



# Seeking Asylum in Europe: 'European Values' and Queer Claims

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This project has received funding from the European Research Council (ERC) under the European Union's Horizon 2020 research and innovation programme (grant agreement No 677693).



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# A European Human Rights Challenge



URL: <https://youtu.be/BfNHKPNDAnI>

# SOGICA - What is it about?

- European research project funded by the European Research Council (ERC)
- Social and legal experiences of SOGI asylum claimants – across Europe
- EU, CoE and national case studies  
Germany, Italy, UK
- Duration: 4 years (2016-2020)
- Based at the University of Sussex



**European Research Council**

Established by the European Commission



# Who is involved?

## SOGICA research team



Prof Nuno Ferreira  
(Project lead)



Dr Moira Dustin  
(UK case study)



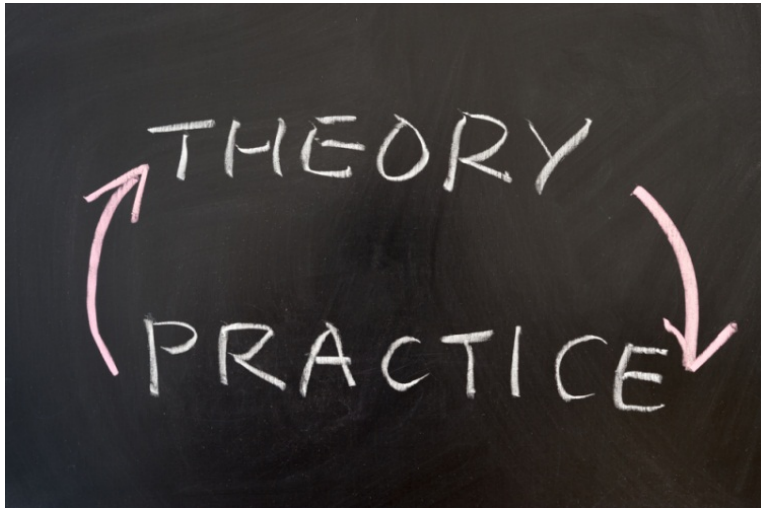
Dr Nina Held  
(German case study)



Dr Carmelo Danisi  
(Italian case study)

+ Advisory Board (5 members) and  
Project Friends (see full list on SOGICA website)

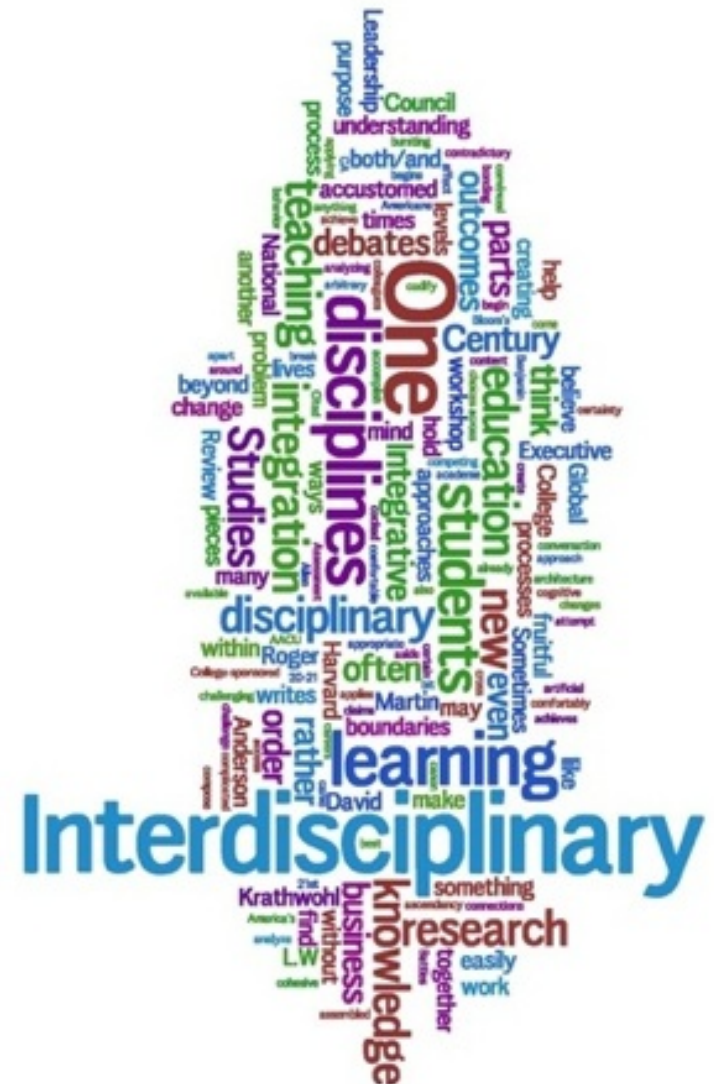
# Theoretical frameworks



- *Human Rights*
- *Feminist Studies*
- *Queer Studies*

# Methodology

- *Comparative*: case studies – UK, Germany and Italy + EU and CoE
- *Interdisciplinary*: socio-legal
- *Intersectional*: impact of gender, sexuality, ‘race’, class, religion, nationality, etc. in decision-making and experiences
- *Ethical commitments*



# Methods



- 143 semi-structured interviews
  - With policy-makers, decision-makers, members of the judiciary, legal representatives, SOGI asylum claimants and refugees, NGO staff and other professionals
- 16 focus groups
  - With SOGI asylum claimants and refugees
- 2 online surveys
  - One for supporters; one for SOGI claimants
- 24 non-participant contextual observations in courts
- Documentary analysis
- Freedom of information requests



# Issues at all levels...



- Insufficient safe passage options
- Lack of statistical evidence
- Lack of knowledge of SOGI asylum by all actors
- Inconsistent SOGI guidance [Dustin & Ferreira, forthcoming]
- Poor legal aid systems
- Partial COI information
- Procedures not adapted or sympathetic enough
- Stereotyped and unreasonable decision-making
- Poor accommodation arrangements and integration policies



# European values I

## Against torture?

- Unsatisfactory Strasbourg jurisprudence [chapter in *Queer Migration and Asylum*, UCL Press, 2021, open access]
- Unreasonably high threshold for violation of Art. 3 ECHR
- Accomplice of culture of disbelief in States
- Dissenting opinion of Judge Power-Forde in *M.E. v. Sweden* (2014)



# European values I (cont.)

- ‘(... ) This Court has held that to deprive a person of his reading glasses for a few months reaches the required threshold under Article 3. Depriving this applicant of his dignity for a similar or longer period by expecting him to hide an intrinsic part of his identity [sexual orientation] for fear of persecution does not. Something doesn’t fit. It is more than a minor inconvenience for the applicant to do as the majority requires. Having to hide a core aspect of personal identity cannot be reduced to a tolerable bother; it is an affront to human dignity—an assault upon personal authenticity. Sexual orientation is fundamental to an individual’s identity and conscience and no one should be forced to renounce it—even for a while. Such a requirement of forced reserve and restraint in order to conceal who one is, is corrosive of personal integrity and human dignity.’ (references omitted)
- Hope in *IK v Switzerland* (Application no. 21417/17, 2017) and *B and C v. Switzerland* (Applications nos. 889/19 and 43987/16, 2020)?

# European values II

**In favour of freedom  
(of choice, movement, etc)?**



- Dublin restrictive rules
- Detention without time limits in UK
- No choice re accommodation
- Stereotyped decision-making
- Experiences of sexual and commercial exploitation
- Oppressed agency...

# European values II (cont.)

‘I need freedom... you can’t, you feel like you are suffocating inside because you are held somewhere in a cage, you can’t do anything, it is about freedom, they just let us free, should have let us live freely like everybody else and you can only feel, live that way if you are able to provide for ourselves. We want more education, the years are going by, so we just don’t want to get, we feel stagnant, you know, we are just stuck there, can’t move right or left’ (focus group no. 3, London, UK).

# European values III

## Tolerance, diversity and equality?

- Discriminatory treatment, esp. racist, homophobic and transphobic abuse: [in accommodation, in public spaces, by authorities]
- Homogenisation within the LGBTIQ+ spectrum
- Legal violence against couples and families with children
  - hetero and homonormatively underpinned decision-making
  - practically illusory access to family reunification opportunities
  - Danisi & Ferreira (forthcoming)



# European values III (cont.)

‘I was refused because [the UK] Home Office was saying, oh, if I am a lesbian, oh that I have lived with a man, why should I have lived with a man. But I was telling them the marriage was against my wish, yes. They said oh they don’t believe that.’ (Patti, UK)

‘Oh god. She [my daughter] has been called a “Black b\*\*\*\*”. She have been called a n\*\*\*\*. She have been called a monkey. She have been standing at the bus stop and a football was kicked on her purposely. And I was told, “There's nothing they can do”.’ (Angel, Germany)

# European values IV

## Solidarity and social justice



- Limited access to language classes, labour market and health services
- Endemic mental health issues
- Pervasive trans health issues
- Not sufficient support for lesbians, intersex and trans claimants
- Limited attention to intersectional picture: LGBTIQ+ *and* refugees



# European values IV (cont.)

‘and then for the whole two months when I was homeless, I couldn’t get any bridging hormones because my pills has run out. I didn’t bring enough, because I didn’t have time to get that from Malaysia before I fly. So the whole two months, I was really struggling on how to, what do I do, because I had no pills and my body is going backwards now. Because I made the decision to transition because it was either transitioning or, or I would kill myself’. (Amber, UK)

‘when you leave the camp, you can be able to be useful to yourself. Not selling, you see some boys doing nonsense in the street, selling nonsense, some are doing, some girls are doing prostitution, why? Because they have to pay their house rent, they have to feed, they have to do all that things’ (Bella, Italy)

So, what to do?

## SOGICA recommendations



URL: [www.sogica.org/en/final-recommendations/](http://www.sogica.org/en/final-recommendations/)

# Find out more

Read the SOGICA online **survey report**: [www.sogica.org/en/publications/](http://www.sogica.org/en/publications/)

**Follow us** on Twitter (@SOGICA1) and Facebook (@SOGICAProject)

Visit the SOGICA website and join the **mailing list** for updates, including publication of the project book 'Queering Asylum in Europe' (Springer) in 2021 – [www.sogica.org](http://www.sogica.org)

