

**Simola, Anna (2020) “EU citizenship as precarious status for precarious workers: Implications of national policies restricting EU citizens’ rights for young university-educated EU migrants in Brussels”. In: Mantu, S., Minderhoud, P. & Guild, E. (eds.) *EU citizenship and Free Movement Rights: Taking Supranational Citizenship Seriously*. Nijhoff, Brill: 190–214.**

**EU citizenship as precarious status for precarious workers: Implications of national policies restricting EU citizens’ rights for young university-educated EU migrants in Brussels**

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Key words: administrative discretion, conditionality, freedom of movement, legal status, precarious employment, social security, young EU migrants

#### **Abstract:**

Several EU countries have recently restricted the conditions of social entitlements for non-national EU citizens residing in their territory. In some of these countries, access to entitlements has been limited primarily by restricting access to legal residence on the basis of paid work and/or economic independence. These practices are prone to affect not only ‘economically inactive’ EU citizens, but also EU migrants in precarious work positions. The purpose of this chapter is to examine the implications of these policies for university-educated EU citizens who, despite their qualifications, faced multiple disadvantages in the labour market after moving to Brussels. The analysis highlights how their lives and employment paths were shaped by the policies and administrative practices in Belgium that restricted their access to secure legal status and social rights. The chapter claims that these policies produce notably different experiences of free movement among EU citizens, variegating both opportunities and outcomes of mobility. Certain young EU migrants more than others are forced to give up their mobility projects, accept protracted dependency on their families and their partners, or get by in the new labour markets carrying the risk of migration themselves.

## **1. Introduction**

Several EU countries have recently adopted increasingly restrictive policies and administrative practices that reinforce the conditionality in EU migrants' access to rights associated with EU citizenship and raise barriers to that access (Bruzelius, 2019; Pennings and Seeleib-Keiser, 2018). Popular and political pressure to re-establish control over national borders, labour markets and welfare systems is growing in different parts of Europe, and also the Court of Justice of the European Union (ECJ) has adjusted its case law away from protection of equal treatment of all citizens towards an interpretation that emphasises legal residence as the new 'cornerstone' in EU migrants' access to social rights in other Union Member States (Dougan, 2016; Jacqueson, 2018). Consequently, while many EU countries have restricted the conditions of social entitlements for EU migrants, in countries like Sweden and Belgium, access to entitlements has been limited primarily by restricting their access to legal residence on the basis of paid work or economic independence (Bruzelius, 2019; Shutes, 2016; Simola, 2018). In her article mapping a series of recent ECJ judgments and their application on the national level, O'Brien (2016: 941) argues that these developments are resulting in genuinely free movement and equal treatment becoming the preserve of privileged migrants in secure, regular, full-time, and permanent work, who are accorded much greater safety in the free movement framework than those in lower-paid and less secure jobs. The restrictions may therefore have particularly detrimental effects on the everyday lives of EU migrants in precarious work positions (Alberti, 2016; Dwyer et al. 2018; O'Brien, 2016; Simola, 2018).

This chapter examines the consequences of these policies and practices on the lives and careers of young, university-educated EU citizens who, despite their qualifications, faced many disadvantages in the world of work and therefore became subject to these policies after moving to Brussels. It

presents results from a qualitative study building on interviews with young migrants from the strongly divergent economic and welfare state environments of Southern Europe and Nordic countries. These regions differ not only in terms of labour market condition for young workers, but also significantly in how much the welfare systems in these regions render young people dependent on their families in moments of need (Saraceno, 2016). This data thus allows us to take into account the policies of young migrants' countries of origin, which may become critical when they face restricted access to social security entitlements in their destination countries.

The chapter will first discuss the previous literature on the legal-administrative context of the restrictive policies, as well as the factors channeling young educated EU migrants into precarious work in the institutionally embedded labour markets. Subsequently, after presenting data and methods, the empirical section highlights how young, qualified EU migrants' lives and labour market positions may be critically conditioned by the Member States' policies that enforce restrictive work-related conditionality on EU citizens access to social security and the way in which these policies interact with conditions imposed on welfare applicants more generally. The analysis shows that making EU citizens' rights to welfare state protection and legal residence conditional on their ability to obtain stable, good quality employment variegates both opportunities and outcomes of free mobility.

## **2. Restrictive conditionality, definition of “work” and administrative discretion on EU migrants' rights**

As Dougan (2016) notes, it is not always easy to distinguish attempts to restrict welfare support, especially for migrants, from the more general agenda to ‘modernise’ national welfare systems. This is particularly challenging with regard to mobile EU citizens, given their ambiguous position

as ‘citizen migrants’, whose social rights are complexly ‘nested’ on sub-state, state, inter-state and supra-state levels (Faist, 2001: 46). Yet, as Shutes (2016) argues, focusing on how work-related conditionality is increasing on various fronts can help us to move beyond the citizen-migrant binary in this context.

Since the 1990s, the European welfare states have, to varying degrees, reduced their role in mitigating the risks that citizens face in the market through social rights that enhance the equality of all citizens (Schierup, Hansen, Castles, 2006). Reformed social security schemes across Europe increasingly emphasise citizens’ responsibility, contributions and conditionality of entitlements – as do recent policies towards EU migrants (Evers and Guillemard, 2012; Shutes, 2016). Clasen and Clegg (2007) distinguish between different types of conditions that govern an individual’s access to social security: conditions related to membership of a defined *category* of entitlement holders; conditions related to *conditions* i.e. eligibility and entitlement criteria; and conditions related to *conduct* i.e. behavioral requirements imposed on benefit recipients, such as active job searching. All these can come into play also when administrative actors determine EU migrants’ status and rights in their ‘host’ countries (Dwyer et al. 2018; Shutes 2016). EU migrants seeking to access social entitlements in other EU countries not only need to meet the general requirements within the welfare system of their destination country, but also the conditionality specifically imposed on them as migrants (Bruzelius, 2019). Consequently, they are likely to face higher barriers in their access to entitlements compared with the nationals in similar situations.

The European Unions’s long-standing promotion of mobility and EU citizenship as a set of rights has created expectations of rights and equality. However, the Member States’ current attempts to redefine the status of EU migrants clarify that they should not expect their EU citizenship to be equivalent to citizenship in the country of residence (Lillie and Simola, 2016). To be sure, freedom

of movement has never been formally unconditional. Under Directive 2004/38/EC, the right to equal treatment is primarily reserved for ‘workers’, ‘self-employed’, ‘self-sufficient persons’, ‘students’ – or ‘family members’ of such (Bruzelius, 2019). The rules on EU migrants’ access to social benefits in other Member States are shaped primarily by ECJ case law, which is further interpreted and applied by the Member States and ultimately their local administrations (Heindlemaier and Blauburger, 2017).

According to several commentators (Alberti, 2016; Dougan 2016; Dwyer et al. 2018; Jacqueson, 2018), the ECJ, once considered the prime guarantor of the rights of EU citizens (particularly those considered economically inactive), has shown decreasing resistance against Member States’ restrictive interpretations (O’Brien, 2016). Considerable leeway is thus left for Member State authorities regarding the definitions of the critical concepts of ‘work’ and ‘worker’ (Dwyer et al. 2018). The same applies to ‘jobseeker’ and ‘economically inactive citizen’. In practice, the Member States increasingly often apply restrictive conditions to the rights of individuals classified under these categories (O’Brien, 2016; O’Brien, Spaventa, and De Coninck, 2015). Following ECJ case law, EU citizens who move to another EU country as ‘jobseekers’ should be granted a ‘reasonable period’ to look for employment, most commentators agreeing that such period should be ‘no less than six months’ (Valcke, this volume). Furthermore, under Article 7(3) of Directive 2004/38, jobseekers who have previously been employed in the destination country at least six months, should be treated as ‘retained workers’, entitled to equal treatment for at least for six months. Afterwards, Member States may require them to provide evidence that they are continuing to seek employment with ‘a genuine chance of being engaged’, that is another ambiguous expression open to Member State’s own definitions. The Directive leaves open the possibility for a Member State to expel an EU citizen who is considered to be putting an ‘unreasonable burden’ on its social

assistance system or who does no longer satisfy the conditions of the right of residence set out in the Directive.

As Jacqueson (2018, 35) notes, in most Member States EU law is enforced by municipalities and local authorities, and how this is done depends on guidelines from the central administration, and thus on how governments interpret the requirements of EU law, follow ECJ case law and communicate their interpretations. Indeed, administrative discretion on local level can critically impact EU migrants' access to residence and social rights (see also Bruzelius, Reinprecht, and Seeleib-Kaiser, 2017; Carmel et al., 2016; Heindlemaier and Blauburger, 2017). In practice, what constitutes a 'worker', a 'genuine' prospect of employment and an 'unreasonable burden' varies from state to state. While the burden of proof is increasingly placed on individual migrants, the exact requirements regarding the eligibility criteria and the evidence to be provided can be unclear (Jacqueson, 2018; O'Brien 2016: 957-961; Shutes and Walker, 2018; Valcke, this volume). At the same time, current labour markets produce increasingly fragmented employment trajectories that blur the boundaries between work, job seeking and inactivity, as well as between formal and informal work arrangements (Munck et al., 2012). Consequently, providing proofs of 'genuine and effective work' or a real prospect of employment may become excessively difficult.

### **3. EU migrants in institutionally embedded labour markets**

To understand the different experiences of free movement resulting from the more restrictive conditionality imposed on EU migrants' rights, we must examine how the enforcement of these policies affects different groups of EU citizens residing and working in other Member States. Hence, we also need to focus on how specific groups of workers are driven into precarious employment in socially and institutionally embedded labour markets (Anderson and Ruhs, 2010;

Peck, 1996). Prior literature shows that attributes such as age, gender, ethnicity, nationality and legal status differentiate the ability of workers of a given level of education to attain formal, high quality, 'standard' employment (Cranford and Vosko, 2006; Schierup, Hansen, and Castles, 2006). Along with the de-regularisation of 'nonstandard' employment relations, the changes in most European welfare states over the past decades have contributed to labour market stratification according to these lines through increasingly variegated social rights for different groups and individuals (Barbieri, 2009; Kalleberg, 2011; Peck, 1996).

To varying extents across the EU, young people are disproportionately exposed to unemployment and precarious employment, characterised by temporal and non-standard contractual relationships, insecurity, low or no pay, informality and lack of control over working conditions (Buchholz et al., 2009; McKay et al., 2012). In conditions of intensifying job competition, even university graduates risk being trapped in jobs that do not reflect their skills and qualifications, while also suffering precarious work arrangements – including internships and voluntary work – which have infiltrated professional industries (O'Reilly et al., 2015; Samek Lodovici and Semenza, 2012).

Although many young Europeans move to other EU countries in the hope of achieving better career opportunities and less precarious conditions (Bartolini, Gropas, and Triandafyllidou, 2017), mobility may also generate further disadvantages in the labour market and leave them alternating between temporary work arrangements and periods of unemployment (Akgü and Beblavý, 2019). Factors highlighted as increasing EU migrants' exposure to precarious employment include, language barriers, non-recognition of qualifications and limited knowledge of the labour market and employment rights in the destination country, as well as migrants' different frames of reference that can make wages and working conditions seem acceptable when compared with the conditions back home (Currie, 2008; Anderson, 2010). At the same time, studies from different parts of Europe

(Barbieri, 2009; McKay et al. 2012) point to the central role of states' welfare and labour market institutions in conditioning young workers' transitions into and within the labour markets. In many EU countries, young workers in general encounter difficulties in accessing social security schemes due to inadequate contributions, which may escalate the discipline of the labour market over them (Barbieri, 2009; Chung, Bekker, and Houwing, 2012). Furthermore, research combining comparative welfare state approaches to immigration studies emphasizes the interaction of welfare regimes with immigration regimes in fashioning migrants' social rights and conditions in their country of destination (Eugster, 2018).

Critically, young EU migrants may not only face difficulties in accessing social security, but the heightened efforts to restrict EU migrants' residence rights may also constitute effective barriers to secure and enduring legal status (Simola, 2018). Thus, although EU migrants are in principle not subject to immigration controls, these policies create a need to examine EU migrants' experiences also in the light of literature from other migration contexts that show the role states play with their immigration control policies in shaping migrants' conditions in labour markets (Anderson, 2010; De Genova and Peutz, 2010; Munck et al., 2012). This research identifies, as root causes of migrant workers' exposure to precarious employment, the limitations of rights and protections associated with insecure citizenship statuses; temporariness of status and deportability (i.e. the threat of forced removal from the national territory); and dependence on employers for status and rights (Anderson, 2010; De Genova and Peutz, 2010). These studies also reveal the highly negative effects that the interplay between precarious work and insecure citizenship statuses can have on migrants' economic and social conditions, as well as their mental and physical wellbeing and health (Goldring and Landolt, 2011; McLaughlin and Hennebry, 2013).

#### **4. Data and methods: Examining the current migration context for young, qualified EU migrants through the lens of Brussels**

The capital region of Brussels offers a captivating case for understanding the current migration context for young, university-educated EU migrants – the group most likely to be using their right to free movement (Eurostat, 2011). Brussels is a culturally vibrant global metropolis containing a highly international labour market centred on the EU institutions and offers young Europeans with international professional ambitions many opportunities. It draws young, highly qualified workers from all around Europe, covering both the deeply precarious labour markets of southern Europe, as well as northern Europe, where precarious employment is still relatively uncommon by European standards (Madsen et al. 2013; Trenz and Triadofallidou 2017). Its attractiveness also produces intense competition for qualified jobs, making Brussels a challenging environment for EU workers at an early stage of their careers. Non-standard and precarious employment practices occur both at the top and the bottom ends of Brussels' international labour markets, including informality and the exploitation of internships as a source of free or very cheap qualified labour (Crains et al. 2017). Meanwhile, mounting public and political contestation around migration in Belgium has led to the adoption of new policy instruments to enforce increasingly restrictive interpretations regarding the rights of EU citizen migrants (Gsir, Lafleur and Stanek, 2016).

The principal data of this study consist of 27 interviews with university-educated young adults (21–34 years old) from Italy (10), Spain (8), Finland (7) and Denmark (2) who had moved to Brussels with hopes of becoming professionally established. However, all of them experienced unemployment and working under precarious conditions at some point during their stay. Their gender distribution is balanced, and their educational backgrounds represent a range of academic

fields<sup>1</sup>, with Master's or Doctoral degrees. Two-thirds of them initially arrived in Brussels for an internship or through the Erasmus student exchange programme. The precarious work they experienced was varied, ranging from short-term projects, internships, temporary agency work and involuntary self-employment (sometimes 'false' self-employment for a single employer) in highly-skilled sectors, to low-paid, 'on-call' and often informal work in sectors such as food, hospitality and care (see McKay et al. 2012). Significantly, while the Nordic participants only experienced precarious jobs that required educational qualifications, the southern Europeans often combined unpaid skilled work for professional development with low-skilled jobs for survival.

The interviews were conducted in 2014 and 2015, which Jacqueson (2018: 28) defines as the beginning of the 'age of limitations' in EU citizens' rights of free movement and equal treatment. A central economical-political factor shaping the context of the participants' migration was the then on-going economic crisis that, along with generally deteriorating labour market conditions for young workers, also created pressures and opportunities to adopt stringent policies of welfare conditionality across the EU.

All but two of the interviews were carried out in Brussels, one in Finland and one via Skype with an Italian doing voluntary work in Asia. The most important channels for recruiting research participants were various Facebook groups for different nationalities living in Belgium/Brussels, together with projects and associations working to help their national groups. Snowball sampling was used and in a few cases the authors' personal networks. In 2018, the participants were re-contacted with written follow-up questions regarding their trajectories in the years following the interviews. Only half of the participants responded, mostly because their contact information had changed or they could not find time to reply in writing.

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<sup>1</sup> International or EU law/economics/business; journalism and audio-visual media; social/political/humanist sciences, architecture, languages/interpretation, biology, HR management, tele-engineering.

The interviews were carried out using a narrative orientation to obtain detailed information about the participants' often-fragmented employment and migration trajectories. They were organised in two sections. In the first section the participants' resumes were used to elicit free but comprehensive narratives regarding their lives after graduation from higher education. The second part of the interview was semi-structured, with specifying, narratively-oriented questions concerning the participants' experiences of life, work and unemployment in different countries, their experiences with local bureaucracies, their awareness of their rights, the problems they faced in having their rights recognised, their financial subsistence and their future plans and prospects. The interviews with Spaniards and Finns were conducted in their native languages and the Italians and Danes were interviewed in English.

The following analysis is based on a systematic mapping of the contingencies between the participants' employment trajectories and the evolution of their legal status and rights. Particular attention has been paid to their accounts of conditionality enforcement, their interaction with the welfare system in their countries of origin, and the outcomes of the previous two in terms of financial and legal dependency in the participants' lives.

## **5. Experiences and implications of the Belgian policy restricting EU citizens' access to rights**

### ***5.1. Precarious EU migrants' encounters with the Belgian welfare state***

The employment trajectories of the participants varied greatly, but none of them were 'inactive': even unemployed, they engaged in paid or unpaid internships and other forms of unremunerated work and training while searching for paid employment. Most of them lived through periods of

insufficient or no income, and had been in need of welfare state protections. For some this was due to inadequate remuneration (especially those in [a series of] internships), for others underemployment (especially the self-employed and those in ‘on-call’ arrangements), and for yet others because paid work alternated with shorter or longer periods of unemployment. However, precisely because of these conditions of work, they were often unable to access the social protection schemes that could have buffered their finances. The participants described administrative processes that resulted in denial of unemployment benefits, in some cases ‘simply’ on the grounds of inability to meet the general eligibility requirements within the Belgian contributory social insurance system regarding the minimum number of days worked within a reference period. For others, the inability to meet the eligibility requirements was due to specific conditions imposed on EU migrants, or the way in which these specific conditions affecting them as migrants combined with the general eligibility requirements.

On a general level, Belgium has followed the European trend towards stringent conditionality criteria for all welfare applicants, increased job-search requirements, and sanctions within the unemployment insurance scheme (Clegg, 2007). The specific conditionality regulations targeting EU migrants are more recent. For example, since 2012, non-national EU citizens’ access to social assistance has not been possible during the first three months of their stay. Furthermore, an EU citizen who arrived in Belgium as a jobseeker, does not have access to social assistance for the entire period of residence as a jobseeker. While these changes do not conflict with the Directive 2004/38/EC and recent ECJ case law, they create restrictions that previously did not exist in Belgium. (Meurens and Van Caenaghem, 2016: 16; Mussche, Corluy, and Marx, 2013.)

For many of the southern Europeans in particular, inability to access unemployment benefits was due to insufficient work contributions, as their work experiences, both in their countries of origin

and in Belgium, consisted of internships and usually informal short-term employment. Often these participants did not claim social entitlements as they took their ineligibility for granted, and because they were concerned about the consequences of making such claims (see section 5.1.1.). Those participants who applied for unemployment benefits often recounted long and uncertain bureaucratic processes, during which they were required to provide evidence of their work history from different countries, while, in some cases, the entitlements were denied due to administrative delays in other countries. Some of them faced difficulties in having the Belgian administration recognise work contributions abroad (or in Belgium under a foreign contract), due to the specific conditionality imposed on migrants. Specifically, while EU regulations (883/2004 and 987/2009) grant EU migrants the right to transfer social security entitlements and the right to aggregate contributions made in different EU countries, the receiving country has some competence over the conditions under which this is possible (Carmel et al., 2016: 21). At the time of this study, the unemployment benefit authorities in Belgium accepted work experience in other EU member states only if the applicant also had at least one day of work experience under a Belgian employment contract. In 2016, this requirement was extended to three months. Even the shorter requirement could form an effective barrier to benefits for those who had adequate work contributions in other countries, but who had worked in Belgium only under foreign or EU contracts, internship contracts or without a written contract, and were therefore unable to aggregate contributions. Furthermore, although Belgian social security includes a comprehensive means-tested minimum income scheme, the few participants who applied for social assistance were deemed ineligible due to their status as recently arrived EU migrants.

For example, Matia, from Italy, left his permanent job in Ireland to accept a four-month paid internship in one of the EU institutions. However, when the internship ended, he found himself without a job in Brussels. Despite a year of continuous work experience in another EU country, he

was not able to aggregate contributions, as his internship was not accepted as Belgian experience. Also his access to social assistance was denied as he was considered to be a recently arrived ‘jobseeker’.

I went to CPES [social services] and they told me I had not lived in Belgium long enough to get anything. And I went to ONEM [employment office] and they told me that I need this famous day of work in Belgium to get unemployment benefits. So, I realised it was better just to find a job that was not in my sector, just to keep going. I [found] a part-time job with the interim weekly contracts.... At the same time, I kept applying and then ... I got a job ... [with] a one-year internship contract.

The second paid internship contract also did not qualify Matia for unemployment benefits, even after a year of work. This increased the pressure on him to continue working under temporary contracts with the same employer, although the work did not correspond with his professional interests. His situation thus remained professionally unsatisfactory and precarious for several years.

#### *5.1.1. The interaction between welfare and residency administration*

Besides the social security administration, the residency administration forms another determinative site where conditionality is enforced on EU migrants’ rights in Belgium. EU citizens are required to report their presence at local town halls, which then determine whether they are entitled to reside in Belgium after the initial three-month period during which their residence is unqualified. If so, they are granted a residence certificate with a national registry number, a key identification document required in Belgium for most administrative transactions and access to services (for a more comprehensive overview of the registration procedures, see Valcke in this volume). The Brussels Capital Region is composed of 19 communes that administer residence registration under the direction of the Federal immigration office.

In 2011, the Belgian State Secretary for Asylum, Migration and Social Integration made a restrictive interpretation of Directive 2004/38/EC allowing Member States to withdraw the residence certificates of EU citizens deemed to represent an ‘unreasonable burden’ (Gsir, Lafleur and Stanek, 2016). Data exchange was established between the social security administration and the Belgian immigration office, with considerable discretion in determining if a person constitutes such ‘burden’ (Meurens and Van Caeneghem, 2016: 15). Thus an unprecedented number of non-national EU citizens received orders to leave Belgian territory (see Lafleur and Stanek, 2016).

The present data indicates that the initial requirements for registration also became increasingly restrictive (see also Valcke, this volume). Reportedly, to demonstrating ‘genuine and effective work’ in Belgium requires a legitimate employment contract that complies with labour law in terms of minimum thresholds for remuneration and hours (in principle, 12 hours per week) (O’Brien, Spaventa, and De Coninck, 2015: 83). There is prior evidence that short-term contracts have not been qualified as proofs of ‘genuine and effective’ work by municipalities (Meurens and Van Caeneghem, 2016: 18-19). Volunteers are also excluded from this definition, while data regarding the treatment of apprentices and internships is lacking (O’Brien, Spaventa, and De Coninck, 2015: 84-85). Based on the participants’ accounts, the issuance of registration certificates, and thus the right to reside legally on a longer-term basis, was indeed conditional primarily on their ability to provide evidence of consistent, paid employment or sufficient resources. Registering as self-employed could also grant access to right to residence<sup>2</sup>.

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<sup>2</sup> However, it did not necessarily guarantee adequate subsistence or access to social security, given that the participants with self-employed status were all factually underemployed, and no unemployment insurance scheme exists for self-employed persons in Belgium.

However, in accordance with the cases reported by Valcke in this volume, the municipal officers often did not give the participants clear guidance regarding the relevant documentations considered as sufficient proof of their right to residence. At the same time, the data suggest that the requirements laid down for EU citizens at the residence registration have varied between municipalities of Brussels and even between officers of the same office. For instance, Spaniards Alicia and Francisco had arrived in Belgium for internships of similar lengths for the same employer. However, while Alicia was able to obtain a registration certificate with her internship contract, Francisco, who lived in a different municipality, was not granted a registration certificate, but was classified as a jobseeker and required to provide evidence of his job searching efforts:

They let me register but as a jobseeker which means that even having my internship they said no. Not good enough ... And it's also absurd that it depends on the officer. Because if one day I happened to deal with an officer who maybe treated me great and accepted everything and another day I was dealing with another one and that meant that I needed to prepare and bring 20 more papers proving that I was looking for work. I mean, it was something absurd, something, I don't know. Random.

Several participants unable to demonstrate adequate employment were denied registration certificate and thus continued to search for work in Belgium under insecure status and without access to social protection.

Paula's story further chronicles the interplay between the welfare and residency administrations in determining EU migrants' rights. She came to Brussels from Spain through the Erasmus programme while still completing her studies. As she saw no prospects in her field in Spain, she decided to stay in Belgium after graduation but had difficulties in getting her professional diploma recognised. This process lasted several years due to bureaucratic hurdles and the fact that Paula had problems paying the administrative costs involved. She applied for the professional insertion

benefit, meant to buffer the initial job search period of recent graduates from Belgian educational institutions, but found that her previous status as an Erasmus student did not qualify her for this support. Instead, at the employment office she was accused of abusing the system:

I was innocent enough to think that maybe, if I get positive evaluation [of the job search requirements], I could be entitled to something. But no, they even called me a “social parasite”... It seems to me that the European Union is pulling my leg. You come here and there isn’t any kind of help for young people.

Paula survived on a small income from short-term and mostly informal work in the service and care sectors and by teaching language classes. However, when she sought to register at the city hall, she was told that her work experience and job search efforts did not form a basis for longer-term residency in the country: ‘I never had a contract longer than three months and that was not good enough’. Thus, she was threatened with expulsion, the officer insisting on a strictly temporal stay for job searching.

In fact, many of the participants were told they had only three months to find employment, after which time they would have to leave the country. This contradicts the ‘reasonable period’ of ‘no less than six months’ for job searching required by the ECJ case law. Only when the participants specifically asked did the officers align with this requirement. For instance, Jukka, from Finland, had lived most of his life in Belgium, graduated from a Belgian university and completed his PhD in France before returning to Belgium without employment or funding to continue his research. Although he was able to transfer his unemployment benefits from France to Belgium for the first three months, he lacked the required day of employment under a Belgian contract to be able to aggregate his French work contribution, and was thus deemed ineligible for unemployment benefits in Belgium. He was told that he would be expelled if he could not find work within three months:

And I said that, as far as I know, this is against EU legislation. And they said that yes but we have Belgian legislation not EU legislation ... And I asked where do you want me to go since I've been registered in Belgium for 15 years and I'm not registered in Finland nor in France. So where am I supposed to go? And they told me that well, we don't care as long as you leave our country. And I asked if there was anything I could do and they said that you can apply for an extension ... So they took away my ID card [registration certificate] and gave me a six-month extension to find a job.

As these examples show, in their dealings with the welfare and residence administrations, the participants could be treated in an intimidating manner by front-line officers who sometimes even openly disregarded EU law and appeared to be more committed to delivering the national policy objective of protecting the domestic welfare system from foreigners (see Dwyer et al. 2018; Gsir, Lafleur and Stanek, 2016; see Heindlmaier and Blauburger, 2017). As Lafleur and Mescoli (2018) argue, although EU citizens have not been effectively 'deportable' in Belgium on the grounds of not meeting the conditions of residence, the use of such bureaucratic intimidation can push EU migrants to leave its territory on their own initiative. Although this was not the case for any of participants of the present study, the inexplicit and apparently arbitrary administrative discretion regarding the access to residency rights was apt to produce among them significant uncertainty regarding their status and rights, which had further consequences for their situation.

In fact, the Belgian government has failed to release information to the general public or to the persons directly affected regarding the grounds for expulsions or the legal or economic consequences of an order to leave the territory (Official complaint to the committee of petitions of the European Parliament, 2015). This general uncertainty has led to rumours about other EU migrants' experiences. Hence, while none of the participants was well enough informed to be sure of the actual consequences of an expulsion order, some of them considered it safer not to register

their presence or, if they had started the registration process nevertheless, not to claim social entitlements. This was especially so among Italians and Spaniards, as these nationalities have been among those most affected by this practice (Lafleur and Stanek, 2016). Spaniard Alfredo described the social context created by the practice of expulsion:

So, all this has an impact on you. In reality you're afraid that this will happen to you so you don't ask for what you're entitled to. If you're entitled to it, I mean, I don't know because I never asked ... How many rights we have can change every month depending on the laws they have. If you act thinking that you have the same rights as a Belgian you're going to have a bad scare ... They have expelled 400 Spaniards. If you don't want to be one of these people you're not going to ask for anything ... It's not [only] that we don't have rights but that we think [we have] rights that we don't really have and that you realise this now, when you're here.

The data thus shows how the effects of the enforced uncertainty of status and rights often resembled the 'administrative death' that is the real consequence of actual expulsions (Meurens and Van Caeneghem, 2016). It is therefore likely that these policies and practices have an impact on a wider population than the people actually expelled, hence the emergence of a growing group of EU citizens living and working in the Belgium under temporal and insecure status or devoid of any legal status (Simola, 2018). Consequently, they are also likely to increase the supply of EU migrant workers ready to work under precarious conditions (Alberti, 2016).

## ***5.2. Implications of the restrictive policies for EU migrants in temporary and insecure employment***

### ***5.2.1. Financial and legal dependency on employers reducing university-educated migrants' leeway in the highly competitive job market***

The only jobs quickly available to the participants were usually short, temporary and/or unremunerated, and it was also common for employers to refuse to award written employment contracts, especially in sectors such as food, hospitality and childcare. The conditionality, insecurity and barriers in the participants' access to legal status and social rights could in this context critically reinforce their dependency on employers, which also explains their acquiescence in accepting low-paid work below their skill level (Anderson, 2010: 311; Simola, 2018). Carlos, a 29-year-old Spaniard with two Masters degrees, worked in Brussels as a school assistant:

I thought that there was freedom of movement. I thought – and that's what everyone here thinks – that you can allow yourself all the time you wish to find a job. Well no. It's not like that. Because it's those famous three months, ... or you have to leave. ... Luckily in three months I did find the job that I have right now ... I have a chronic illness and therefore I absolutely needed to have a doctor. And to have one you need to have a job. That's why the pressure ... was a bit like a question of life and death ... This is why the job I have does not give me anything as a worker, but as a citizen it has given me what I needed the most which was social security and an ID card [registration certificate].

Relatedly, Christina, another Spaniard, stayed in Brussels after finishing her Erasmus year at a Belgian university as her professor had promised her future work opportunities that later turned out to be unpaid. Lacking financial resources, she was not able to accept his offer.

Christina: So the only thing I found was a coffee shop ... And I asked [the manager] for a contract because I needed it to be able to register at the municipality and she told me that during the winter she didn't have much work and that she couldn't ...

Author: And did you manage to register?

Christina: When I finished my final project I went to the municipality. I didn't register and they told me that I could come back in five to six months. So after six months I went and I got my national registration number and from that moment on I could get registered at Actiris [employment office] ... And now just when I received the attestation of my national registration number I was told that I need

to go back in October to find out whether they accept me as a resident here. I mean I don't understand how it works. I asked but I wasn't offered any information.

Christina had undertaken waiting and childcare work and also some professional projects, but no employer had been willing to provide her with a written employment contract. Her legal status – like her subsistence – hence was effectively in the hands of her employers.

#### *5.2.2. Further implications of the restrictive policies: Financial and legal dependency on partners*

For participants in relationships, the restrictive policies often resulted in increased dependency on their partners. Financial dependency on one's partner was common to many participants, both men and women, who had followed their partners to Brussels with hopes of becoming professionally established in the same city but ended up unemployed and working under precarious arrangements. Indeed, their financial dependency often persisted despite them working extensively, albeit under arrangements that were inadequate in both income and in terms of access to social security. The critical role of relationship status has grown ever more important with EU migrants' increasingly conditional access to legal residence in Belgium. While some participants were unable to meet the conditions for long-term residence independently, they could claim status as 'family members' of their partners, as long as these were legally residing in Belgium and the relationship formally recognised through marriage or legal co-habitation. Some participants even formalised their relationships after their right to residence had been questioned by the administration. Thus the relationship status also created disparity between migrants with and without partners and according to the overall economic resources of the couples.

The data confirms the observation of previous studies (Ackers, 2004; Shutes and Walker, 2018) that the dependent socio-legal position of 'family member' carries important vulnerabilities, including

greater dependence on the continuity of the relationship. The results further complement the picture drawn in research emphasising the differential valuation of different types of work as a basis for mobile EU citizens' rights (Shutes and Walker, 2018; Ackers, 2004). For example, Shutes and Walker (2018) analyse the gendered effects of increasing conditionality in terms of EU migrants' access to residence and social entitlements in the UK. Work-related restrictions are prone to particularly negative implications for female EU migrants' social rights. The free movement legislations consistently disregard as non-economic activity the unpaid care-work that remains predominantly the responsibility of women within families (Ackers, 2004). Furthermore, exposure to precarious employment is also highly gendered, intersecting with other attributes like age and ethnicity (Crandford and Vosko, 2006, 44; Puig-Barrachina et al., 2013; Shutes and Walker, 2018). Young female workers, for example, may be heavily penalised for their – real or potential – career interruptions due to childbearing and rearing, and young female migrants are indeed less likely to be employed compared to men (Akgü and Beblavý 2018: 404-405; Peck, 1996: 37; Spreckelsen, Leschke, Seeleib-Kaiser, 2018: 400; McKay et al. 2012). However, according to a recent study (Akgü and Beblavý 2018: 404-405) the old gender patterns are also somewhat broken as, for example, young southern European men appear more likely to be on temporary contracts compared with young female migrants of the same origin.

While the present study focuses specifically on people involved in precarious labour, gendered disparities were not particularly pronounced in the data. The female participants occasionally made remarks regarding situations that they had experienced as unjust labour market competition due to their gender. On the other hand, while female participants seemed to find low-skilled jobs in fields like hospitality and childcare easily, some male participants reported difficulties in finding low-skilled work when no professional work was available. Overall, the participants shared similar experiences in the labour market and with the Belgian state regardless of gender. How they

perceived their dependency on their partners was largely similar. However, this relative absence of gendered differences needs to be understood in the context of the participants' delayed transition to 'adulthood'. The precarious labour market, among other things, encouraged them to postpone having children as they lacked economic means and stability. Indeed, the great majority did not have children, and both female and male participants often noted that accepting new family responsibilities while experiencing financial and/or legal insecurity was impossible. Being childless also marked their relationship with the welfare state, as having children would have brought up new gendered issues in relation to restrictive policies such as access to maternity allowance or childcare services (Shutes and Walker, 2018).

### ***5.3. The accentuated importance of the welfare systems in EU migrants' countries of origin in the context of restrictive policies***

The study further indicates that the conditions prevalent in the participants' countries of origin – in terms of both welfare state arrangements and labour markets – were of key importance to young migrants' circumstances, particularly during the initial period of their stay and in situations where they lost their jobs and were not able to access social benefits and/or secure residence status in Belgium. Institutional settings in the participants' countries of origin varied greatly, particularly in how far welfare provisions were set to mitigate or exacerbate young citizens' dependency on private support (Saraceno, 2016). The welfare systems in the Nordic countries include universalistic provisions that make young people individually entitled to benefits from the age of majority, whereas the welfare regimes in southern Europe tend to render young people dependent on their families in moments of need (Chevalier, 2016). This variation in participants' domestic welfare systems not only defined their circumstances upon departure and upon their possible return, but also conditioned their ability to draw on those systems while abroad (see also Bruzelius, Reinprecht, and

Seeleib-Kaiser, 2017).

For example, EU job seekers' right to transfer their unemployment benefits from their previous EU country of residence to their country of destination for the first three months of their job search is not solely contingent on the policies of the destination country, but also on condition that they possess such entitlements. However, both in Italy and Spain young workers in precarious work arrangements are frequently excluded from unemployment insurance (Barbieri, 2009; Chung, Bekker, and Houwing, 2012). Hence, as the southern European participants' domestic experiences were often composed of internships, short-term employment and informal work, they usually had no unemployment benefits to transfer for the initial period of their stay. In most cases they had neither domestic social security contributions to aggregate, nor access to unemployment benefits or minimum income support if they decided to return (see Bruzelius, Reinprecht, and Seeleib-Kaiser, 2017; Spreckelsen, Leschke, and Seeleib-Kaiser, 2019).

In contrast, the Nordic participants were often able to rely on their domestic welfare system at different points in their employment paths, which significantly eased their financial insecurity. For example, Line from Denmark used her right to transfer unemployment benefits for her initial period of job searching. She found a temporary job with a Belgian employer, but because of specific restrictions on consecutive temporary contracts under Belgian labour law, Line's employer required her to have a one-month break in her contract after every six months. Line's employment period in Belgium was deemed insufficient for entitlement to unemployment benefits, and she lived on her savings during her first unemployment period. When the situation repeated itself after another six months, Line decided to return temporarily to Denmark and register with the unemployment system so that she could receive benefits. She also became subject to activation measures and was obligated to actively search for jobs. Thus, she found a new job in Belgium with an open-ended

contract. However, unsatisfied with her salary, she was considering returning to Denmark, as her return would be buffered by her entitlement to Danish unemployment benefits. Indeed, most of the Nordics held the option of returning to their countries of origin as a back-up in case the conditions in Belgium became too difficult. Some of them perceived their domestic welfare system as their primary safety net, and often they did not even consider engaging with the Belgian system, but instead returned to their home countries when they lost their jobs in Belgium. Obviously, these decisions were also facilitated by the less straitened labour markets in the Nordic countries.

### *5.3.1. The controversial role of family support: Between dependency and unfiltered exposure to precarity*

For those participants unable to access social security in Belgium or their home countries, how much their parents were able to support them was usually one of the most important determinants of their financial security, along with the support some received from their partners. However, some southern European participants could not rely financially on their parents, who had experienced substantial cuts in their own salaries and pensions during the economic crisis. Sometimes their parents were only able to offer their children the option of returning to the family household (see Arundel and Lennartz, 2017). In practice, many— and some Nordic participants — temporarily returned home during periods of unemployment, often intending to return to Brussels to continue their job search.

Crucially, however, many of the southern European participants were very reluctant to return as they had initially decided to migrate at least partly to move out of their parental home. This feeling was also connected to their perception of a lack of opportunities in domestic labour markets (Bartolini, Gropas, and Triandafyllidou, 2017). For instance, Antonio from Italy, whose finances in Brussels were based on savings and occasional informal freelance jobs, ran out of money very

shortly. However, while reflecting on his options in the interview he noted:

[It is possible that] I fell into depression and I go back to Italy, to do nothing, [to stay] in my parents' house. This is better not to happen... This is the worst-case scenario. This [would mean] me failing myself...

Furthermore, Paula from Spain, despite her very harsh circumstances, noted that returning home was 'not a real option', because her parents could hardly get by themselves with their very small pensions:

The option of returning home, I have considered it only in moments when I have been in a bad state, psychologically. Only in moments when I thought I will give up because I have to rest and because I cannot take it anymore. Because thinking about money 24 hours a day is exhausting.

To avoid returning home, many carried on with their lives in Brussels with minimal incomes, living with friends or in cohabiting arrangements and accepting work regardless of conditions or content. Some of the Nordic participants endured strongly precarious conditions in Brussels as they had not given up their ambitions of eventually starting an international career, or because they had established personal ties. Nevertheless, sometimes the periods of financial and legal insecurity became too long for them to tolerate.

This was the case of Alicia from Spain, who had persisted in Brussels for almost two years in the hope that her continual investment in internships and voluntary work in the field of her vocation would result in paid employment. However, living without the safety nets of the welfare state, with her family resources exhausted, she was forced to combine unpaid professional work with sometimes parallel, short-term and low-paid jobs. These jobs did not leave her time for physical and mental recovery, and meanwhile they prevented her from further investing in her vocation:

I belong without belonging... because I don't have money to live the next month or the one that follows... Or [I need to do work] that takes away my time and energy and has no prospects, only to continue [living] here.... I've decided I will return [to Spain] at the end of the month ... because I need to rest. And at the same time to work, I mean ... I want to invest in my vocation but here I can't because I'm always depending on the money and on time and I have neither.

The overall data reveals implications for individual migrants of the temporal and material conditions resulting from their lack of access to decent employment relations, social rights and secure and enduring legal residence status. These include material, professional and social deprivation and delays, and even mental and bodily harm that could ultimately interrupt young EU migrants' professional and migratory projects.

## **6. Conclusions**

This chapter has focused on the experiences of young, qualified and ambitious EU citizens, whose stories demonstrate that the effects of national policies restricting EU migrants' access to social rights and legal residence are by no means limited to inactive 'welfare tourists' whose alleged prevalence has been at the heart of the public and political arguments to justify the establishment of more stringent control over EU migration (Gsir, Lafleur and Stanek, 2016; Ruhs, 2015). Indeed, the data indicates that even EU migrants who work extensively under precarious conditions and who feverishly seek to establish themselves in the labour market of another Member State, may be equally affected if they cannot obtain formal, good-quality employment.

The Belgian case is captivating as it shows how a Member State can impose its own definitions of the critical concepts conditioning individual EU citizens' rights, thus making use of the vagueness

of the EU legal framework and the ECJ's diminishing resistance vis-à-vis such practices. The young migrant workers of the study faced difficulties in separating themselves from the category of 'job-seekers', whose rights, in turn, have been subject to re-definitions both at EU level and national level (O'Brien, Spaventa, and De Coninck, 2015; Jacqueson, 2018). Indeed, Belgium has imposed on EU migrants conditions that hinder their ability to access and aggregate social rights before obtaining their first work position qualified as 'genuine and effective' under restrictive criteria. The policy related to the denial or removal of residence certificates from for EU citizens considered – actually or potentially – to burden the country's welfare system appears particularly effective in limiting precarious migrant workers access to rights. Crucially, not only the policy *per se*, but also the indeterminate and stealthy way in which it is enforced on street-level, demonstrably undermine precarious EU migrants' ability to rely and make claims for the rights associated with EU citizenship (see also Jacqueson, 2018: 34). The data here points to a critical role for administrative actors who used their discretion to impose changeable requirements and enforce strictly temporal residence for EU citizen migrants who it deemed 'unwanted' (Simola, 2018).

The study further shows that the obstacles to free movement rights not only thwart EU citizens' expectations of equality. They can also reduce their leeway in the competitive labour market, thus further exposing them to precarious employment practices. While arguably, the free movement regime is not meant to harmonise conditions under which national labour markets function. Rather it seeks to enable the movement of workers in the intra-European labour markets and to foster competition among EU migrant workers on an equal footing with the nationals. The policies restricting precarious workers' rights, however, create differential opportunities between different groups and individuals to make use of the regime, also accentuating the importance of economic and social conditions in migrants countries of origin (see also Bruzelius, Reinprecht, and Seeleib-Kaiser, 2017). Hence, certain young EU migrants more than others are forced to give up their

mobility projects, accept protracted dependency on their families and their partners, or get by in the new labour markets ‘at their own risk’ (Heindlmaier and Blauberger, 2017). Paradoxically, granting young EU migrants only a precarious status may thus actually hinder their access to more stable and independent socio-occupational positions to which their rights are increasingly tied.

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