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## 12 An unstable equilibrium: freedom of movement and the welfare state in the European Union

*Andrew Geddes and Leila Hadj-Abdou*

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### INTRODUCTION

What happens when a comprehensive right to free movement meets national welfare systems? If we look at the contemporary EU we can begin to see at least part of the answer and the resultant unstable social and political equilibrium. Free movement for goods, capital and services as well as people – the so-called four freedoms – has been a key component of the EU's identity as an international organization since its foundation in the 1950s and is closely associated with economic integration. A positive ideology of free movement linked to a radical experiment in open borders is uneasily coupled with a continued attachment in member states to social solidarity and cohesion associated with national welfare states. Trying to square this circle has unleashed new political dynamics that challenge the European project.

This chapter links the contestation of free movement to perceived effects on welfare, declining trust in politics (which itself is linked to immigration) and as a factor underlying growth in support for Eurosceptic, populist and extreme right political parties. The political sensitivity of the issue was made crystal clear in a joint letter (Austrian Federal Ministry of the Interior et al., 2013) sent in summer 2013 by the Austrian, German, Dutch and UK interior ministers to the Council Presidency calling for action to combat 'the fraudulent use of the right of free movement' and the resultant 'excessive strain on the social systems in the receiving societies'. Reactions to the letter revealed dividing lines within the EU, with newer member states as well as Sweden describing the letter as unjustified scaremongering.<sup>1</sup> The EU Commission called on the letter-writing governments to produce evidence of such welfare abuse and said that the claims did not reflect the EU's own statistics (ibid.). In 2013 the Commission actually set out new actions to boost citizens' rights, based on statutory entitlement to freedom of movement.<sup>2</sup> Jean Claude Juncker, Commission President since June 2014, made it clear anew that free movement was a core principle of the EU and not an issue on which he was prepared to make concessions.<sup>3</sup> Opinion research shows that the right to free movement remains highly valued not only by EU technocrats but also by EU citizens themselves. According to the Eurobarometer, the 'freedom to travel, study and work anywhere in the EU' ranks year after year among the most important issues related to a united Europe (Recchi, 2015: 1). Hence, as Recchi (ibid.) points out, it is not 'the euro, nor democracy, nor peace among nations, but rather free movement which epitomizes the EU in the minds of Europeans', as shown, for example, by 2011 Eurobarometer data showing that 48 per cent of respondents across the EU see it as the most important right attached to EU citizenship (Eurobarometer 2011).

This chapter surveys both the origins and more recent contestation of free movement

with a particular focus on interactions between free movement and welfare. It focuses on developments in the UK and Germany to show how opposition to free movement and to the EU (albeit of very different types) has coalesced within new political movements that can challenge mainstream views on the 'European project'.

## MIGRATION AND WELFARE IN A WIDER AND DEEPER EUROPE

Since the 1990s not only has the EU deepened the level of economic and political integration, but has also expanded in membership to its current roster of 28 countries. Within this expanded Union increased wealth and income inequalities linked to rapid post-2004 enlargement have served as drivers of intra-EU mobility, although levels are much lower than those in the US federal system. Also evident in the EU are debates about the effects of open borders on welfare systems in those countries that have seen increased levels of migration from other EU member states, such as the UK and Germany. Concerns about immigration compounded by declining levels of trust in politics and political leaders have provided fertile ground for the populist and extreme right. For decades, free movement was scarcely an issue in the EU in terms of either scale or political significance. This has changed, or, as one Commission official put it:

When I started, this field [free movement of people] was considered the field for legal nerds. Yes, it was for specialists, in particular the social security field. We never managed [to get] it really [onto] the agenda of one of the Council meetings, sometimes not under any other business . . . Now we are on the top of the political agenda. (Interview with Commission official, DG Employment 1, December 2014)

To understand the increased political significance of the issue requires assessment of both the role that free movement has played in the EU integration process and also of the ways in which the relationship between free movement, welfare and social rights remains a key issue in European immigration politics, albeit now with a significant EU dimension.

One of the EU's founding fathers, former French foreign minister Robert Schuman, was candid about the underlying ambitions:

It is not a question of eliminating ethnic and political borders. They are a historical given: we do not pretend to correct history, or to invent a rationalized and managed geography. What we want is to take away from borders their rigidity and what I call their intransigent hostility. (Robert Schuman, cited in Maas, 2013: 97)

The EU has over more than 50 years made great strides in taking away from Europe's borders some of their intransigent hostility, at least in so far as EU citizens are concerned. The creation of a single market allows free movement for goods, services, capital and people, while the rights of those that do move are protected, including their right – guaranteed by EU law – to move freely (with only limited restrictions), access social benefits and be protected against discrimination. Meanwhile a nascent common migration and asylum policy has developed applied to non-EU citizens (third-country nationals,

TCN in EU parlance) for whom the borders of EU member states are still intransigent, if not deadly.

The EU itself is not and is extremely unlikely ever to be a welfare state. It does not aim for the harmonization of social rights among its member states, but seeks coordination between welfare systems to ensure the portability of social entitlements and protections for those who move between EU states. The scale of free movement has historically been low, but increased after accession by 13 new member states in 2004, 2007 and 2013, mainly countries from Central and Eastern Europe with significantly lower wealth and income levels than would typically be positively associated with increased propensity to migrate. The member states were entitled to impose transitional controls lasting up to seven years on free movement and most chose to do so. Three member states – the UK, Ireland and Sweden – chose not to and allowed immediate access for citizens of the 2004 accession countries to their labour markets and social security systems.

The relationship between migration, welfare and social rights is specific rather than general, mediated both by migration type and by the organizational features of welfare states. EU free movement had largely been an elite project dominated by the highly educated and highly skilled (Favell and Recchi, 2011), although, since the enlargements of 2004, 2007 and 2013 and the associated onset of larger-scale free movement, an ‘immigration’ – as opposed to ‘free movement’ – frame has been applied to what, in the past, scarcely registered as a political concern. The effects have also been specific in that debate about free movement has played out in member states such as Austria, the UK, Germany and the Netherlands, which have pressed for revision of EU rules.

Various studies evaluate the fiscal impact of immigration within EU countries. Their conclusions vary, depending on which assumptions they are based on, and which modelling choices they rely on. However, the majority of economic evidence tends to suggest that EU free movement has a positive – small, but positive – economic effect<sup>4</sup> (OECD, 2013; Dustmann and Frattini, 2014). Studies taking into consideration several characteristics of migrants, such as their education level, age and the number of children, moreover, demonstrate that welfare receipts for EU migrants are equal or less than those of natives (ICF GHK, 2013: 61). There are no strong indicators that would actually suggest that welfare is a pull factor of internal EU migration. On the contrary, a number of studies indicate that immigration could potentially alleviate the burden of the welfare state caused by an ageing population (ECAS, 2014: 17). The contested nature of EU migration hence cannot be explained through an economic perspective, or on grounds of actual welfare (ab)use.

To put it differently, the issue is not necessarily related to real economic effects, but it is primarily political and refers to issues such as control and regulation that have typified debates about immigration as well as more general issues of trust – or rather, lack of it – in politics. It has been convincingly shown that concerns about immigration are related to negative perceptions of the political system (McLaren, 2010, 2013).

The political problem for some member-state governments is linked to the EU’s radical experiment in open borders and to the nature of supranational governance in Europe. Supranational governance of free movement means that substantial revisions of the current framework are almost impossible to achieve, given both the scope and extent of EU laws. The wider political problem for governments that feel unease about free movement is that populist and radical-right insurgent parties are keen to highlight the

weakness of these governments in the face of both European integration and ‘uncontrolled immigration’. For example, in the UK an ‘anti-populist norm’ has been decisively challenged by the UK Independence Party (UKIP), once mocked as ‘fruitcakes, loonies and closet racists mostly’ by Prime Minister David Cameron,<sup>5</sup> to being a powerful insurgent party that topped the poll in the 2014 European Parliament elections and secured 12.6 per cent of the vote at the 2015 general election, albeit winning only one seat because of the UK’s non-proportional electoral system.

## FREE MOVEMENT, SOCIAL RIGHTS AND WELFARE

Before going on to express their concerns about supposed welfare abuses and benefits tourism, the aforementioned letter from the Austrian, Dutch, German and UK interior ministers made a point on which everyone could agree: ‘Freedom of movement in Europe is one of the central achievements of the European integration process and one of the most important and visible benefits of the European Union for its citizens’ (Austrian Federal Ministry of Interior et al., 2013). The centrality of the four freedoms – free movement for people, services, goods and capital – should not be underestimated. They are the EU’s cornerstone and without them the Union would lose its core purpose and meaning. To abandon these principles would be to abandon the European integration process as it has developed since the 1950s.

For these governments, the sticking point was supposed welfare abuses and their concern – albeit without substantive evidence – that free movement was a means for some to make fraudulent use of welfare benefits. Free movement requires that social rights and protections be guaranteed. This free-movement right has developed with minimal restrictions and presents a test case for the relationship between open borders and welfare systems that depend on an element of closure. Freeman (1986: 51) argued that European ‘national welfare states cannot coexist with the free movement of labour’ because it would lead to the ‘Americanization’ of welfare provision. Either greater closure protects the welfare state or openness would fundamentally erode it, but, according to Freeman, you cannot have it both ways. Yet both EU rhetoric and practice seem to want to have it both ways. The EU actively and simultaneously seeks to promote open borders while seeking social cohesion and forms of solidarity typically associated with the welfare state. In a February 2014 speech in London, ex-Commission President José Manuel Barroso (2014) also highlighted free movement’s link to the EU’s single market, to democratic and egalitarian principles and to non-discrimination in the context of increased membership:

You cannot have a single market without free movement of European citizens . . . So we shouldn’t disappoint now the new members of our union, it would be completely unfair. And if you think in economic terms, namely when you speak about European competitiveness, compared to the United States, or others, can you imagine a situation where goods, capital and services could move from New York to California, but people could not? It would be absurd. An internal market needs all these freedoms. If not, we are shooting in our own feet. And also, there must be no first and second class citizens in Europe, where only the highly skilled are able to move and work freely while the low-skilled are not. This would be a kind of social stratification, which is against all the principles of fairness and against the principle of non-discrimination.

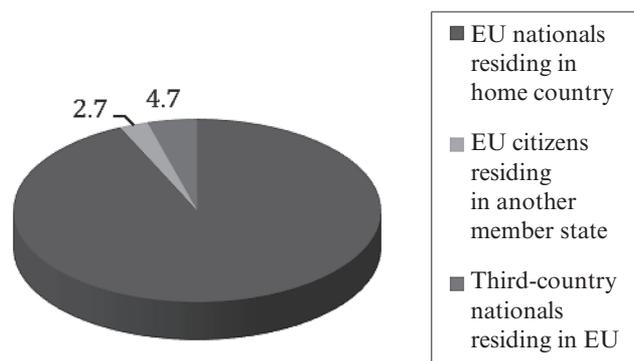
For Barroso, free movement is envisaged as a democratizing project justified as a means to reduce inequalities, tackle unfairness and combat discrimination.

The roots of the free-movement framework can be traced back to the EU's origins in the 1950s. The EU's founding Treaty of Paris (1951) establishing the European Coal and Steel Community (ECSC) included free-movement provisions for workers in those industries. The right to free movement was initially granted only to workers, but has since been extended across categories to become a general right. Free movement depends on the transferability of social rights so that rights acquired in one member state are portable to another, and on access to welfare and social provisions on the same basis as native citizens in the member state to which the EU citizen moves. As will be seen, these are rights that are backed by EU treaties and laws that are directly applicable in all member states. Decisions of courts have long been identified as central to the politics of immigration in Europe. To this focus on judicial politics needs to be added the role of the Court of Justice of the EU (CJEU). For example, in the landmark *Grzelczyk* (Case C-184/99) decision of 2001, a form of words was used that powerfully defines the free-movement framework.

Union citizenship is destined to be a fundamental status of nationals of the Member States, enabling those who find themselves in the same situation to enjoy the same treatment in law irrespective of their nationality, subject to such exceptions as are expressly provided for.

Through judicial decision-making, the CJEU gradually expanded the scope of cross-border entitlement to social benefits, making it increasingly difficult for member states to make access to social benefits an exclusive right for their nationals (Martinjens and Vollard, 2014: 682).

Figure 12.1 shows that, in 2012, there were 34.3 million foreign citizens resident in the EU, amounting to 6.8 per cent of the total population. Of these, 13.6 million were citizens of another EU member state (2.7 per cent of the total EU population) and 20.7 million were TCNs (4.1 per cent of the total EU population). The labour market participation of EU free movers is higher at 67.7 per cent than for nationals (64.6 per cent) and notably



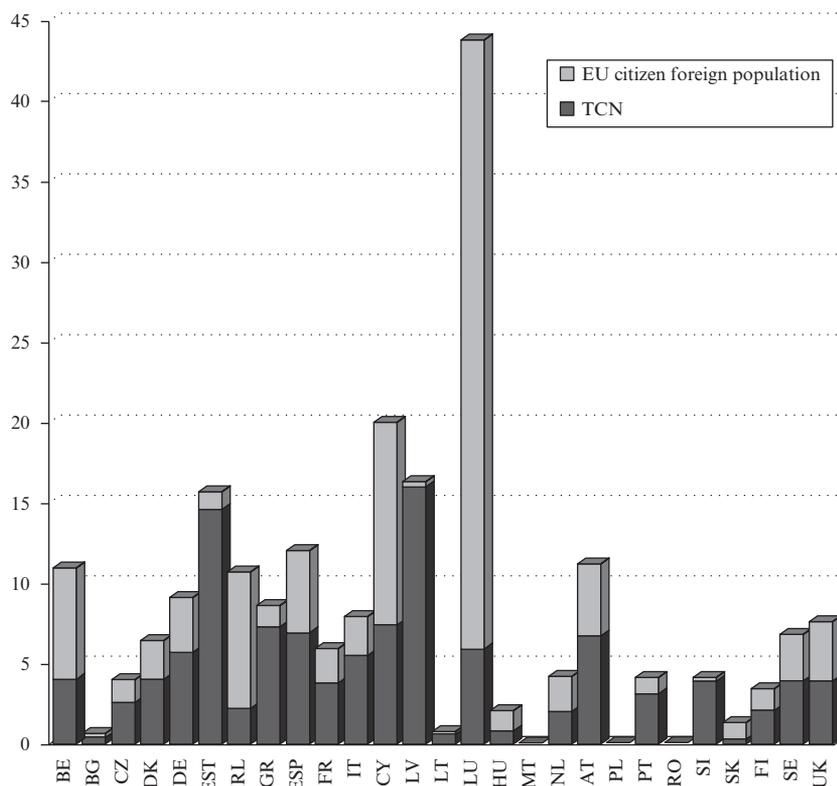
Source: Eurostat (2013).

Figure 12.1 Foreign citizen stock in the EU

more than for TCNs (53.7 per cent). The leading origin countries for EU free movers in 2012 were Romania (23 per cent of the total), Poland (16.6 per cent), Italy (8.8 per cent) and the UK (7.7 per cent) (Eurostat, 2013). 'Positive selection' in free movement has meant that it is more likely to be the highly educated and highly skilled who move, which means that free movement may lead to more not less elite social reproduction, rather than the democratizing aspects highlighted by Barroso, above.

Figure 12.2 shows the balance between EU free movers and TCN migrants in EU member states. In only Luxembourg, Ireland, Slovakia, Belgium, Cyprus, Hungary, the Netherlands and Malta did the citizens of other EU member states outnumber TCNs. As a proportion of the labour market, the number of EU nationals working in other member states amounted to 3.1 per cent of the total in 2012. Figure 12.2 shows the relationship between TCNs, citizens of the 'old' EU-15 (countries that joined before 2004) and the EU-12 that joined in 2004 and 2007.

Levels of intra-EU mobility are low compared to those in the USA. Around 3



Note: Exact numbers for Malta not available according to TCN/EU citizens distinction; total proportion is 4.9 per cent foreign citizens.

Source: Eurostat (2013).

Figure 12.2 Share of foreign citizens in resident population in EU-27

per cent of US citizens are mobile annually across the borders of states within the USA compared to around 0.3 per cent each year in the EU. Europeans are also less likely than Americans to move within their own state/country (Favell and Recchi, 2011: 52).

An elaborate legal, political and bureaucratic framework has developed at EU level to promote mobility. Recchi (2008) identifies three ways in which this occurs: a *constitutive* component is related to the role that free movement plays in the EU's constitution, that is, in its treaties, laws and CJEU decisions; *regulatory* approaches establish a level playing field for EU movers and involve things such as the recognition of professional qualifications, portability of social entitlements such as pensions, and attempts to harmonize higher education systems through what is called the 'Bologna Process'; *distributive* policies include the allocation of EU resources to student exchange schemes such as the Erasmus programme, as well as funding for scientific researchers to move within the EU offered by the Marie Curie funding programme.

What began largely at the insistence of the Italian government as a more limited right to free movement for workers in the 1960s linked to the 'Common Market' has become a more generalized right of free movement for EU citizens, with only very limited ability for member states to restrict such movement. The Single European Act of 1986 had particularly transformative effects when it defined the then European Community as an area without internal frontiers within which the free movement of people, services, goods and capital would be assured.

To assess the scope and extent of EU governance of free movement, welfare and social rights requires a quick overview of the EU's political system. The language can appear arcane, but the effects are important. Free movement is enshrined in Article 21 of the Treaty on the Functioning of the European Union (TfEU), which provides that: 'Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect'. Free movement is covered by the EU's 'Ordinary Legislative Procedure', which means that the member states (in the Council of Ministers) and the directly elected European Parliament share power in a form of 'co-decision-making'. The CJEU has full jurisdiction over these issues and a substantial body of case law has developed to protect the right to free movement. Any change to the Treaty would require agreement by all member states and potentially tortuous domestic ratification processes, including referenda in many member states.

The measures adopted to give effect to this principle centre on protecting the right to move freely by ensuring portability of and protection for social benefits and entitlements. For example, the so-called EU citizens' directive (2004/38/EEC) guarantees rights for EU citizens who cross borders between member states, including access to health care, education and housing. EU regulation 492/2011 prohibits discrimination on the grounds of nationality in areas including access to employment, working conditions, social and tax advantages, access to training, membership of trade unions, housing and access to education for children. A further Regulation of 2004 (883/2004/EC) provides for the coordination of social security systems on the basis of the principle of equal treatment, which means that EU citizens are entitled to the same benefits under the same conditions as nationals of the member state to which they move. These consist of cash or in-kind

transfers, and include those related to unemployment, child benefits, maternity pay and pensions.

These directives and regulations have direct effect and override national law. Not that there is evidence of a significant desire to do so, but to fundamentally change them would require a Commission proposal, a 'qualified majority' in the Council of other member states; agreement by the European Parliament; and sufficient legal robustness to withstand a challenge in the CJEU. To unpack these a little, the Commission has been calling for better enforcement of existing free-movement provisions, not for a rolling back, and would thus be an unlikely proponent of restrictions. It would be difficult to find enough allies on the Council to form a qualified majority. The four letter-writers (Austria, the UK, Germany and the Netherlands) would face opposition from newer member states and, perhaps, attempts to roll back in other areas of free movement about which other member states may have qualms. Even after the May 2014 European Parliament elections, the two largest groupings in the Parliament remain the European People's Party and the Party of European Socialists, with nothing to suggest that either would favour watering down free-movement rules.

Another option would be to toughen the implementation of existing rules, although 'blanket rules' could be challenged in the CJEU. The 2004 EU citizens' directive allows EU citizens to be expelled if they threaten public policy, security and health or become an unreasonable burden on the social assistance system. Technically, EU citizens could be expelled on the grounds of unemployment or welfare dependence, but this must be done on a case-by-case basis, otherwise decisions are open to challenge.

Even for the countries where there are loud voices calling for exit, it is far from clear that leaving the EU would allow extrication from these rules. Exit would require a hugely complex renegotiation, as those that advocate leaving the EU typically also want to maintain trade ties. It is likely that trade ties would also be accompanied by measures to protect the rights of EU citizens that are consistent with the citizens', social security and anti-discrimination directives mentioned above.

## CONTESTING EUROPEAN MOBILITY: GERMANY AND THE UK

In what follows we will provide a more in-depth overview of the contested issue of freedom of movement in relation to welfare in two major European immigration nations: Germany and the UK.

The UK and Germany have been important players in the debate on welfare and immigration, and receive similar levels of internal EU migration. According to Eurostat data (2013), 9.1 per cent of the total German population are foreign nationals, of which 3.4 per cent are citizens of another EU member state and 5.7 per cent citizens of a non-EU country. In the UK, foreign citizens make up 7.6 per cent of the population, of which 3.7 per cent are citizens of another EU country and 3.9 per cent citizens of a non-EU country. The UK and Germany differ significantly in terms of welfare-state models, with the former typically characterized as liberal welfare state emphasizing individual self-reliance and the primacy of the market, while the German welfare state represents an example of a 'continental' European welfare state, with relatively stringent

employment protections and generous welfare benefits. Despite these differences, both countries have often been regarded as likely targets of so-called ‘welfare migration’ or ‘welfare tourism’.

Before discussing these cases in more depth, it has to be noted that in neither country is there strong evidence of actual welfare (ab)use or negative economic impact of EU migrants. In the case of the UK, for instance, a study (Dustmann and Frattini 2014) analysing the costs and benefits of the group of recent EEA immigrants over the period 1995–2011 demonstrates that this group is more than 50 per cent less likely than natives to receive state benefits. Similar conclusions can be based on the recent Labour Force Survey data (Bruzelius et al., 2014).

For Germany, Groenendijk (2013: 12–13) shows that in 2010, 1.1 per cent of German nationals and 1.9 per cent of the total non-German population received social assistance, while only 0.4 per cent of the residents from the 26 EU member states received it. This is three times smaller than the number for German nationals. The finding by Groenendijk (2013) can be explained to a great extent by the age group to which most EU citizens using their right to free movement belong. EU migrants, in contrast to third-country nationals and natives, are disproportionately young. Similarly, Bruzelius et al. (2014: 8) conclude that, when taking into account all social transfers, including social insurance benefits, EU migrant citizens are much less likely to receive benefits compared with the resident population without a migration background in Germany. Hence, in order to fully understand the agitation around the freedom of movement, factors beyond costs and benefits calculations have to be taken into account.

## THE NEW POLITICS OF IMMIGRATION IN THE UK

The UK’s preference for a wider EU with more members and with an emphasis on economic liberalization has come back to bite it. By 2014, ‘immigration’ (including EU free movement) was the most salient issue in UK politics, with opinion polls suggesting that around 80 per cent of the population wanted the government to do more to restrict immigration, including EU free movement. The 2014 *British Social Attitudes Survey* revealed that 77 per cent of respondents wanted to see immigration reduced either ‘a little’ or ‘a lot’ (Ford and Heath, 2014), while September 2014 polling by Ipsos MORI (2014) showed that 39 per cent of respondents saw immigration as one of the most important issues facing the country; strikingly, this was more than twice as many as those that identified education and schools (16 per cent).

The problem is that EU free movement is a right attached to EU citizenship and cannot be controlled. This has created a huge opportunity for the UK Independence Party (UKIP) arguing that the UK should leave the EU and, thereby, reclaim control of its borders. UKIP began as an anti-EU group, but now gains most of its support from people concerned about immigration and, while typically seen as a ‘revolt on the right’, actually poses a significant threat to the Labour Party (as the Front national in France posed to the working-class constituency of the Socialist Party).

Four interlinked factors distinguish the current situation in the UK from past debates on immigration: the scale of migration; that much of this migration is actually EU free movement; the rise of UKIP; and, compounding it all, a more general disconnect

between the people and politics. Receptiveness to UKIP's message is associated with discontent with politics, Euroscepticism and hostility to immigration.

The decision in 2003 by the first Blair government not to impose transitional controls of up to seven years on free movement from new EU member states – as was done by all other member states except Ireland and Sweden – was of enormous significance. As mentioned earlier, there is evidence of the net fiscal benefits of movement to the UK by EEA nationals (the EU plus Iceland, Liechtenstein and Norway) (Dustmann and Frattini, 2014), but the political costs have been high. Since it left office in 2010, the Labour Party has been constantly apologizing for its policies on migration and free movement. The explosion in public concern about immigration was clearly a factor in the Conservative/Liberal Democrat coalition's decision to specify a net migration target – to reduce net migration from the hundreds of thousands to the tens of thousands – which has proven unattainable. The majority Conservative government elected in 2015 maintained this commitment, albeit downgraded from a 'target' to an 'aspiration'.

Initial estimates for the Home Office (Dustmann et al., 2003) suggested annual migration from other EU member states after the 2004 enlargement of between 5000 and 13000 people per year, but the numbers have vastly exceeded this estimate. EU free movement was a key target for UKIP at the 2014 European elections and at the 2015 general election. One 2014 campaign poster showed an escalator running up the white cliffs of Dover, while another claimed that 26 million unemployed workers in the EU were all planning to move to the UK.

Net migration has been consistently running at above 200000 per year. In 2013, just over 500000 people moved to the UK and just over 300000 left. Of these, 48 per cent were EU citizens, 37 per cent were non-EU citizens and 14 per cent were returning UK citizens. The greatest number came to work (214000), followed by those moving to study (177000). In the year to August 2014, the Office for National Statistics reported that net migration to Britain increased from 175000 to 243000, with two-thirds of this increase attributed to migration from other EU member states (ONS, 2014).

Given its preference for economic liberalization, one option for the UK government could be to embrace free movement because it fits with a broader set of UK governmental preferences for a more liberal, deregulated Europe with freer movement at its heart. Backing away from free movement could also open the door for other member states that want to chip away at free movement for goods, capital and services. Add to this that more than a million UK citizens currently live in another EU member state, enjoying the protection of EU law and the rights extended to EU citizens. Whether they are studying or have retired to the southern European sunshine while still being able to pick up a pension and access healthcare, there may be something intrinsically valuable and progressive about a system of free movement that can guarantee and enforce rights across national borders.

While not embracing free movement, a further set of arguments could focus on the costs – and the likelihood of dashed expectations – of seeking to respond to calls to change EU free-movement rules. The Conservative government elected in 2015 is committed to a renegotiation of UK membership terms, with the outcome put to a referendum to be held by 2017 at the latest. The most feasible options combined tightening of rules governing access to welfare benefits plus tighter restrictions on free movement for

future members. Even seeking to toughen the implementation of existing rules could lead to problems if they were seen as ‘blanket rules’ that could then be challenged in the CJEU.

In 2014, British welfare rules were changed to specify that for EU citizens to obtain ‘worker’ status in the UK they would need to earn at least £150 per week for at least three months in order to qualify for access to child benefits, child tax credits, jobseekers’ allowance and housing benefit. The UK government will also introduce further restrictions, such as prohibiting transfer by EU citizens of child benefits back to their origin countries. These measures target so-called benefits tourism, but will have limited effects on numbers if the main motive for movement is employment rather than access to benefits. In a speech in Berlin on 3 June 2014, Work and Pensions Secretary Iain Duncan Smith called for further restrictions by prohibiting transfer by EU citizens of child benefits back to their origin countries.<sup>6</sup>

Free movement and associated access to the labour market, social benefits and protections has become a key component of contemporary UK immigration politics. UKIP draws much of its support from people whose prime motivation is their opposition to immigration, with their dislike of the EU not too far behind. UKIP’s support comes disproportionately from elderly, male, white and working-class people (Ford and Goodwin, 2014), and can be strongest in areas where the population is predominantly if not overwhelmingly British-born.

EU rules make a major overhaul of EU free-movement regulations highly unlikely, though. It is hard to see the basis for a coalition that could secure the kinds of changes that the UK government seems to want. Even leaving the EU would still mean that the UK was subject to many of these rules as the price to be paid for single-market access. Meanwhile here is a significant pool of support for parties that say the kinds of things that UKIP says.

## Germany

Migration from other EU member states has been a highly contested subject in Germany both in policy debates and more broadly, although without the calls for EU exit that we see in the UK.

A 2011 Ipsos MORI poll found that 51 per cent of Germans were in favour of reintroduction of border controls in the Schengen zone, while 34 per cent of respondents surveyed by the ‘Transatlantic Trends on Immigration’ poll expressed concern about EU internal migration (German Marshall Fund of the United States, 2014: 10).<sup>7</sup> Some observers even claim that if a referendum on the right to freedom of movement for workers were held in Germany, the result would mirror that of the Swiss referendum of 2014 in which voters backed quotas for immigration from EU countries (Brücker, 2014: 176).

These public concerns about intra-EU movement have been used in particular by the Bavarian Christian Social Union (CSU), the sister party of the Christian Democratic Union (CDU) party, to mobilize potential voters. The CSU has been a strong advocate of changes to the EU’s free-movement rules in order to fight what it terms ‘poverty migration’ and ‘welfare tourism’.

In media debate the heavily loaded ideas of a ‘spreading wildfire of welfare fraud’ and

‘freeloading without borders’ (quoted after Castañeda, 2014: 6) have featured prominently. Such scenarios are often associated with Roma groups moving from Central and Eastern European countries to Germany, where they have played a decisive part in shaping the debate on internal EU migration and contribute to a racialized component of the discourse.

These debates do not come as a surprise when it is borne in mind that immigration has been a politically contested topic in Germany for decades. It is, however, the context within which these debates take place that has changed profoundly in recent years. Two interlinked factors are particularly relevant. First, Germany’s immigrant demography has been changing rapidly. In 2013, it was estimated that 400 000 more migrants were entering than leaving the country, a level of net migration not seen since 1993 (Straubhaar, 2014: 164). Over three-quarters of the people migrating to Germany in 2013 were moving within the EEA, which, of course, is a population flow that is largely beyond the control of the German government. While previous migration inflows from non-EU member states were characterized by relatively low education levels, the majority of the new immigrants of working age (25–60) are skilled migrants, including also a significant level of highly skilled individuals (Brücker, 2013: 12). While in the early 1990s only 13 per cent of immigrants held a university degree, this number nearly tripled for immigrants arriving between 2005 and 2009, equating to 37 per cent of the immigrant population and meaning that the tertiary education level for this group is nearly twice as high as for German nationals (19 per cent) (Gathmann et al., 2014: 160). Second, while the nation’s political elites framed Germany as a reluctant immigration country (*Einwanderungsland wider Willen*), this self-image has from the beginning of the 2000s been radically transformed. In line with a European-wide shift (Menz and Caviedes, 2010), German policy-makers sought highly skilled migrants. The result was that the previously dominant perception of immigration as a problem has been partially superseded by a sense of the opportunity afforded by migration. In particular, German political elites warmed to the idea of migration as a means of strengthening economic competitiveness.

These developments have, however, also generated certain dynamics of exclusion. The newly inclusive perspective, in which immigration has been portrayed as a welcome and enriching feature of German society, has been accompanied by a parallel emergence of concepts and ideas about those who are ‘unwanted’ because, for example, of their perceived lack of economic contribution or reliance on welfare benefits. The fact that these debates have to a great extent focused on EU migration can be seen as one indicator of the recent decline in the ‘European vocation’ (Taggart and Szczerbiak, 2013) among Germany’s political elites. To put it differently, these exclusionary dynamics have worked in tandem with increasing Euroscepticism. Taggart and Szczerbiak (2013) observe that politicians in Germany today – particularly younger ones – show a more relaxed attitude to advocating ‘national interests’. This tendency is also reflected by the emergence of the Eurosceptic Alternative für Deutschland (AfD), a party, that has identified EU migration as a problem for the welfare state:

The German welfare state principle is at odds with the right of migrants to freely choose their place of residence as workers, the principle of non-discrimination, as well as the social inclusion of all citizens. In the long term there is the risk that the social services budget will not be able to handle this strain and that the welfare state will disintegrate. (AfD, 2014)

Underlying tensions between national welfare provision and forms of intra-EU migration were already evident back in the 1990s in the form of discussion about ‘posted’ construction workers moving from the UK and Portugal to Germany and undercutting German workers. A ‘Posted Workers’ directive (96/71/EC) sought to equalize the positions of all workers whether posted or not, but underlying tensions remained and were soon reignited in the wake of the EU enlargements in 2004 and 2007 that brought 12 new member states into the Union and led to fears about the consequences of free movement on labour markets, as well as concerns about so-called ‘social dumping’ (the fear on the left) and ‘welfare tourism’ (the fear on the right) (Groenendijk, 2013: 5). The German government was one of the driving forces promulgating a transitional regulation scheme for workers from Central and Eastern Europe in the 2004 accession negotiations. As mentioned before, according to this regulation all members were entitled to enforce national legislation in relation to permission to work for citizens from the new member states instead of instantly applying EU law. This entitlement would last for up to five years from their accession. After this period member states would only be allowed to apply exceptions for an additional two years ‘if they notify the Commission of ‘serious disturbances of the labour market, or the threat thereof’ (EC, 2008: 3). While, as previously noted, the majority of the EU-15 member states put restrictions in place, Germany was one of the few countries that maintained restrictions for the maximum period of seven years until 2011. This closure has led to a significant rerouting of internal migration to the countries with an initially open labour market such as the UK. Once the restrictions for A8<sup>8</sup> nationals as well as for A2<sup>9</sup> nationals were lifted, however, Germany became a magnet for many migrants from the new member states. Employment rates for A8 nationals increased by 17 per cent in 2011 (an increase of 71 000 people) in comparison to the previous year when restrictions were still in place. The proportion of workers from A2 member states doubled in 2014 (an increase of 83 000 people) compared to the previous year, when citizens of these two countries were not eligible for free movement (Statistik der Bundesagentur für Arbeit, 2014). In June 2014, 1.4 per cent of workers in the German labour market were A8 nationals, of which the majority were Polish citizens. The proportion of A2 workers was 0.7 per cent, of which two-thirds were Romanian and one-third Bulgarian.

In the wake of these increased inflows of citizens from the new member states (in particular from Bulgaria and Romania, countries frequently depicted as Europe’s ‘poor-house’),<sup>10</sup> the issue of freedom of movement and its potentially harmful effects on the German welfare state again moved to centre stage. At the same time, the discursive topos of the unwanted, abusing EU migrant as opposed to the qualified migrant has become central in the discourse of the German ruling elites:

We want qualified migrants to work and live in Germany, and feel at home here. We profit from it. But we do not want to keep silent about the fact that there are also people who do not want to work at all or do not want to integrate. We have to distinguish these two [groups] clearly from each other.<sup>11</sup>

German discussions about ‘welfare tourism’ intensified in 2013, shortly before restrictions were lifted for citizens of A2 member states. At the start of that year the German Association of Cities (Deutscher Staedtetag, 2013) published a position paper that gave an alarming assessment of the challenges at local level posed by poverty-related

immigration from Bulgaria and Romania, and the consequent need for local governments to provide emergency accommodation, health services and counselling, concerns that were quickly picked up by leading politicians at national level.

In the 2013 coalition agreement (*Deutschlands Zukunft gestalten*) between the CSU, CDU and the Social Democratic Party (CDU, CSU, SPD, 2013), the ‘unjustified claim of social benefits by EU citizens’ was depicted as jeopardizing public acceptance of EU freedom of movement. As a result, the coalition partners agreed on several measures designed to combat this scenario, including the possibility of bans on re-entry. Somewhat paradoxically, therefore, restrictions on the freedom of movement were portrayed as the way to *save* that same freedom of movement. At the end of 2013, the CSU proposed the campaign slogan: ‘Whoever cheats, leaves’ (*Wer betruegt, fliegt*).<sup>12</sup> Although the slogan proved too controversial for the party to use, it nevertheless spread quickly in the media.

Generally speaking, the national debate did not take note of the fact that migration from the new member states is predominantly migration into the labour market and not into the welfare state (Straubhaar, 2014: 165). According to estimates from 2014, the labour force participation rate among Bulgarian and Romanians was between 74 to 79 per cent (Institut für Arbeitsmarkt und Berufsforschung, 2014). Unemployment, and consequently the receipt of social benefits, is moreover significantly lower among A2 nationals (9.1 per cent) than among the entire foreign population (15.0 per cent) (see *ibid.*).<sup>13</sup>

Notwithstanding evidence that free of movement and the influx of A2 nationals is less of a problem than had been predicted, the issue has remained salient. At the end of 2014 the German Bundesrat eventually passed the proposed changes of the legal framework of free movement,<sup>14</sup> which aim to sanction the abuse of welfare. The measures include re-entry bans in cases of abuses related to the freedom of movement, as well as a restriction of the right of residence for EU job seekers to six months, and also the receipt of child benefits.

The debates as well as the resulting legal actions highlight more than ever the *de facto* limits of the European integration project, or, as Chancellor Merkel emphasized during the 2014 EU election campaign in relation to the freedom of movement debate: ‘The EU is not a Social Union’.<sup>15</sup>

## CONCLUSION

This chapter asked what has happened in the EU where open borders meet national welfare states. Has the outcome been an inevitable Americanization of welfare provision in Europe? In the EU we see a commitment to free movement as a core, founding principle with hugely ambitious aspirations to both democratize the EU and to render it more competitive while at the same time maintaining commitments to social solidarity and cohesion embodied by national welfare states. The result of member states seeking to square this particular circle is the emergence of a potent new political force across the EU combining opposition to free movement and immigration with opposition to the EU. This Euroscepticism takes diverse forms, as the cases of the UK and Germany show, but they both have important implications for the ‘European project’ and pose questions to

which EU leaders have great difficulty responding and leave the EU in a very unstable equilibrium. The EU is committed to free movement and sees the basic principle as non-negotiable. The member states remain committed to forms of social protection associated with the national welfare state and face certain electoral punishment if they back too overtly away from these commitments. Fundamental changes to the EU free-movement framework are almost impossible to attain given the EU's current legal basis. What seems more likely to happen is the toughening of controls on welfare-state access for EU migrants coupled with a much tougher transitional framework for countries joining the EU in the future, such as Serbia, Montenegro and, possibly although not imminently, Turkey. In an EU wracked by economic crisis and political lethargy it seems unlikely that this will be enough to stem the growth in support for Eurosceptic movements that do not resolve the free-movement/welfare dilemma but tap into a fertile seam of support from many of their citizens who feel disillusioned and let down by mainstream political parties and their leaders.

## NOTES

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2. 'EU citizenship: Commission proposed 12 new actions to boost citizen rights', Press Release, Brussels, 8 May 2013, IP/13/410.
3. 'Juncker tells Cameron: you can't destroy EU migration rules', *The Guardian*, 23 October 2014, <http://www.theguardian.com/world/2014/oct/23/juncker-tells-america-cant-destroy-eu-migration-rules>, last retrieved 20 April 2015.
4. The net fiscal impact of an individual migrant depends on the person's age, education and duration of stay. In order to make a comprehensive evaluation, generational data (i.e. generational balances) also have to be taken into account. This is a factor, however, that many studies ignore. For a discussion see Hinte and Zimmermann (2014).
5. 'UKIP and Cameron's war of words', BBC News, 4 April 2006, [http://news.bbc.co.uk/1/hi/uk\\_politics/4875502.stm](http://news.bbc.co.uk/1/hi/uk_politics/4875502.stm), last retrieved 20 April 2015.
6. 'UK calls for welfare restrictions after EU election results', *EU Observer*, 4 June 2014, <https://euobserver.com/social/124463>, last retrieved 20 April 2015.
7. Concern about migration from outside the EU is considerably higher, though (51 per cent).
8. Member states that joined in 2004.
9. Member states that joined in 2007.
10. 'Streit um Armutszuwanderung', *Sueddeutsche Zeitung*, 27 May 2013. <http://www.sueddeutsche.de/politik/streit-um-armutzuwanderung-eu-bremst-wahlkaempfer-friedrich-aus-1.1682016>, last retrieved 20 April 2015.
11. 'Tauber: Debatte ueber Zuwanderung wichtig', <http://www.cdu.de/artikel/tauber-debatte-ueber-zuwanderung-wichtig>, last retrieved 20 April 2015.
12. 'CSU plant Offensive gegen Armutsmigranten', *Sueddeutsche Zeitung*, 28 December 2013. <http://www.sueddeutsche.de/politik/wegen-bulgarien-und-rumaenien-csu-plant-offensive-gegen-armutsmigranten-1.1852159>, last retrieved 20 April 2014.
13. A factor, rarely debated, is, moreover, a significant gap between unemployment rates and consequent reliance on social benefits between citizens from Bulgaria and Romania. While Romanian nationals in June 2014 exhibited an unemployment rate of 6.3 per cent, this rate was twice as high for Bulgarian nationals (14.3 per cent) (Institut für Arbeitsmarkt und Berufsforschung, 2014: 3).
14. <http://dip21.bundestag.de/dip21/btd/18/025/1802581.pdf>, retrieved 12 December 2014.
15. 'Debatte über Missbrauch von Leistungen Merkel will "keine Sozialunion"'. FAZ, 22 May 2014. <http://www.faz.net/aktuell/wirtschaft/wirtschaftspolitik/sozialmissbrauch-merkel-sagt-die-eu-sei-keine-sozialunion-12952540.html>, last retrieved 17 April 2015.

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