a *AufenthG*), often amounting to several hundred hours of work.

In essence, contemporary integration requirements are structured in opposition to the presumed 'racialised other', whose civic and domestic worth is questioned by default. Integration tests function as instruments of symbolic hierarchy, reinforcing precarious belonging (de Waal, 2021) and reminding migrants of their perceived inferiority (Kochenov, 2011). As Kostakopoulou (2010, p. 953) argues, these are 'one-way processes' designed to enforce conformity, discipline and migration control. Beyond their selective targeting, the content of such tests often includes stigmatising, culturally biased or absurd questions (Kochenov, 2011), reflecting racialised and colonial rationales of exclusion, especially in the Netherlands (Blankvoort et al., 2021). For racialised individuals – particularly non-white and Muslim migrants – compliance with integration tests and related obligations has become the primary means of demonstrating civic and domestic worth. Only demonstrable market or industrial value appears capable of offsetting the presumption of unworthiness – a dynamic explored in greater detail in the following section.

Industrial and Market Worlds of Worth Through Economic Added Value

Worthiness is also evaluated through migrants' productivity and economic added value to society in the industrial world of worth (through skills and labour force) (**Industrial Worth**) and the market one (through money, i.e., purchasing power and investment). Bringing economic added value gives 'racialised others' some worth (**Market Worth**). The stability of a residence permit and the extent of the rights attached to it can vary depending on whether a migrant is viewed as having little worth (e.g., asylum seeker) or a lot (e.g., highly skilled workers). Worth in the market and industrial worlds is intrinsically linked and geared towards self-sufficiency and economic added value. They need to be distinguished, however, as selection criteria differ for the industrial and market worlds.

The industrial world of worth

EU migration policies increasingly emphasise worth within the industrial world of worth – a logic grounded in productivity, efficiency, modernity and measurable competence. This orientation manifests both in migration figures (de Haas et al., 2023) and in policy discourses portraying skilled and highly skilled migration as a driver of competitiveness (European Commission, 2023). The higher a migrant's skill level, the greater their perceived worth – and, consequently, the more rights, facilitations and pathways to permanent residence they are afforded. Although definitions of 'skill' differ across MSs (Boucher, 2019), in EU, German and Dutch law, they consistently hinge on educational attainment, professional qualifications, labour shortages and – in the case of highly skilled migrants – salary levels [*FEG*; Article 3.30(a)(b) *Vw*; Article 2.1 *BuWav* 2022; Articles 2(7)–(10) and 5(3) Directive 2021/1883].

The EU Blue Card Directive (2021/1883), governing the admission of highly skilled workers, illustrates this dynamic. In 2023, 89,000 Blue Cards were issued, primarily to nationals of India (23.8%), Russia (10.7%), Turkey (6.5%), Belarus (5.9%), Iraq (4.5%),

China (4.3%), Ukraine (3.1%), Tunisia (2.9%), Egypt (2.8%) and Pakistan (2.7%) (Eurostat, 2024a). These numbers exclude residence permits issued under national schemes for highly skilled workers, suggesting an even broader reliance on this model of selection.

Germany largely mirrors these EU-wide trends. As the main issuing country, it granted more than 41,000 first-time EU Blue Cards in 2023 – over a quarter of which went to Indian nationals – bringing the total number of Blue Card holders to 113,550.⁴ Similar issuance rates persisted in 2024 (Heß, 2024, p. 16). These patterns reflect Germany's deliberate strategy of attracting skilled and highly skilled migrants, particularly since the 2020 Skilled Workers Immigration Act (*FEG*), which lowered salary levels and expanded the list of shortage occupations.

The Netherlands, though issuing far fewer EU Blue Cards, operates a parallel *kennismigrant* ('knowledge migrant') scheme. In 2023, 21,500 permits were granted under this system – a decline of roughly 5000 from 2022. The nationality distribution is strikingly similar to Germany's, with Indian nationals accounting for 21%, followed by Turkish, Russian and South African citizens.⁵ Knowledge migrants represent four fifths of all labour migrants to the Netherlands, underscoring how the logic of industrial worth dominates national migration regimes.

These figures indicate that only a subset of 'racialised others' – a proportionally very small though important part of the highly skilled migrants, mainly originating from South and East Asia and the Middle East – are able to offset the disadvantages associated with their citizenship and, by extension, their racialised origins by demonstrating high industrial worth, often closely linked to social class. Through their skills and productivity, they gain access to a range of procedural privileges and rights, including relief from the need to demonstrate civic or cultural worth.

Indeed, in both Germany [§§ 18g, 18c and 19c(3) *AufenthG*] and the Netherlands (Articles 2c–2g and 3.30b *Vb* 2000), highly skilled workers benefit from streamlined admission procedures, regardless of whether they are admitted under the EU Blue Card regime (which also provides for it in Articles 9–13 Directive 2021/1883). They are exempt from pre-departure integration tests [Article 18 *AufenthG*; Article 16(1)(h) *Vw*; Article 3(1)(a) *Wi* 2021; Article 3.5(2)(g) *Vb*]. This exemption extends to their family members, which the Blue Card Directive also prescribes [Article 17(3)] because 'highly qualified workers and their families are likely to have a favourable starting point regarding integration in the host community' (Recital 50). In Germany, they are also freed from post-arrival integration obligations [§§ 44–44a *AufenthG*; Article 4(2)(1a) *IntV*], whilst in the Netherlands, they enjoy comparable exemptions [Article 3(1)(a) *Wi* 2021; Article 2.1(h–i) *Bi*] and preferential fiscal treatment (Article 10ea *Ub* 1965). Facilitated access to permanent residence in Germany [§§ 18c(2–3) and 9(2) second sentence *AufenthG*] further reinforces this privileged status. Officially, these distinctions are justified by the assumption that highly skilled migrants have a 'clearly low need for integration' [Article 4(2)(1a) *IntV*].

The interaction between the industrial and civic worlds of worth demonstrates that the higher a migrant's industrial value – particularly in the case of 'racialised others' – the less decisive their citizenship and therefore racialised origin becomes in determining access and rights. This conditional permeability, however, does not dismantle hierarchies; it reconfigures them. Only a narrow segment of 'racialised others' – those able to

⁴<https://www.bamf.de/DE/Themen/Statistik/BlaueKarteEU/blauekarteeu-node.html/>.

⁵<https://www.cbs.nl/en-gb/news/2024/27/fewer-immigrant-arrivals-in-2023-particularly-refugees-from-ukraine>.

accumulate the forms of capital recognised as 'valuable' within the industrial world – can convert their worth into mobility and thus partially overcome the constraints of a 'bad passport'. This pattern becomes even clearer when examining *long-term* skilled (not highly skilled) and low-skilled migrants in Germany: the lower a migrant's skill level, the more salient their citizenship and perceived proximity to whiteness and non-Muslim identity become. The system reproduces an implicit racial ordering.

Alongside the highly skilled track, Germany has developed a skilled and low-skilled labour migration track. The skilled category covers migrants with vocational or academic qualifications in shortage occupations (§§ 18a–b *AufenthG*). In early 2024, the migrants admitted under this route with academic qualifications (i.e., university degrees) came mainly from Turkey, followed by Iran, India, Albania and Russia. Those with vocational qualifications originated primarily from the Philippines, followed by Tunisia, Turkey, India, and Bosnia and Herzegovina (Heß, 2024). Together, these two groups remain proportionally much smaller than EU Blue Card holders.

The recruitment rhetoric surrounding these categories reveals how industrial worth is complemented by elements of domestic and civic worth. In 2019, for example, the German minister of health, referring to the recruitment of nursing professionals from Mexico, declared: 'Following on from Kosovo and the Philippines, we are now also talking with Mexico about increased recruitment of nurses. The country is young, nursing training is good, and cultural proximity is there'.⁶ This statement illustrates how selection processes for 'skilled', as opposed to 'highly skilled', workers are informed not only by economic value – rooted in a form of extractivism – but also by assumptions about cultural compatibility and social proximity.

At the lower end of the skills hierarchy, only nationals of the Western Balkan states – Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia – have been eligible since 2016 to migrate to Germany for any form of employment, provided they secure a job offer and visa. Initially introduced as a temporary measure, this scheme was made permanent in 2023, with its quota doubled to 50,000 workers annually (Heß, 2024). Parliamentary debates on the 2023 reform revealed strong opposition to extending the scheme to non-European countries such as Nigeria, the Maghreb states, Gambia and India.⁷

These patterns confirm a correlation between skill level and racialised origin, reflecting enduring racial and religious hierarchies.⁸ Non-seasonal low-skilled migration remains largely reserved for people perceived as white and/or non-Muslim, whereas 'racialised others' can offset the disadvantages of their citizenship only by demonstrating high industrial worth through skilled or highly skilled labour.

Do the figures on seasonal workers alter these conclusions? Not substantially. Whilst 'racialised others' are overrepresented amongst those granted seasonal work permits at the EU level, these positions remain characterised by extreme precarity and minimal

⁶<https://www.bundesgesundheitsministerium.de/ministerium/meldungen/2019/reise-nach-mexiko-und-in-die-usa.html>; <https://www.stern.de/politik/deutschland/gesundheitsminister-jens-spahn-moechte-um-pflegekraefte-in-mexiko-werben-8886584.html>.

⁷Deutscher Bundestag – 20. Wahlperiode – 113. Sitzung. Berlin, Freitag, den 23. Juni 2023 13841.

⁸For instance, although religiously mixed, Western Balkan countries are classified in the German statistics as 'European': https://www.bamf.de/SharedDocs/Anlagen/EN/Forschung/Migrationsberichte/migrationsbericht-2023-kurzfassung.pdf?__blob=publicationFile&v=9.

social or economic worth (Ludwig, 2016). In 2023, nearly 192,000 seasonal work permits were issued across the EU, largely to nationals of Morocco (30.5%), Bangladesh (15.2%) and India (11.7%) (Eurostat, 2024a), far exceeding long-term labour permits and entailing far fewer rights and protections and normally involving stays of only a few months. National differences, however, are significant: Germany issued fewer than 3000 seasonal permits that year, and the Netherlands issued none. In Germany, such work has traditionally been performed by EU citizens from Eastern Europe; newer bilateral agreements with Georgia (2020) and Moldova (2021) have diversified this pool (Eurostat, 2024a; Lechner, 2020). Seasonal workers occupy a distinct position within the migration hierarchy, however; they are not expected to integrate and to have any domestic or civic worth, only to perform temporary labour and to return to their country of origin. As Biaback Anong (2023, p. 13) observes, they are ‘the perfect migrants’ ‘with the right characteristics, coming for the right time without causing costs to social security or for their “integration” while invisibly contributing to the emblematic German quality standards’. Their racial or religious background thus matters less, precisely because their presence is transient: they embody utility without belonging, reinforcing a system where economic functionality substitutes for social worth. This logic also explains why right-wing actors often support the expansion of seasonal labour schemes (Biaback Anong, 2023).

Strikingly, racialised others from sub-Saharan Africa – who represent the overwhelming majority of those dying in the Mediterranean – are almost entirely absent from all categories of residence permits issued across the EU, including Germany and the Netherlands. This absence reveals a hierarchy amongst racialised groups: individuals from sub-Saharan Africa are effectively excluded from high-, mid- and low-skilled labour markets. In fact, as legislators also respond to private-sector preferences, recruitment patterns remain racialised. Angenendt et al. (2023, p. 23) note for Germany that employers ‘show a clear preference for recruiting workers from Europe, followed by Asia and the Middle East’, whilst exhibiting ‘little interest’ in sub-Saharan Africa.

The market world of worth

Worth in the market world is also important when selecting migrants in Europe. For instance, residence by investment, an area that is not regulated at the EU level, has grown in almost half of MSs since 2012 (Surak, 2022). MSs increasingly offer residence status to non-EU migrants who invest one way or another in the state and therefore contribute to its welfare, a paradigmatic example of the importance of worth in the market world (Surak, 2022). Some states consider a person worthy of a long-term residence permit if they have the economic capital to ‘buy’ a visa with cash or investment in the country without imposing any other condition than not being a criminal (Kochenov and Surak, 2023). The required investment amounts vary across MSs, depending on both the type of visa sought and the applicant’s nationality (Surak, 2022). Whilst comprehensive data on the beneficiaries of residency-by-investment schemes remain limited, available figures from 2012 to 2019 indicate that the vast majority of recipients were Chinese (about 50%) and Russian nationals (about 25%) (Surak, 2022).⁹ Although the total number of permits issued remains relatively small, these figures illustrate that market worth is strongly mediated

⁹This figure has declined sharply for Russian nationals since the 2022 invasion of Ukraine.

by citizenship and therefore racialised origin. Furthermore, applicants from certain countries – including Iran and Sudan – are categorically excluded from such schemes due to their designation as 'enemy nations' under US sanctions regimes (Surak, 2023), reflecting the phenomenon of 'migration diplomacy' (Adamson and Tsourapas, 2019). As a result, these 'racialised others', further constructed as 'enemy aliens', are precluded from leveraging their economic capital to overcome the structural disadvantages of their citizenship status. This reflects a geopolitically grounded hierarchy amongst the 'racialised others', wherein racialised origin ultimately trumps market worth. For example, financial thresholds can vary based on citizenship, favouring individuals with 'Western' passports. American and Japanese citizens, for instance, can secure a Dutch residence permit by investing only EUR 4500 in their own business (Article B5, 2.5 *Vc*). In comparison, until March 2024, all other non-EU and non-European Economic Area citizens needed to invest EUR 1.25 million in a Dutch start-up or venture capital fund to qualify.¹⁰

Moreover, even when residence permits are not work or investment-related, they still include an important economic component (i.e., financial capital) related to the market world of worth, especially when it comes to family reunification [Article 7(1) Directive 2003/86; § 29 (1) *AufenthG*; 3.22 *Vb*]. Applicants must demonstrate that they possess sufficient resources to avoid becoming a burden on the host country's social welfare system, including proof of adequate living space. However, the latter requirement is waived for applications of family members of highly skilled workers in Germany (§ 29(5) *AufenthG*). The same logic applies to the integration tests discussed earlier, which operate within the civic and domestic worlds of worth. These tests – beyond the significant exemptions they entail, whether for Western migrants or for highly skilled workers and their families – presuppose a baseline level of competence, such as digital literacy, and often require substantial financial investment due to the costs of preparatory courses, examination fees and related expenses. In fact, class has become a major determinant of the success of family unification cases in the context of restrictive migration policies and income requirements (Kofman, 2018). In this context, non-EU migrants become consumers and actively participate in the EU market without harming the social welfare or security system. Such self-sufficiency conditions may be much more difficult to comply with for migrants from poorer, mainly non-Western countries.

Linking the Worlds of Worth and Stratification

Within each world of worth, the degree of worth attributed to migrants varies according to a range of implicit and explicit criteria. The higher an individual's perceived worth, the greater the rights and facilitations they enjoy, the fewer the duties they must fulfil and the lower their exposure to precariousness. Hierarchies operate within these worlds following a consistent logic: individuals who by virtue of their citizenship are perceived as 'Western', 'white' or 'Christian' tend to be accorded greater value within the civic and domestic worlds, whereas those regarded as 'wealthy' or 'highly skilled' have greater worth within the industrial and market worlds.

These worlds of worth, however, do not function in isolation but interact in dynamic, compensatory ways. A deficit of worth in one sphere can often be offset by greater worth in another. Thus, demonstrated worth in the industrial or market worlds – through high

¹⁰<https://www.henleyglobal.com/residence-investment/netherlands>.

skills or financial capital – can neutralise what are perceived as ‘deficiencies’ in the civic or domestic worlds of worth. Integration in the labour market, whether through highly skilled work or investment, exempts migrants and their families from other forms of cultural or civic integration. Their economic contribution is deemed a sufficient link to the community or, as Schinkel (2018) argues, a dispensation from the need to prove one.

In this sense, ‘economic’ and ‘cultural’ criteria are increasingly blurred, as the good citizen becomes the working or market citizen (Bonjour and Chauvin, 2018). The type of skill carries racial and class connotations (Goodfellow, 2021). Low-skilled migrants may compensate for lesser industrial worth through perceived proximity to whiteness, as exemplified by Balkan workers in Germany. This compensatory whiteness matters less for seasonal workers, whose temporary status does not require much civic and domestic worth. Similarly, German law allows nationals from ‘Western’ countries to undertake any employment, even for positions not qualifying by themselves for a residence title under ordinary labour migration rules (Article 26 § 1 *BeschV*). Their high civic and domestic worth compensates for their lower industrial worth.

This interplay also appears in government rhetoric, such as in the example of the German minister of health justifying the recruitment of Mexican nurses on grounds of their ‘strong cultural proximity with Germany’. When questioned in Parliament by the AfD about what ‘cultural proximity’ (*kulturelle Nähe*) entailed – that is, whether religion or nationality was relevant – the government avoided a direct answer, merely affirming that recruits from the Philippines and Mexico ‘had integrated well’. This episode exemplifies how racialised and cultural hierarchies intersect with labour market rationales: migrants may be deemed ‘necessary’ yet ‘acceptable’ only when their perceived cultural proximity offsets their lack of high industrial worth. Yet their social acceptability often increases when perceived cultural proximity compensates for their more limited economic or technical capital. This dynamic illustrates the interplay of multiple hierarchies across different worlds of worth and the ways in which they mutually reinforce one another.

Whilst citizenship as a proxy for racialised origin remains central to stratifications created by the worlds of worth and their interconnection, class also plays a crucial mediating role. High socioeconomic status can enable racialised individuals to mitigate the disadvantages of holding a ‘bad passport’, reinforcing calls to analyse worth through both economic and cultural–racial lenses. This supports our argument that, at an individual level, high worth in the industrial world can translate into worth in the civic and domestic spheres. Along similar lines, low worth in the civic and domestic spheres is generally assumed to reflect low worth in the industrial sphere, unless proven otherwise on a case-by-case basis. For instance, Roggeband and van de Haar (2018) highlight how Dutch discourse portrays ‘Moroccan youths’ as symbols of socioeconomic failure, whilst Bonjour and Duyvendak (2018) show how class and culture coalesce to exclude Muslim and non-Western migrants from an idealised productive Dutch citizen.

Whilst the concept of worlds of worth provides a useful lens through which to examine the structuring of migration law and policy in Europe – particularly in tracing hierarchies of worth and the compensatory mechanisms that operate between them – it falls short of fully accounting for the normative rationales underpinning these hierarchies, especially where they reproduce racial and social stratifications. This raises critical questions: what justificatory reasons sustain the interactions within and across worlds of worth that reinforce such stratifications? And what mechanisms obscure these dynamics, preventing

them from being recognised and challenged as racially, culturally or socioeconomically biased, or even discriminatory?

In the following section, we argue that the concept of merit lies at the heart of this stratified system. Merit functions as a legitimising framework that obscures structural inequalities by individualising responsibility for worth. Within the meritocratic narrative, racialised and economically marginalised individuals are deemed to occupy their position not because of systemic exclusion but because of their alleged lack of effort, skills or resources. In doing so, merit acts as an umbrella discourse that normalises and sustains stratifications grounded in race, ethnicity and class.

III. Merit as an Umbrella for Racial and Social Stratifications

In this section, we suggest that merit-based thinking underpins the interactions both between and within the different worlds of worth, thereby perpetuating racial and social stratifications. First, we briefly define merit and examine its relationship with deservingness. Using merit as a proxy for deservingness enables any merit-based selection to be framed as 'fair' (*Merit as Deservingness and Fairness* subsection). Second, we demonstrate that the norm of merit legitimises hierarchies both within and between the worlds of worth, whitewashing the indirect racial and social stratifications woven within it (*Merit as Whitewashing Racial and Social Stratifications* subsection).

Merit as Deservingness and Fairness

That merit is used as a criterion for allocating public and social goods is far from new. Merit, as it is commonly used in allocating social and public goods, power and offices, refers to accomplishments (or future accomplishments) and implies individual accountability and responsibility (Feldman and Skow, 2020; Miller, 1999). Besides education and the workplace (Castilla and Benard, 2010; Clarke et al., 2024; Friedman and Laurison, 2019; Markovits, 2019), many other public areas have been imbued with merit as a criterion for the distribution of rights and residence statuses. Although the concept of merit is multifaceted (Mulligan, 2023), we argue that merit has two main indicators in the context of contemporary migration: talent and skills combined with effort (Daunton, 2005; Young, 1958) and money (Ammann, 2020).

Migration governance includes a significant aspect related to merit, and merit gives special importance to talents and skills seen as either special achievements or high skills or a contribution to the labour force in non-seasonal and informal sectors. Merits are assessed through the performance of those 'that live up to the ideals of today's neoliberal markets: self-sufficient, hard-working employees of the formal economy' (Welfens, 2023). Skills combined with hard work are thus commonly viewed as the expression of merit and relate to the industrial world. Such merit indicates, for example, that these migrants can be regarded as deserving residence and the rights attached to it.

'Racialised others' who lack specialised skills but qualify through other criteria – such as family ties or fear of persecution – are often required to demonstrate that they are potentially meritorious or are not demeritorious in the other worlds of worth. This involves proving a willingness and capacity to adapt to society, primarily by fulfilling the integration duties discussed previously. In this context, the focus shifts from possessing specific

skills to demonstrating effort and potential merit. Thus, rather than merit, it is the potential merit or at least an absence of demerit that forms the basis of being deemed fully deserving of a residence permit.

Although less obvious and explicit, money can also be associated with merit, especially in the fields of immigration, as it is perceived as the external sign of talent and effort in a capitalist society.¹¹ It relates to the market world of worth. There is not much difference between skills or money in migration (Erez, 2019). Ammann (2020, p. 323) rightly stresses that ‘the distinction between capital *tout court* and human capital (or talent) is not watertight in practice, and capital can very well be the fruit of a person’s merit’.

In line with Tošić and Streinzer (2022), we consider that merit operates as a *proxy for deservingness*, especially in the field of migration, similarly to other proxies such as of vulnerability. Deservingness is thus conceptually distinct from merit and also broader in scope. It underpins assessments of the justness or legitimacy of treatment – whether in legal, social or political contexts, beyond individual skills.

The concept of merit tends to be defined objectively and at first sight provides tangible assessment criteria. Merit is also moral and axiological because the differences in treatment made on grounds of merit are usually perceived as legitimate and fair. A meritocratic logic is broadly regarded as fair and allowing for those with talent and effort or money to be allowed the options they deserve. In other words, by using merit as a proxy for deservingness, the selection of the ‘meritorious other’ is presented as fair. Merit is at the heart of the hierarchies of worth at play. For ‘racialised others’, economic and industrial worth, which are justified through merit, are presented as fair conditions for entry. This focus on merit simply distracts our attention with ideas of the deservingness of the most meritorious and thus an idea of fairness, which, as argued in the next section, whitewashes the racial and social stratifications it is rooted in.

In short, the meritocratic logic, which emphasises personal accomplishments and individual responsibility, is widely accepted as a socially legitimate framework for allocating valuable resources (Mulligan, 2023). It prioritises the individuals deemed worthy: those who demonstrate high economic and industrial worth through sought-after skills or significant economic wealth. As a result, non-EU migrants who are considered more meritorious gain greater access to stable permits, facilities and rights, effectively obscuring the racial and class hierarchies that the migration system is rooted in. Migrants are positioned to appear to align with what they ostensibly deserve. In this sense, the principle of merit operates as a neutral – or even socially desirable – façade masking the underlying racial system that indirectly differentiates migrants based on their origins.

Merit as Whitewashing Racial and Social Stratifications

We have thus far suggested that merit operates as the key normative logic underpinning the functioning of the worlds of worth, enabling the legitimisation and justification of the stratifications they produce. Within this framework, what migrants receive is portrayed as what they deserve – deservingness being determined by their demonstrated merit.

Beneath the ostensibly fair normative ideal of a merit-based system used to justify the organisation and interaction of the worlds of worth lies the legitimisation of the continued

¹¹The Latin word meritorious means ‘brings money’.

reproduction of racial and social hierarchies. The turn to merit in migration and asylum law and policy reflects the broader logic of the postmodern neoliberal state, in which individuals are held wholly responsible for their own success, including the burden of overcoming passport-based and structural racial disadvantages. Yet merit functions as a mirage: it creates the illusion that selection is based on individual achievement rather than origin. In reality, selection by origin persists: it is merely obscured, rebranded under the language of merit, thereby perpetuating rather than dismantling deeply entrenched racial and socioeconomic stratifications.

There are four principal ways in which the concept of merit serves to obscure racial and ethnic stratifications within EU migration and asylum law. These mechanisms build upon the interactions and hierarchical organisation of the worlds of worth outlined in the preceding section, which we will review in what follows through the lens of merit.

First, individuals from 'racialised other' groups are frequently subjected to stricter and more burdensome requirements to demonstrate that they are actually or potentially meritorious enough to obtain residence permits or, at least, not excluded by their demerit. In contrast, those with the 'right' ancestry or citizenship often face far fewer or no such requirements. The fact that migrants from Western countries need neither a provisional residence permit nor a visa to apply for a work permit from within Germany or the Netherlands is only one example amongst many showing that Western migrants are subjected to procedural facilitations [Article 17(1)(a) *Vw* 2000; Annex 2 *Vb* 2000; § 41 *AufenthV*].

Moreover, within the framework of integration obligations – particularly (pre-departure) civic integration tests in countries such as the Netherlands and Germany – racialised individuals are subjected to both direct targeting, based on their citizenship status (only non-Western individuals need complete pre-departure tests), and indirect targeting, through the design and content of the obligations imposed, as previously discussed. These tests are grounded in a logic of individual performance and responsibility, requiring candidates to demonstrate that they are not demeritorious. In doing so, they entrench a structural presumption of demeritoriousness for non-Western migrants, effectively shifting the burden onto the individual to disprove this presumed deficiency in merit, whilst Western migrants are supposed to be integrated and do not need to show they are not demeritorious regardless of their skill level.

Second, not only are the opportunities for 'racialised others' limited to offset the disadvantages of their citizenship through highly skilled permits or residency-by-investment schemes, but certain groups – particularly individuals from sub-Saharan Africa – remain disproportionately underrepresented amongst the so-called meritorious migrants, including highly skilled workers, as they are deemed irreparably unworthy on account of their racialised origins. In other words, the EU migration system – and those of its MSs, especially Germany and the Netherlands – is selectively porous: it facilitates mobility and inclusion primarily for the most elite amongst the 'racialised others' – those Westernised 'racialised others' who are talented, skilled or wealthy. Meanwhile, it offers limited to no opportunities for the majority, effectively restricting access to mobility, residence or rights, or conditioning them on tests reflecting the essence of citizenship as a colonial institution and its 'neo-feudal inequitable nature' (Kochenov, 2024). This exclusionary structure is obscured by a dominant narrative that frames migration governance as merit-based and rooted in individual achievement, thereby masking the underlying

systemic dynamics of class- and race-based stratification. The fact that in Germany, as previously explained, migrants from Western countries can take up any employment as opposed to non-Western migrants shows that only non-Westerners need to be meritorious if they want to migrate to Germany.

Similarly, highly skilled ‘racialised others’ encounter significant barriers to demonstrating their high industrial worth, leading to disproportionate underemployment. Simply put, merit is valued differently depending on the origin of the individuals. For instance, 39.4% of third country nationals are overqualified for their roles, compared to 21.1% of nationals and 32% of citizens from other EU MSs (Eurostat, 2024b). These individuals must also navigate biased recruitment processes (Di Stasio et al., 2021; Zschirnt and Ruedin, 2016) and contend with the rejection of diversity within organisations (Risberg and Romani, 2022). Unlike their Western counterparts, proving their merit within the industrial world of worth is especially challenging due to the persistent stigmatisation they face (Bullinger et al., 2023; Yang et al., 2024). This phenomenon also echoes the continued dominance of a predominantly white global elite (Domhoff and Zweigenhaft, 2018; Heemskerk and Takes, 2021; Young et al., 2021).

Low-skilled ‘racialised others’, especially seasonal workers, often constitute what Rajaram (2018) terms the ‘surplus population’ – marginalised groups unable to translate their bodily labour into economic value recognised under contemporary capitalist regimes. These individuals are systematically excluded from dominant value systems that privilege specific, merit-coded forms of labour, rendering them both devalued and exploitable. As a result, they occupy the lowest rungs of labour hierarchies, functioning as disposable, seasonal workers and irregular labour – undocumented migrants – in capitalism’s pursuit of hyperprofit.

Third, the merit-based approach, which enables the selective and limited admission of meritorious ‘racialised others’ and, in certain cases, the tolerance of the ‘non-demeritorious’ – nuclear family members and refugees who have demonstrated their civic and domestic worth through integration obligations – aligns with what Spijkerboer (2022, p. 138) terms Europe’s ‘colonial deep structure’. This structure is rooted in a racial framework that underpins European migration policies and reflects the broader coloniality of the EU project. As Eklund’s (2023) analysis of the drafting history of the original treaties suggests, the EU’s personhood regime is fundamentally designed to ensure that its beneficiaries are ‘ethnically and racially European’. The norm of merit embraces and legitimises this system, which is deeply entrenched in a colonial legacy of domination, the successor of which is the modern-day ‘passport apartheid’ (Kochenov, 2020) and represents ‘a colonial ground pattern that has long shaped European migration law’ (Spijkerboer, 2022, p. 138). Discussing residency and citizenship-by-investment programmes, Boatcă (2023, p. 260) demonstrates that it is precisely the coloniality of citizenship rights – and the racial premises underlying them – that allows former colonial powers to commodify their citizenship and residency as globally scarce goods on investor markets. In short, the norm of merit in the EU migration system not only coexists with but also actively reinforces the EU’s lingering colonial roots.

Finally, merit crystallises the intrinsic connection between economic and identity rationales, respectively corresponding to market and industrial worth on the one hand and civic and domestic worth on the other hand. Individuals are deemed demeritorious not only because they lack marketable skills but also because they are perceived as lacking

'cultural competences' associated with western societies. In this sense, merit becomes culturalised: to be recognised as meritorious or a least non-demeritorious, the 'racialised other' must appear 'Westernised'. Insufficient economic or industrial worth is often reinterpreted as a cultural or religious deficiency, a presumed feature of 'non-European' or 'Muslim' identity (van Houdt et al., 2011, p. 422). Such assumptions justify 'cultural' interventions such as mandatory integration programmes, through which 'racialised others' may become merely 'non-demeritorious', whilst Western nationals remain largely exempt.

This logic echoes Wacquant's (2009, p. 43) metaphor of the 'centaur state' – 'a liberal head mounted on an authoritarian body' – which governs through consent for the meritorious, Westernised and Europeanised, and coercion for the non-meritorious. Refugees and the family members of low-skilled workers, considered insufficiently meritorious, must continually demonstrate being 'willing and able to "overcome" their vulnerability to become law-abiding, self-sufficient, and culturally adaptable future members of their host societies', a phenomenon Welfens (2023) terms 'promising victimhood'. This approach has been codified into recent EU legislation on resettlement (2024/1350), which permits MSs to assess refugees' 'integration promise' when evaluating applications. Integration criteria – language, religion and qualifications – thus operate as metrics of worth across multiple 'worlds'. Similar logics underpin Germany's *Ausbildungsduldung* ('training tolerance') [Article §§ 19d(1a) and 60c *AufenthG*], which rewards rejected asylum seekers who demonstrate self-sufficiency through vocational training and other proofs of integration through language proficiency. In all these cases, merit, or rather the absence of demerit, carries a strong axiological and moral dimension, implying that the 'racialised other' should not present a burden to the host society and must demonstrate autonomy, productivity and self-reliance (Fargues, 2020).

In this context, it becomes evident that the norm of merit as applied in EU migration and asylum law is deeply intertwined with racialised components. Class is also a central yet often obscured dimension of merit-based migration selection. Higher social class can mitigate racial disadvantage by being reframed as individual merit, thereby legitimised within legal and social frameworks. Because criteria like income and education reflect class *habitus*, merit becomes a proxy for class privilege (Bonjour and Chauvin, 2018), in line with Bourdieu's expanded conception of class (Elrick and Winter, 2018). This classed dimension is inseparable from citizenship and racial origin, with mobility often being contingent on transnational social positioning in the places of residence and of origin (Moret, 2017). As in other meritocratic institutions (Sandel, 2020), migration regimes thus reproduce social and racial stratification under the guise of objective merit.

Conclusion

Over the past decade, scholarship on merit and deservingness in EU migration and asylum law and policy has grown significantly, reflecting the increasing centrality of these concepts in shaping mobility governance. Yet this expansion has unfolded alongside the enduring practice of selection by origin, which continues to determine who gains access to the EU. Reconciling these two trends – the rhetoric of merit and the persistence of origin-based selection – has been the central concern of this article.

Drawing on Boltanski and Thévenot's *economies of worth* framework, we have argued that migrants are evaluated through diverse rationales based on worth distributed across multiple 'worlds', which can broadly be grouped into two clusters: the *domestic* and *civic* worlds on the one hand and the *industrial* and *market* worlds on the other hand. Operationalised within the EU, and particularly the German and Dutch migration and asylum laws, these worlds of worth reproduce entrenched social and racial hierarchies. A small number of racialised 'others' may offset the low worth attributed to them in the domestic and civic worlds of worth by demonstrating high value in the industrial and market spheres, whereas Western migrants are generally presumed to possess high civic and domestic worth, compensating for any lesser market or industrial value.

Whilst the *worlds of worth* framework illuminates how value and hierarchy are constructed, it does not explain how these stratifications are normatively justified. We contend that *merit* serves as the central justificatory mechanism: it legitimises hierarchisation by linking access and rights to supposedly objective measures of skill, productivity, economic contribution and individual responsibility (Girardot, 2011). Merit thus operates as an overarching rationality that masks structural inequalities, transforming racialised and class-based exclusions into seemingly neutral outcomes of personal achievement.

In practice, merit allows certain migrants to transcend the disadvantages associated with their passports, whilst enabling states to portray their selection mechanisms as fair and rational. This creates the illusion that origin no longer matters when, in reality, it persists in a more porous form. Merit seemingly offers 'equal opportunities' yet simultaneously conceals a regime in which blood, class, culture and race remain decisive. It thereby sustains the hierarchies of the past under the veneer of individual worth.

Critiques of meritocracy in migration law must however proceed cautiously (Ganty, 2026). If the very notion of merit is shaped by the interests of privileged groups – predominantly white elites in the Global North – the aim should not be to reject merit per se, but rather to expose how, in its current configuration, it perpetuates colonial and racial hierarchies under the guise of fairness. Future research should further explore this nexus, including through comparative analyses across MSs and attending to gendered dynamics, because the standards of 'worth' are often implicitly male-coded (Boucher, 2019). In this regard, this article has sought to open a conversation on the racialised operation of merit within EU migration and asylum law, inviting deeper interdisciplinary engagement with its normative and structural implications.

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Data Availability Statement

Data sharing is not applicable to this article as no datasets were generated or analysed during the current study.

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- Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the Conditions of Entry and Stay of Third-Country Nationals for the Purpose of Employment as Seasonal Workers, *OJ L* 94, 28 March 2014.
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National Legal Instruments (by Country and in Chronological Order)

Germany

- AufenthV – Aufenthaltsverordnung: Ordinance Governing Residence of 25 November 2004 (Federal Law Gazette I, p. 2945), Last Amended by Article 8 of the Act of 8 May 2024 (Federal Law Gazette 2024 I, No. 152).

- IntV – Integrationskursverordnung: Integration Course Ordinance of 13 December 2004 (Federal Law Gazette I, p. 3370), Last Amended by Article 1 of the Ordinance of 3 December 2024 (Federal Law Gazette 2024 I, No. 393).
- AufenthG – Aufenthaltsgesetz: Residence Act in the Version Promulgated on 25 February 2008 (Federal Law Gazette I, p. 162), Most Recently Amended by Article 4b of the Act of 17 February 2020 (Federal Law Gazette I, p. 166).
- BeschV – Beschäftigungsverordnung: Employment Ordinance of 6 June 2013 (Federal Law Gazette I, p. 1499), Last Amended by Article 3 of the Ordinance of 30 August 2023 (Federal Law Gazette 2023 I, No. 233).
- FEG – Fachkräfteeinwanderungsgesetz: Skilled Workers Immigration Act of 15 August 2019 (Federal Law Gazette Part I, p. 1307), Last Amended by Article 7a of the Act of 16 August 2023 (Federal Law Gazette I, No. 217).

The Netherlands

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- Vv – Voorschrift Vreemdelingen 2000 (Aliens Regulation 2000), Stcrt. 2001, No. 10; Registered as BWBR0012002.
- Vc – Vreemdelingencirculaire 2000 (B) (Aliens Circular (B) 2000); Registered as BWBR0012289. Available from: <https://wetten.overheid.nl/BWBR0012289/2025-10-01>.
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