



University of  
**Strathclyde**  
Humanities &  
Social Sciences

THE FACULTY OF  
HUMANITIES & SOCIAL  
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# Post-enlargement Solidarity and Free Movement in the EU

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**Dr Rebecca Zahn & Dr Sylvie Da Lomba  
University of Strathclyde  
Law School**

## Purpose of the paper:

- **Orientalism** as a critical concept and framework to investigate the EU's interactions with its Central and Eastern European citizens + its economically inactive citizens => The *Dano* judgment shows how these two issues intersect.
- Focus on **the relational dimensions of European solidarity** => EU's struggle to include nations of Central and Eastern European Member States into the 'mental map of Europe' (Siebold 2017).
- **Orientalism deployed to explore the CJEU's case law on social benefits for mobile economically inactive EU citizens:**
  - => **What does this tell us about the praxis of solidarity beyond the rhetoric of inclusiveness** surrounding the Central and Eastern European enlargements, EU citizenship and free movement and, ultimately, the European project.

# Orientalism

- Important background for postcolonial theory - **Edward Said, *Orientalism* 1978.**
- Style of thought based upon an ontological and epistemological distinction made between 'the Orient' and (most of the time) 'the Occident' => **it is not solely about geographical distinction - produces knowledge and shapes power.** E.g. European culture was able to manage – and even produce – the Orient politically, sociologically, militarily, ideologically, scientifically, and imaginatively during the post-Enlightenment period (Said 1978).
- Has been deployed in other (geographical) contexts to **explore patterns of othering**: e.g. to investigate Western Europe's understandings of Eastern Europe.
- Also deployed to explore the construction of the '**European internal other**'. With the Central and Eastern European enlargements, the 'Eastern other' was not longer 'spatially incarcerated' => 'created (..) confusion, uncertainty, cognitive dissonance, [and] symbolic disorder' in Europe' (Buchowski 2006).
- We use orientalism to interrogate the idea and practice of solidarity in relation to the free movement of persons.

## Solidarity

- One of the inspirational ideas behind European projects (e.g. 1929 Briand's Plan).
- European solidarity: 'essential to validating the integration process'. Over the years, solidarity has emerged as an all-pervasive 'founding and *existential* value of the Union' (Greiner 2017).
- Has become a 'founding and existential value of the Union' (Opinion of Advocate General Bot in Joined Cases C-643/15 and C-647/15 *Slovak Republic and Hungary v. Council*).
- Continues to present multiple challenges:
  - Its Europeanisation.
  - Must be practiced to exist.
  - Not always the benevolent device that it purports to be.
  - It is **exclusionary and antagonistic** : the creation of an 'us' brings about the creation of an 'other' against whom solidarity is practiced.
  - It is reciprocal: in return for one's contribution to the higher goal being pursued.

## Two case studies

- 2004, 2007 and 2013 enlargements:
  - At the time of the enlargements, European Council President Herman Van Rompuy claimed that ‘finally Europe had become “Europe” again’.
  - Nonetheless, ‘it has taken years to integrate the new [EU] members into the mental map of Europe’ (Siebold 2017, p. 998).
  - => up to 7 years of transitional measures
- Case C-333/13 *Dano* and subsequent case law:
  - Reversal of incremental constitutionalisation of European citizenship?
  - Compels us to ponder the relationship between solidarity and the free movement of persons and prompts a reassessment of the CJEU’s, and more broadly the EU’s, commitment to European citizenship as a fundamental status and to transnational solidarity between *all* European citizens?