

Reaping the benefits? Social security coordination for mobile EU citizens

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EXECUTIVE SUMMARY

The European Union (EU) social security rules seek to enable people to move within EU countries without losing their benefits, while reducing opportunities to game the system by collecting benefits in multiple locations. However, since Member States have developed different social models as a result of their specific histories, coordinating these diverse national systems into a single set of common social security rules has been tricky.

The current rules—especially on residence-based benefits and on the treatment of EU nationals who constitute a drain on resources—are neither well understood nor well liked, and implementation by Member States has been patchy. Amongst the public, perceptions of unfairness—from granting newcomers benefits to rewarding strategic, benefit-maximising behaviour—abound, jeopardising support both for free movement and for the welfare state.

It is important to put debates on social security to rest in order to focus on the bigger questions.

Improving fairness, clarity, and public support is a tall order. Options range from imposing a minimum length of residence before accessing certain residence-based benefits to clarifying the rules on what Member States can do with EU citizens who have lost their residence rights. While none of these options are perfect, even small concessions from the European Commission could provide an opportunity to showcase the elements of the system that do work. Welfare states face much greater challenges on the horizon — from ageing populations to the long-term effects of a generation of youth unable to get a foothold in the labour market. It is important to put debates on social security to rest in order to focus on the bigger questions.

I. INTRODUCTION

Free movement—the right of EU citizens to travel and move within the European Union—yields a host of economic, cultural, and social benefits. The mobility of workers may alleviate unemployment and labour shortages; the movement of students may enable European universities to strengthen their international standing; and the right to move for love, lifestyle, or retirement is close to the hearts of many Europeans.

The smooth operation of this system requires that movers neither lose nor gain social benefits as a result of their move. But social security coordination in the European Union is controversial and complex. Critics have complained about ‘benefits tourism’—the act of moving in order to exploit favourable benefits and public services—since the Union accepted its first eastern European members in 2004. These debates have been rekindled, especially in northern Europe, in light of the upcoming expiration of transitional arrangements for Bulgarians and Romanians that delayed their unfettered access to EU labour markets. As a condition of EU enlargement, existing Member States are permitted to restrict access to benefits and the labour market for the European Union’s newest members during a transitional period of seven years. This period will expire for Bulgaria and Romania at year’s end.

Social security coordination in the European Union is controversial and complex.

EU law requires that EU nationals do not ‘unreasonably burden’ the welfare systems of Member States, but an ‘unreasonable burden’ is not defined, nor are there provisions for what to do in such cases. As a result, implementation is patchy: some Member States have exploited grey areas to justify profiling and discrimination of vulnerable groups (such as the Roma); others have attracted fierce criticism from the European Commission for erecting barriers to mobility at a time when the economic benefits of labour circulation are especially critical.

This policy brief analyses how the social security coordination system works—and how it does not. It discusses official complaints raised by Member States, and the underlying malaises behind these objections. Given this public disenchantment, the brief explains how the deficiencies of the EU social security system undermine public confidence in both free movement and the welfare state, and presents options for improving fairness and confidence. It concludes by evaluating

the social security debate in light of Europe’s pressing economic and demographic issues more broadly.

II. THE SOCIAL SECURITY COORDINATION SYSTEM

The right to move to another European country is the most cherished facet of EU citizenship.¹ EU citizens have the right to stay in another country for up to three months without registration or restriction, and reside indefinitely provided they are actively seeking work or financially self-sufficient. The same free movement rights also apply to their family members, even if these dependents are from outside the European Union (an additional source of contention that is beyond the scope of this brief).

The system of social security coordination is at the heart of intra-EU mobility. It seeks to ensure EU citizens are not penalised by losing benefits and entitlements as a result of moving. But it faces a critical challenge: European countries have evolved different social models—e.g. tax rates, levels of social spending, social transfers, and social services—that do not easily fit together.² In particular, some Member States rely more heavily on benefits that are based on contributions or earnings; others offer universal or residence-based benefits. A social security system that coordinates rather than harmonises these social models generates two opposite risks: that movers fall through the cracks and lose their benefits or that they end up with double entitlements.

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Another aim of social security coordination is to *incentivise* mobility as a tool for stimulating economic growth. While it is doubtful that intra-EU migrants base their decision to move on benefits—most people move for jobs or family—access to benefits can make migration less risky or cumbersome, adding to the overall climate of welcome in a new country. To that end, social security coordination can be seen as the oil in the free movement mechanism—helping along the process, but not driving people to move. The flip side of this relative ease of claiming benefits in multiple states is that it may generate incentives to game the system, for example by maintaining dual addresses.

Four overarching principles of EU law seek to prevent mobile EU nationals from losing benefits they have accrued, while reducing opportunities to exploit the system:³

- ▶ **Nonduplication.** Mobile EU citizens are only covered by one country at a time.
- ▶ **Nondiscrimination.** Mobile EU citizens have the same rights and obligations as nationals (unless there is a compelling reason to deviate from this principle).
- ▶ **Aggregation.** Periods worked in other EU countries count towards contributory benefits.
- ▶ **Exportability.** Mobile EU citizens can take benefits they have earned with them when they move.

Taken together, these principles equate to different prescriptions for different types of benefits.

- ▶ **Contributory benefits** such as contribution-based pensions, disability, and unemployment benefits. The principle of aggregation means that mobile EU nationals are entitled to payments based on contributions made in any EU country.⁴
- ▶ **Noncontributory benefits** including out-of-work benefits such as means-tested social assistance and universal benefits such as support for children. Mobile EU nationals with a right to residency—meaning they are self-sufficient or have a genuine link to the local labour market⁵—are generally entitled to these so long as they do not become an ‘unreasonable burden’ on public resources. An important exception is that jobseekers are not entitled to social assistance (although this term is contested).

- ▶ **Special noncontributory benefits (SNCBs)**, such as means-tested pension top-ups (to bring contributory pensions up to a minimum level of subsistence) and disability supplements. A special system was created in 1992 to prevent Member States having to export these benefits. Since the principle of nondiscrimination prevents states from restricting these benefits to citizens, EU nationals are eligible in their country of habitual residence.

While Table 1 summarises how the legislation applies to different groups of EU nationals and their families, many of these definitions are contested. For example, what counts as ‘social assistance’, (which is a benefit that Member States are not obliged to provide)? The European Court of Justice ruled that Germany must grant means-tested unemployment benefit to jobseekers with ‘genuine links with the labour market’, as this did not constitute social assistance.⁶ Meanwhile, the European Commission has launched infraction proceedings against the United Kingdom for restricting pension supplements, housing benefits, council tax benefits, and child tax credits to those with a *right of residence* (i.e., jobseekers or the self-sufficient) as well as those with *habitual residence*—a stance that the United Kingdom justifies in part because it sees these benefits as approximating social assistance as it is designated elsewhere.⁷

Table I. Rights to residence and benefits of EU nationals

Length of residence and employment category	Right of residence	Noncontributory benefits (e.g. social assistance, means-tested unemployment, child benefit)	Contributory benefits (e.g. pensions, unemployment)	Special noncontributory benefits (e.g. pension top-ups)	Medical benefits
Less than three months.	Unconditional, for up to three months.	Host state not obliged (but allowed) to grant.	Unemployment benefit paid by last country.	Dependent on 'habitual residence' (so unlikely to meet requirement).	Health care reimbursed by home country (with European Health Insurance Card).
More than three months; jobseekers.	Dependent on genuine chance of employment; expulsion only allowed 'on grounds of public policy or public security'.	Dependent on genuine chance of employment (but host country is not obliged to grant 'social assistance').	Based on contributions in all Member States; paid by country of residence.	Dependent on 'habitual residence'.	Required to register in either state or private health care in country of residence.
More than three months; economically inactive (including students, pensioners, and the disabled).	Dependent on self-sufficiency and having 'comprehensive sickness cover'.	Eligible to apply, but may lose right of residence as a result (can be expelled if unreasonable burden).	Based on contributions in all Member States; administered by country of residence.	Dependent on 'habitual residence', but can be expelled if unreasonable burden.	Must have 'comprehensive sickness cover' in order to retain right of residence.
More than three months; workers.	Dependent on employment or seeking work; expulsion only allowed 'on grounds of public policy or public security'.	Dependent on employment; retain eligibility (worker status) indefinitely if unemployed after working for over one year; retain for six months if working less than one year.	Based on contributions in all Member States; administered by country of residence.	Dependent on habitual residence.	Required to register for either state or private health-care in country of residence.
More than five years.	Unconditional.	As nationals.	As nationals.	As nationals.	As nationals.

Source: Author's analysis based on EU Directive 2004/38 and European Court of Justice case law.

Another major source of contention is what constitutes an 'unreasonable burden' on the public purse. For example, do retirees in Spain who own property but have no income count as a burden on the state if they are unable to sell their property in the current economic slump? EU law does not define this term or give details of the appropriate response to an unreasonable burden (except to make clear that jobseekers cannot be expelled except for reasons of public policy or security, such as committing a serious offence).⁸ Nevertheless, some countries have developed rules for deporting people who claim social assistance. For example, the Netherlands has a sliding scale that triggers an expulsion order depending

on the length of the claim and how long the claimant has been a resident.⁹

These debates came to a head when, in April 2013, the Home Affairs ministers of Austria, Germany, the Netherlands, and the United Kingdom requested the Commission review the social security legislation.¹⁰ Their complaints ranged from limited sanctions to deal with fraud to pressures on public services and national welfare states. The next section examines the main complaints and the extent to which they are justified.

III. CHALLENGES AND CONTROVERSIES

The central criticism is that free movement enables and encourages immigrants to tap into benefits systems. Critics have long argued that significant income differentials within the European Union could distort the labour market and welfare systems of western European states. The present debate has coalesced around two populist phrases: ‘poverty migration’ (in Germany) and ‘benefits tourism’ (in the United Kingdom).

A. *The ‘benefits tourism’ claim*

In fact, there is no systematic evidence that EU citizens move for benefits. While allegations of ‘benefits tourism’ and fears that states might be ‘welfare magnets’ have attracted great scrutiny, the debate on the exploitation of benefits has rarely drawn comprehensively on evidence. Economists suggest that the greatest economic gains from intra-EU mobility come when individuals move to escape unemployment and fill labour shortages; in comparison, the gains of moving to a country that offers marginally better benefits are quite small.

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A few studies have looked at whether different countries exert a greater pull because of their benefits systems. For example, a comparative study of 19 countries during the 1993 to 2008 period found no link between unemployment benefit spending and increased immigration flows within the European Union or elsewhere.¹¹

Another study considered whether EU nationals are more likely than other immigrants to be inactive or unemployed. A recent report commissioned by the Directorate-General of Employment, Social Affairs, and Inclusion found that out-of-work (inactive or unemployed) EU migrants accounted for a tiny share (between 0.7 and 1 per cent) of the total EU population, and that the vast majority of EU migrants lived in economically active households.¹² The media reception to this study—especially in the United Kingdom—shows how far from the evidence this debate often sits. For example, an article by *The Telegraph* conflated the broader category of being out of work (for a number of reasons including retirement, study, or caring) with unemployment.¹³

B. *Opportunities for fraud*

A second complaint is that the system provides opportunities for fraud. Because the rules confer generous benefits on the spouses of EU nationals, critics worry that it might encourage marriages of convenience.¹⁴ Alternatively, moving between countries could provide opportunities to maintain ‘addresses of convenience’. Such fraudulent behaviour by eastern Europeans in western Europe has attracted some—mostly anecdotal—evidence.¹⁵ But in fact, the fraudulent behaviour of western Europeans may be just as prevalent: fraud committed by UK retirees in Spain is thought to be so prevalent that it has earned a nickname, ‘grey abuse’.¹⁶ In all cases, sanctions are meagre, and both detection and enforcement are difficult. Expulsion as a means for dealing with benefit fraud lacks teeth, since EU citizens have the right to return the next day. And limiting benefits for free movers in blanket fashion, as a knee-jerk response, is akin to taking a hammer to a mosquito.

C. *A broken system*

For other critics of the system of free movement, the problem is not rule-breakers but the rules themselves. The European Union’s coordination rules for social security rely on some artificial assumptions: that there is a common EU-wide labour market and reciprocal advantages to extending benefits to mobile EU nationals, because every Member State sends as many people as it receives. In reality, salary levels and economic prospects differ substantially across the European Union, creating asymmetrical incentives to move. Therefore, some states attract more immigrants than others, and must front a greater portion of the costs. Economists counter that EU nationals pay more in taxes than they take out of the system, and that the economic benefits of free movement—including taxes and

economic growth—are captured by western European (i.e. receiving) countries.¹⁷ But even if the overall economic impact is positive for Member States, the system is open to criticism that its burdens are distributed unfairly. Movement within the European Union can generate additional costs and challenges for localities, from translation to school places and hospital beds.

D. *Does intra-EU mobility challenge the welfare state?*

In some countries, these concerns have exacerbated public anxiety about immigration. Even in countries where third-country nationals, and in particular Muslims, have accounted for most public anxiety about immigration, the picture has started to shift. For example, websites encouraging citizens to denounce Polish and Romanian workers have been set up in Belgium and the Netherlands, the UK government has launched a balance of competences review into freedom of movement (while promising an in-out referendum on EU membership), and the French government continues to threaten to dismantle Roma encampments and deport Bulgarians and Romanians.

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While the European Commission designates EU nationals living abroad as ‘mobile citizens’, more often than not, people do not differentiate between EU and third-country nationals, perceiving both as foreigners. As such, the EU social security system is seen as granting newly arrived *immigrants* the benefits of citizenship—a major challenge to the traditional welfare-state model.

Support for the welfare state depends on public perception that the rules are fair and clear. As such, the EU social security system tests public support for welfare systems in a number of ways:

1. **Immediate access for newcomers.** Publics often express concern about the burden of supporting newcomers, who can be perceived as not having paid enough into the public purse. Many countries are facing large-scale cuts to public services and welfare reforms; in these debates the ‘newly arrived’ may be seen as the undeserving.

2. **Absence of ‘civic glue’ at the European level.** Rules imposed by Brussels may be seen as threatening the national ideologies that underpin different social models. At the same time, the ‘civic glue’ that might fill the gap in shoring up support is largely absent at the European level: EU citizens do not, on the whole, feel European above all else.
3. **Rewards for the strategic.** Moving between different countries can create opportunities to ‘pick and choose’ the most favourable benefits in different countries. For some, these opportunities violate the social contract as they reward the strategic.
4. **Lack of clarity.** The rules are unclear, with many vague definitions, grey areas, and gaps. It is difficult for the European Commission and Member States to make the case for the reciprocal advantages of free movement when so many aspects of the social security system remain unresolved.

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The EU-wide social security system strains public support both for free movement and for welfare states. A major unresolved question is whether this wariness—which is particularly pronounced in an uncertain economic climate—will abate once new EU Member States have been part of the European Union for a longer period of time, and once European publics have a chance to adjust to changing demographics and economic realities. Is the correct response simply to wait for the new EU nationals to feel more European to the rest of Europe? Or is the malaise deeper, indicating that free movement may simply be incompatible with social rights in democratic states?

IV. POLICY OPTIONS

Improving clarity and fairness in the social security coordination system—while shoring up public confidence in free movement as a whole—is a tall order. Concessions from Brussels are unlikely to solve all of the challenges outlined above, but they could provide an opportunity to showcase the parts of the system that work well yet are misunderstood. Recent proposals from the Commission include combatting marriages of convenience and clarifying the concept of habitual residence.¹⁸ While these moves are sensible, more substantive concessions might be neces-

sary to reduce the risk that some Member States (namely, the United Kingdom) quit free movement entirely.¹⁹ These concessions could take two main forms: allowing states to restrict migrants' access to benefits, or making it easier for countries to encourage EU nationals to leave.

A. *Restricting access to benefits*

Reforms to limit EU nationals' entitlements to residence-based, noncontributory benefits could improve public confidence, reduce fraud, and deter 'benefits tourists' (to the extent they exist).

There are a number of options:

- ▶ **Limiting residence-based benefits for all but permanent residents.** This would be the most straightforward option and could have significant political appeal. But it would also be a setback for the European project: such a move would essentially devalue EU citizenship by abandoning the principle of nondiscrimination, which requires the equal treatment of all individuals regardless of nationality. Furthermore, without social security benefits, some jobseekers—especially the low-skilled—could be deterred from filling labour market needs in other countries for fear of losing their safety net.
- ▶ **Making residence-based benefits conditional on a right of residence.** In line with the United Kingdom's approach, tying benefits to a right of residency would mean benefits could be refused to the economically inactive as well as jobseekers who were not complying with employment service requirements. Some vulnerable individuals—such as lone parents and struggling pensioners—with strong ties in the country could lose benefits; while all those looking for work or those who had been employed would be unaffected, regardless of when they arrived.²⁰
- ▶ **Increasing the time period for residence-based benefits.** A minimum time period flies in the face of European law, which states that habitual residence is a matter of personal circumstances. But it could enhance clarity and public support of a system where many people think newcomers are eligible for all benefits. While there is a strong policy case for clarifying the rules and imposing a minimum time period before EU movers are eligible for certain benefits, establishing the right time period is likely to be a matter of political compromise. Six months would fit well with new provisions on unemployment benefit, but could be too short to mollify northern Member States.²¹

With each of these options, sending countries would have to consider whether they should extend residence-based benefits to their citizens abroad. Choosing to do so could be expensive and difficult to administer; choosing not to do so could anger expat communities and leave many EU citizens vulnerable. Meanwhile, receiving countries would still face the challenge of determining the appropriate policy response for EU nationals who are out of work and destitute.²²

B. *Introducing a cost-compensation mechanism*

Countries of origin could pay countries of residence for any costs associated with mobile EU citizens. EU legislation provides some precedent for this: the health-care system is based on a similar mechanism of reimbursement. As of 2013, EU nationals are eligible to move in order to receive the treatment of their choosing, and be reimbursed for the care (or, in some cases, the country in which they receive care can seek reimbursement).²³ But some fear that such a system would impose significant financial burdens on countries of origin. Critics also say that it would privilege the mobile elite, who can seek health care wherever the system suits. Similar objections could be raised in relation to a mobility cost mechanism: it would be extremely expensive for the poorer countries to compensate richer ones for the benefits claimed by their mobile citizens abroad, when standards of living diverge significantly.

C. *Improving options for return*

Encouraging EU nationals to leave the country may be more humane than simply cutting off benefits, which can leave the vulnerable without support, undermine social cohesion, and generate costs for local authorities and charities. Making assisted return an easier and more attractive option could have a number of positive benefits, from reassuring the public that EU nationals were not moving to exploit benefits systems, to helping those who have found it difficult to thrive in new labour markets resettle in their country of origin or elsewhere. A number of elements would be essential for this approach to work:

Clarify the rules on deportation. Deportation should be a last resort. But at present, EU law does not make it clear when this last resort is possible (only when it is impossible). The legislation could be amended to clarify who can be returned and what support sending and receiving countries should provide. In particular, the legislation should

articulate a length of time for residence in a country and drawing social benefits before deportation is a possibility.

- ▶ **Require countries to link denial of benefits to mobility advice.** To further the aim of promoting labour mobility, countries could be required to link any denial of benefits to mobility advice on next-steps, provide information about labour shortages and opportunities in other countries, and offer resources to move back to their country of origin or elsewhere.
- ▶ **Provide support for assisted return and moves.** Support for movers takes three forms: information about opportunities, intensive training (from employment coaching to alcohol or treatment services), and support for travel and set-up costs. A ‘mobility fund’ paid for with European Social Fund money could be a relatively inexpensive way to provide these, while remaining true to the fundamental right to free movement—in fact strengthening it.

V. CONCLUSIONS

The European Commission should consider clarifying the rules on eligibility for some residence-based benefits—including relaxing Member States’ responsibilities within the first months of residence—and on deportation. If assisted return were handled delicately, with provisions for advice about opportunities elsewhere and financial support, it could become a dignified option, rather than a last resort possible only through a contested grey area of EU law.

The European Commission should consider clarifying the rules on eligibility for some residence-based benefits.

While EU nationals have a strong stake in a fair system, these debates could be seen as fiddling while Rome burns. Welfare states face major challenges on the horizon, from ageing populations to a generation of youth who may never gain a foothold in the labour market—and clearly the benefits system is not the right tool for dealing with these greater economic challenges. To meet these challenges and stay competitive, Europe will need to recruit skills from outside the region, not just from within. Free movement is a critical tool in generating economic growth, but to the extent that it uses up Member States ‘immigration capital’ (what they can sell to their publics) and prevents the case being made for immigration from outside the European Union, it may become a double-edged sword.

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As these challenges unfold, the portability of benefits will become a hot topic for skilled workers from within and outside the European Union. A system that secures public confidence is vital; so is one that attracts talent. How benefits systems (and the broader social climate) play into the decision-making calculus of highly skilled workers is worthy of further thought and study.

ACKNOWLEDGMENTS

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ENDNOTES

- 1 According to a recent Eurobarometer report, 48 per cent of European citizens cite European Union (EU) citizenship as the most important right. European Ombudsman, ‘Special Eurobarometer: Right to Move and Reside Freely in the EU and Right to Good Administration are the Most Important Citizens’ Rights’, (press release no. 14, 7 July 2011), www.ombudsman.europa.eu/en/press/release.faces/en/10666/html.bookmark.
- 2 As David Bloom explains, ‘social security is not only a matter of access to legally defined benefits and rights, it is about shared values and goals and how these influence the choices societies make in allocating their finite resources to different population groups and cohorts.’ David E. Bloom, ‘Social Security and the Challenge of Demographic Change’, *International Social Security Review* 63, nos. 3-4 (2010): 3-21. Compare, for example, the highly redistributive, universalistic welfare provision of Scandinavia and the Netherlands; the tax-funded spending on universal services with social assistance as a last-resort approach of Anglo-Saxon countries; the insurance-based, earnings-related support of Continental countries, and the high pensions spending of Mediterranean countries. For a discussion of these ideal-types, see, e.g., André Sapir, ‘Globalization and the Reform of European Social Models’, *Journal of Common Market Studies* 44, no. 2 (2006): 369-90.
- 3 European Commission, ‘Employment, Social Affairs & Inclusion: What is Coordination?’ <http://ec.europa.eu/social/main.jsp?langId=en&catId=850>.
- 4 In the case of pensions, each of the countries where someone has contributed funds shares the responsibility. In the case of unemployment benefits, institutions must take into account periods worked in other EU countries.
- 5 Broadly, a genuine link to the local labour market means being in work, having been in work, or genuinely seeking work in the local labour market. For an overview of recent case law interpreting European Parliament Directive 2004/038 (Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States), see Filip Van Overmeiren, Eberhard Eichenhofer, and Herwig Verschueren, *Social Security Coverage of Non-Active Persons Moving to Another Member State* (Ghent, Belgium: Training and Reporting on European Security, 2011), www.tress-network.org/EUROPEAN%20RESOURCES/EUROPEANREPORT/TRESS_AnalyticalReport-NonActives_FINAL.pdf.
- 6 *Athanasios Vatsouras and Josif Koupatantze v. ARGE Nürnberg 900*, Case C-22/08 and C/23/08 (European Court of Justice, 4 June 2009), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62008J0022:EN:HTML>.
- 7 Partly as a result of this dispute, the United Kingdom has launched consultation proceedings on free movement and social security, due to be published imminently. See Department for Work & Pensions, Home Office, and Foreign & Commonwealth Office, ‘Government Launches Balance of Competences Review of the Free Movement of Persons,’ (press release, 16 May 2003), www.gov.uk/government/news/government-launches-balance-of-competences-review-on-the-free-movement-of-persons.
- 8 Article 14(3) of Directive 2004/38/EC clarifies, ‘An expulsion measure shall not be the automatic consequence of a Union citizens’ or his or her family member’s recourse to the social assistance system of the host measure state’. European Parliament and Council of the European Union, ‘Directive 2004/38/EC of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States’, 29 April 2004, EUR-Lex, L 158/77, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:158:0077:0123:en:PDF>.
- 9 See Paul Minderhoud, ‘Directive 2004/38 and access to social assistance benefits’, *Journal of Social Security Law* 18, no. 4 (2011): 153-66.
- 10 Letter to the Irish Presidency of the Council of the European Union, addressed to Alan Shatter, Minister for Justice and Equality and President of the European Council for Justice and Home Affairs; from Johanna Mikl-Leitner, Federal Minister of the Interior, Austria; Hans Peter Friedrich, Federal Minister of the Interior, Germany; Fred Teeven, Minister for Immigration, the Netherlands; and Theresa May, Secretary of State for the Home Department (April 2013), accessed 29 October 2013, http://webcache.googleusercontent.com/search?q=cache:http://docs.dpaq.de/3604-130415_letter_to_presidency_final_1_2.pdf.

- 11 Corrado Giulietti, Martin Guzi, Martin Kahanec, and Klaus F. Zimmermann, ‘Unemployment Benefits and Immigration: Evidence from the EU’ (IZA Discussion Paper no. 6075, Institute for the Study of Labor [IZA], Bonn, Germany), <http://ftp.iza.org/dp6075.pdf>.
- 12 Carmen Juravle, Tina Weber, Emanuela Canetta, Elena Fries Tersch, and Martina Kadunc, *Fact Finding Analysis on the Impact of Member States’ Social Security Systems of the Entitlements of Non-Active Intra-EU Migrants to Special Non-Contributory Cash Benefits and Healthcare Granted on the Basis of Residence* (London: ICF GHK, 2013), http://ec.europa.eu/employment_social/empl_portal/facebook/20131014%20GHK%20study%20web_EU%20migration.pdf.
- 13 Robert Mendick and Claire Duffin, ‘True Scale of European Immigration’, *The Telegraph*, 12 October, 2013, www.telegraph.co.uk/news/worldnews/europe/10375358/True-scale-of-European-immigration.html.
- 14 For example, in Ireland there have been several investigations into Pakistani men marrying Eastern European women. The Minister of Justice in Ireland estimates that 30 per cent of applications for recognition through marriage to an EU citizen involve persons who were illegally present in Ireland or were on a temporary or limited permission when making their applications. Department of Justice, Equality, and Law Reform, ‘Written Answers’, 19 January 2010, accessed 9 October 2013, www.kildarestreet.com/wrans/?id=2010-01-19.2223.0&s=marriage+convenience#g2225.0.r.
- 15 For example, in a recent survey Austrian authorities reported an increase in claims for pension supplements from people who did not previously have ties with the country. Van Overmeiren, Eichenhofer, and Verschueren, *Social Security Coverage of Non-Active Persons Moving to Another Member State*.
- 16 Keleigh Coldron and Louise Ackers, ‘(Ab)Using European Citizenship? EU Retired Migrants and the Exercise of Healthcare Rights’, *Maastricht Journal of European and Comparative Law* 14, no. 3 (2007): 287-302.
- 17 For an overview of the evidence, see Meghan Benton and Milica Petrovic, *How Free is Free Movement? Dynamics and Drivers of Mobility Within the European Union* (Brussels: Migration Policy Institute Europe, 2013), www.migrationpolicy.org/pubs/MPIEurope-FreeMovement-Drivers.pdf.
- 18 Ibid.
- 19 The European Commission recently enlisted the organisation trESS (Training and Reporting on European Social Security) to report on the care and social security systems. At a recent meeting of the Justice and Home Affairs Committee, the Commission presented its interim report on free movement recommending a handbook to combat marriages of convenience, clarifying ‘habitual residence’, and investigating the impact on local authorities. The full report is due in December 2013. Council of the European Union, Press Release, 3260th Justice and Home Affairs Council Meeting, 7-8 October 2013, Luxembourg, 10461/13: 10, www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/jha/138925.pdf.
- 20 Open Europe recently suggested that a right of residence should be a condition for drawing on all benefits—and that jobseekers should lose their right of residence unless they have been in work. See Open Europe, ‘Submission to the UK Government’s Balance of Competence Review: Free Movement of Persons’, July 2013, www.openeurope.org.uk/Content/Documents/130726_BoC_Open_Europe_submission_-_Free_Movement_of_Persons.pdf.
- 21 There are some precedents for this: currently, EU nationals receive unemployment benefits from their state of origin (or last-worked state) for the first three months, and the European Commission has announced plans to extend this period to six months. Moreover, at present there is some confusion over whether EU nationals are eligible for noncontributory special benefits in their first three months of residence; one proposal recommended by trESS as reported in Van Overmeiren, Eichenhofer, and Verschueren, *Social Security Coverage of Non-Active Persons Moving to Another Member State* (a report under consideration by the Commission), would be to make clear that they are not.
- 22 Evidence from the United Kingdom and Ireland suggests that restricting access to benefits alone does not encourage people to return home but can lead to homelessness and destitution. See European Federation of National Organisations working with the Homeless (FEANTSA), ‘Spring 2013- Free Movement and Homelessness’, accessed 9 October 2013, <http://feantsa.org/spip.php?article1363&lang=en>. As the AIRE Centre puts it, ‘EU law on the free movement of persons does not foresee EU migrants who have been exercising residence rights in the UK being left destitute here when British Citizens in the same circumstances would get support’. AIRE Centre, ‘UK Supreme Court Judgment in Patmalniece’, (news release, 21 March 2011), www.airecentre.org/news.php/18/uk-supreme-court-judgment-in-patmalniece.
- 23 European Commission, ‘Employment, Social Affairs & Inclusion: Planned medical treatment’, accessed 9 October 2013, <http://ec.europa.eu/social/main.jsp?catId=569>.

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