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Creating Undocumented EU Migrants through Welfare: A Conceptualization of Undeserving and Precarious Citizenship

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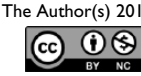

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Abstract

Following the financial and economic crisis, welfare policies across the EU are increasingly becoming instruments for limiting the mobility of certain EU migrants. In this article, we focus on EU citizens who see their freedom of movement in the EU being restricted after they have applied for social assistance or unemployment benefits in their country of residence. Doing so, we conceptualize undocumented EU migration by means of the concepts of 'non-deportability', 'deservingness' and 'precariousness'. Overall, this article – based on ethnographic fieldwork conducted with Italian migrants in Belgium – expands our understanding of undocumented migration by demonstrating how arbitrary and intimidating bureaucratic processes undermine the exercise of EU citizenship.

Keywords

Belgium, deportability, deservingness, European Union, freedom of movement, illegality, Italy, migration, precariousness, schizophrenic welfare state

In the dual context of increased Central and Eastern European migration after 2004 and the global financial and economic crisis after 2007, several Northern European Member States have implemented (or debated) reforms of their social protection systems to restrict access to migrants. Many of these reforms specifically targeted EU migrants

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– that is, citizens of EU countries living in another EU Member State (also often referred to as 'mobile EU citizens' in EU policy discourse).[1] Existing evidence confirms that benefits play only a limited role in migration decisions (see, among others, Giulietti and Wahba, 2012; Kvist, 2004; OECD, 2013). Yet, using the unspecified concept of 'welfare tourism', policymakers in different parts of the EU are increasingly questioning the right of EU migrants to access social assistance and social insurance systems in their destination countries. To be sure, freedom of movement in the EU has never been unconditional and safeguards have traditionally allowed Member States to make sure that EU citizens who move to their territory are either economically active or self-sufficient (Maas, 2013). However, with the economic and financial crisis, welfare policies are increasingly being turned into instruments for limiting the mobility of EU migrants.

Sociologists studying the freedom of movement have traditionally approached the mobile EU citizens' access to social protection in one of two ways. On the one hand, North-Western EU citizens' mobility is traditionally presented as unproblematic from the receiving societies' viewpoint. This is the case for mobile EU citizens who possess marketable skills or are economically self-sufficient – for example, Adrian Favell's (2008) 'Eurostars', or Northern European pensioners residing in Southern Europe (see, for instance, King et al., 2000). On the other hand, studies on post-enlargement Central and Eastern European EU migrants have often focused on the impact of such migration on the receiving countries' labour markets (see, for instance, Black et al., 2010) and the way in which welfare use by some EU citizens can become a contentious topic in receiving societies. Within this second trend, there is a wave of recent publications devoted to Roma migration and their deportation as EU citizens (Fassin et al., 2014; Parker and López Catalán, 2014; Van Baar, 2013).

This article, however, explores the terrain beyond North-Western 'Eurostars' and Eastern 'Euro-villains', where there is a multiplicity of ways of experiencing the status of undocumented EU migrant. Focusing on EU citizens from older Member States whose mobility became contentious after the beginning of the financial and economic crisis, we aim to show that restrictions to the 'mobility of the poor' is an EU-wide phenomenon that transcends specific national and ethnic groups in Europe. From a conceptual standpoint, this article wishes to expand our understanding of undocumented migration by articulating it with the concepts of deservingness, deportability and precariousness applied to EU citizenship. Indeed, we will show how the use of welfare by poor EU migrants leads to their depiction as a group that is 'undeserving' of the right to freedom of movement. This entails that, while poor EU migrants from Western European Member States are technically not deportable, they still need to develop strategies to demonstrate 'deservingness' (Chauvin and Garcés-Mascareñas, 2014) in order to stabilize their legal position in the receiving Member State. Finally, because there exist important discrepancies in rights among individual EU migrants who all lost their residence permits but also between EU migrants and third country migrants, we refer to their peculiar status in terms of 'precariousness' (Goldring et al., 2009) to reveal the existence of hierarchies of deservingness.

Freedom of Movement and Welfare in Europe

According to opinion surveys, freedom of movement is the achievement of the European integration process that EU citizens are most attached to (Eurobarometer, 2013). While

this freedom was never unconditional and safeguards have always existed in the name of protecting European welfare states from abuse, EU migrants' access to social protection in destination countries was not always the controversial topic that it is today. Immediately after the Second World War, North-Western European states – like Germany, the Netherlands or Belgium – began to recruit large numbers of workers from the Mediterranean to participate in post-war reconstruction. For those states, it was not uncommon to openly advertise their level of social protection (e.g. paid holidays, health insurance, family allowances…) to convince Southern European workers to come and do jobs in heavy industries that were shunned by native workers. The post-war expansion of Western European welfare states was thus closely related to the expansion of the freedom of movement of workers. Social citizenship – in Beveridgian terms – meant that immigrants could enjoy the benefits of the welfare state in exchange for the basic duty of work.

The signing of the Treaty of Rome in 1957 and the construction of the common market in the post-war context reflected this transactional approach to freedom of movement. At the time, the interests of North-Western European Member States and Italy were converging in favour of freedom of movement: the former needed workforce for its industries while the latter saw in migration a means of alleviating rampant poverty and unemployment at home (Moravcsik, 1998). Coordination of social entitlements and supranational welfare provisions were thus discussed as possible ways to eliminate or reduce barriers to free movement. Member States, however, were careful to stress that social security was their exclusive competence and therefore insisted that Community social policy could only be defined through unanimous decisions (Maas, 2007). In this context, any explicit notion of supranational social citizenship – defined in a Marshallian approach as the right to a modicum of economic welfare and security for European citizens who live in another Member State than their state of nationality – was anathema to many Member States: they wanted to have the final say on who was to benefit from the protection of the welfare state and who was not. Nonetheless, citizenship discourses, European Court of Justice rulings and norms such as the 1968 Regulation 1612/68 on the freedom of movement of workers quickly went beyond EU worker rights per se, stressing that '[i]ndividuals mattered not only as participating workers, but also to some extent as citizens who enjoyed certain fundamental rights' (Olsen, 2008: 50–51). As noted by Maas (2007), rights to free movement thus gradually evolved from being justified entirely in economic terms to being placed at the core of a new supranational European citizenship created by the 1992 Maastricht Treaty. However, access to social rights continued to be primarily determined by a direct relationship between individuals and Member States rather than the European Union.

Independently of the transformation of migration patterns in Europe, Western European welfare states have progressively moved from 'worker protection policies' towards 'activation policies' that seek to help individuals to participate in the labour market. Such policies include shortened unemployment benefit periods, increased focus on job-search assistance, life-long learning, flexible working arrangements and tax incentives (Turner, 2001). The realignment has been adopted to varying degrees by different Member States but, as noted by Soysal, the Lisbon strategy adopted by the European Council in 2000 enshrined this social investment approach as a standard to which EU Member States committed themselves by creating:

> a citizenship model that privileges individuality and its transformative capacity as a collective good […]. In this scenario, the 'outsiders' are not only immigrants, but also the 'lesser' Europeans, who have the added burden of proving the potential and worth of their individuality. (Soysal, 2012: 2–3)

The principle according to which EU migrants ought to demonstrate that they are not a threat to the welfare systems of receiving Member States if they are to enjoy freedom of movement is visible at the policy level as well as in public discourse. For instance, protecting older Member States from an influx of poor EU migrants was the motive behind temporary restrictions to freedom of movement of citizens coming from new EU Member States in Southern and Central and Eastern Europe. Most importantly, however, *Directive 2004/38 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States* (hereafter referred to as 'Citizenship Directive') explicitly limits the mobility rights of EU citizens who have less than five years of residence in their Member State of residence. Indeed, in the words of the directive, workers, former workers actively seeking employment and persons who are not economically self-sufficient may lose their right to residence if they become an 'unreasonable burden on the social system' of the host country (see next section).

The economic crisis has significantly strengthened the conviction held by certain Member States that freedom of movement should be limited to 'deserving migrants' (a concept we discuss below). In the context of fiscal austerity and budgetary cuts, several Member States have begun to make more frequent use of the Citizenship Directive to revoke residence permits from EU citizens who are using non-contributory social benefits. Certain other 'undesirable migrants' – such as long-term unemployed EU citizens – have also had their residence permits removed because they are deemed to have 'no reasonable chance of finding employment'. In 2013, four Member States (UK, Germany, Austria and the Netherlands) also issued explicit calls to increase controls on the mobility rights of poor EU citizens. The calls for the curtailment of non-contributory in-work benefits that preceded and followed the Brexit referendum offer a further illustration of the long-term trend where social policies are increasingly used as a means to restrict the right to freedom of movement of EU citizens. Following Balibar (2004) and later Jansen et al. (2015), one can therefore argue that – while physical borders have been removed within the EU – controls such as those contained in the Citizenship Directive mean that the presence of borders is felt everywhere in the daily lives of poor immigrants who are in need of support from the welfare state.

Conceptualizing the 'Irregularization' of Mobile EU Citizens

Mobilizing concepts from the body of literature on undocumented migration and applying them to mobile EU citizens is far from straightforward. As noted by De Genova (2002), 'illegality' is the product of immigration laws. It is 'a juridical status that entails a social relation to the state; as such, migrant 'illegality' is a preeminently political identity' (2002: 422). A large part of the literature on 'illegality' tries to assess scientifically the success or failures of policies aiming at limiting mobility rights and reaffirming the dominance of the

state perspective on migration. In doing so, it assumes that 'undocumented migration is indeed a "problem", that the state genuinely seeks to remedy this situation on behalf of the majority of its citizenry and that the state is capable of actually effecting the recommendations of such studies' (De Genova, 2002: 421). Other scholars such as Calavita (2005), Coutin (2000) and Harris (1995) have looked at migration from the standpoint of the migrants themselves. Studying what De Genova (2002) calls the 'legal production of illegality', they show that immigration and integration policies generate exclusion which is itself a necessary condition to maintain immigrants in their role of ensuring a cheap and flexible workforce. In line with this perspective, our article extends this discussion to EU citizens by showing how decisions taken by Member States at the national and supranational levels to restrict their access to welfare produce illegality and ensure that EU migrants remain a docile and productive workforce.

Certain authors have also suggested looking at deportability rather than illegality in order to acknowledge the fact that many undocumented migrants who can be arrested and deported at any moment by the authorities are not explicitly sought after (De Genova, 2002; Ellermann, 2009; Paoletti, 2010). Deportability thus means facing a permanent threat of detention and deportation which ensures the docility of the immigrant workforce. Nonetheless, as various rights that were once reserved for citizens have become accessible to non-citizens, 'non-deportability' (together with some voting rights and the right to occupy certain public jobs) remains one of the few key markers that differentiate between citizens and non-citizens. Residence security is thus 'at the core of what the essential legal essence of the citizenship status is now about' (Kochenov and Pirker, 2013: 376).

In the European Union, European citizens residing in another Member State than their state of nationality experience various levels of deportability. As the number of EU migrants who see their residence permits removed on the basis of the 2004 Citizenship Directive increases, these differences become more obvious. Between 2009 and 2010, France expelled around 20,000 Romanian and Bulgarian citizens belonging to the Roma minority back to their countries of origin. This large-scale campaign – which entailed the physical removal of EU citizens from French soil and the forcible destruction of allegedly illegal camps – created a major outcry in different parts of Europe. It was also roundly condemned by then Commission Vice President Viviane Reding, who compared the actions of the French authorities with the treatment of minorities during the Second World War (Parker and López Catalán, 2014). The experience of Roma EU migrants strongly differs from that of undocumented Italian migrants in Belgium, which we discuss in detail below. For the latter, deportation – understood as the physical removal from the territory of foreigners who do not hold a residence permit – is a purely theoretical possibility, as Italian migrants have never been deported on the grounds that they have used welfare benefits in Belgium.

Non-deportable EU migrants are not, however, a homogeneous and static category. Using the concept of 'precariousness of status' we will underline the fact that 'one's legal position in [a given] country – and hence the question of one's rights, entitlements, access to services, obligations, responsibilities, and so on – cannot always be determined as a strictly black-and-white matter' (Bernhard et al., 2007: 102). Looking at what happens when EU citizens lose the privileges associated with citizenship and how they transition from one status to another, we will show that the experience of non-deportability differs in many ways. For example, as we show below with the concept of 'the

schizophrenic welfare state', they experience different levels of precariousness because of the arbitrariness of bureaucratic processes that results in important variations in the social rights that undocumented EU migrants continue to receive after being served with a deportation order. Moreover, undocumented EU migrants might be able to remain on the territory of a Member State, either by disappearing completely from the radar of the public authorities or by regularizing their status (via a new registration process in their municipality of residence; a possibility offered only to undocumented EU migrants and not third country nationals). For this reason, we use the concept of precariousness in line with Goldring et al. (2009: 245) 'to describe multiple and potentially variable forms of non-citizen and non-resident status' (including non-status).

Lastly, we have chosen the concept of 'deservingness' to help us analyse undocumented EU migrants' strategies for responding to precariousness. Other scholars have argued that an

> emerging moral economy of deservingness encourages irregular migrants to accumulate official and semi-official proof of residence, certificates of reliable economic and legal conduct, and other formal emblems of good citizenship, especially – but not only – with a view to future legalization. (Chauvin and Garcés-Mascareñas, 2012: 243)

Deservingness, we argue, is a relevant concept to describe mobile and immobile EU citizens' responses to social policy reforms adopted by European welfare states following the financial and economic crisis of 2008. In a context of austerity when benefits are reduced and conditionality becomes the norm, one's ability to convince authorities of the well-founded nature of their claim for assistance is all the more critical. Unlike immobile EU citizens, EU migrants, however, face the additional risk of losing their right to freedom of movement when they are deemed undeserving of the support of the welfare state in their country of residence. For EU migrants, the concept of deservingness therefore implies that, in order to maintain or restore their right to reside in their Member State of residence, they are expected to demonstrate to local authorities that they no longer represent a risk of becoming a burden on the public finances of that Member State. Demonstrating their ability to be self-sufficient without the intervention of the welfare state – or arguing successfully that such interventions would only be temporary before they themselves become contributors, rather than users of welfare – is key to maintaining residence rights in the EU today.

Methods

As mentioned at the outset of this article, welfare policy reforms have been implemented across the EU following the financial and economic crisis. To demonstrate how these policies have become instruments of control that allow the filtering of 'undesirable' EU migrants, it is thus necessary to examine the effects of such reforms on EU Member States that have continued to receive EU migrants during the crisis. Furthermore, in order to determine whether such selection mechanisms are applied beyond the case of Central and Eastern European citizens already documented in the literature, it was necessary to focus on an immigrant group whose mobility had not been perceived as contentious in

recent years. The case of new Italian immigrants in Belgium therefore seems appropriate for two reasons.

First, while Italian migration to Belgium had significantly slowed down since the 1980s, we observed a threefold increase in annual flows during the economic crisis (see Lafleur and Stanek, 2017). Reasons for this increase are naturally to be found in the country's rise in unemployment but also in the segmentation of its labour market. The consequence of the latter is to separate a lucky minority of well-protected workers with stable contracts from the other – usually younger – workers who only received precarious contracts (Tintori and Romei, 2017). During our fieldwork (see details below), new Italian immigrants in Belgium also frequently depicted the Italian welfare state as unable to help citizens cope with the crisis. Unemployment benefits, for instance, were considered difficult to obtain and inadequate to weather the effects of the crisis. However, as migration scholars have long known, economic motives often combine with other factors – such as networks – to precipitate migration decisions and/or the specific location to where one moves. The presence of a large and long-established Italian community in Belgium has thus facilitated the arrival of many new immigrants.

Second, unlike other groups of immigrants in Belgium who are regularly depicted in negative terms, Italian migration has largely been presented as a 'successful immigration'. After several decades spent escaping the stigma of poor guest workers, post-war Italian immigrants were recognized across the board as strong contributors to the country's economic growth and as financing the expansion of its welfare system (Martiniello, 1992). As Belgium tightened its welfare policies with the purpose of restricting EU citizens' freedom of movement, our research revealed that new Italian immigrants arriving in Belgium during the crisis were dismayed to find themselves branded as welfare abusers. But EU migrants are hardly the only ones to have been targeted by sanctions and increased conditionality measures during the economic crisis. For instance, nationals who are long-term sick or unemployed have also been subject to significant stigmatization and increased control.

Arguing that 'we needed to prevent foreigners from coming to Belgium to take advantage of the welfare system' (RTL info., 2014), the Secretary of State for Migration implemented an innovative policy of systematic cross-checking between social security and migration databases in 2010. Under this policy, EU citizens who use non-contributory benefits for periods that are considered too long or who are deemed to have 'no reasonable chance of finding employment', are increasingly being served with deportation orders (called *Ordre de quitter le territoire* in French). Between 2010 and 2014, the yearly number of EU citizens told to leave Belgium on such grounds jumped from a couple of hundred to more than 2000. Citizens of Romania – a new Member State – account for over 15 per cent of all cases. By contrast, citizens coming from four large, long-term EU Member States – France, the Netherlands, Italy and Spain – jointly accounted for under a quarter of all removals during the same period.

The data presented in this article have been collected through ethnographic fieldwork conducted between February and June 2016. Using different entry points in the field such as immigrant organizations, trade unions and the authors' own network within the Italian community, we interviewed 20 Italian citizens who had been residing continuously in Belgium for less than five years but had received a deportation order or whose

residence permit was being officially reviewed. During fieldwork, we identified three different categories of new Italian migrants: (1) 'free movers' (first-time migrants who had exercised their right to move freely within the EU in the context of the economic crisis after 2007); (2) 'second generation Italians' (people of Italian nationality born in Belgium and who had lived there for most of their lives but with some discontinuities, as a result of which they had not secured permanent residency); and (3) 'secondary migrants' (naturalized Italian citizens who were born outside of the EU who re-emigrated to Belgium following the economic crisis). Overall, immigrants from these three categories came equally from Southern and Northern Italy and, in coming to Belgium, were mainly motivated by economic and family-related reasons. In addition, we conducted repeated observations with associations and trade unions dealing with European citizens' residence issues. This was particularly relevant to observe the impact of irregularization on EU immigrants and the increased precariousness it triggers.

The geographical area in which fieldwork was conducted includes five Belgian municipalities (among which one in Flanders, three in Wallonia and one in the Brussels-Capital region) and two Italian municipalities where immigrants had returned. All names and data that could allow the immigrant interviewees cited in this article to be identified have been transformed or removed. In the interview excerpts, the acronym written next to our interlocutor's name (e.g. Hany, MO) describes their gender (Woman or Man) and their age (Under or Over 40 years old).

Lastly, it should be noted that this article contains some racially charged interview excerpts that could hurt the sensitivity of readers with Italian and Sub-Saharan African background. The authors chose to reproduce these excerpts to illustrate the violence of the processes of irregularization of EU citizens and the hierarchies of deservingness they create.

Creating Undocumented EU Migrants: The Case of New Italian Migrants in Belgium

In this section, we first describe the process that transforms immigrants into undeserving EU citizens whose freedom of movement is restricted. Doing so, we insist on the use of intimidation in bureaucratic interactions to ensure that non-deportable migrants leave the territory by themselves. Second, we demonstrate that the use of welfare policies to filter out undesirable EU migrants leads to growing precariousness among this population. Third, we discuss how such precariousness leads EU migrants to either leave, stay without any status or build cases of 'deservingness' in order to convince the authorities to regularize them.

Deservingness, Non-Deportability and EU Citizenship

Freedom of movement in the EU has never been unconditional. In spite of the progressive expansion of rights associated to EU citizenship, the 2004 Citizenship Directive gave significant room to EU Member States to restrict the mobility of inactive citizens. But how does one turn from a mobile EU citizen into an undocumented EU migrant?

Instead of finding the abundance of jobs they had hoped for, a share of the new Italian migrant population in Belgium faced a similarly segmented labour market they knew

from Italy, which only offered them informal employment or short contracts at best. Low-skilled newcomers, in particular, also found out that the hospitality industry, particularly bars and restaurants, was in dire need of a workforce. In this sector, however, undeclared work and exploitation are common (Adam et al., 2002). Overall, a share of the newcomers was thus unable to find a job in Belgium or was stuck in undeclared jobs that did not pay living wages. For these immigrants, making use of their rights to social protection – such as unemployment benefits or minimum income benefits – becomes another route to deal with a difficult insertion into the Belgian labour market. This route, however, is the one that most clearly exposes them to the scrutiny of the authorities since prolonged reliance on certain types of benefits automatically leads to a review of their right to reside in Belgium.

In Belgium, deportation orders are delivered at the municipality where EU migrants are invited to present themselves at the invitation of migration authorities. Deportation orders are formulated in extremely technical language and the vocabulary used – referring to a person's use of social benefits as an 'unreasonable burden on public finances' – insists on the gravity of the situation and the seriousness of the 'offence' committed by the foreigner who has failed to find a job or has asked for social assistance. Also, the letter makes it explicit that immigrants 'may be expelled or detained' if they do not leave Belgium voluntarily. This threat, however, is never enforced.

In different Western European countries, cases of nationals losing their residence permit in Belgium raised the attention of home country politicians and media (Lafleur and Stanek, 2017). As a consequence, Italian migrants – like their French and Spanish counterparts – have become de facto non-deportable in Belgium. Their situation contrasts with that of other mobile EU citizens from Central and Eastern Europe who have been forcefully removed from the territory of Member States such as France and Italy. Non-deportability is thus a privilege enjoyed only by some EU migrants which relies on the immigrants' ability to raise awareness about their situation, on the receiving country's fear of creating tensions with other Member States and, as observed previously with third country nationals, on the local authorities' reluctance to enforce decisions that often cause outcries in local communities.

To overcome non-deportability, authorities rely on bureaucratic intimidation which we define as a series of interactions by which immigrants internalize the idea that they are undeserving of their freedom of movement. Intimidation therefore ensures that undesirable EU migrants leave the territory and/or stop using certain types of welfare entitlements. For our interviewees, the inherently threatening and demeaning nature of the experience of a residence permit removal occurs when they are called to the municipal office. Not knowing exactly what will happen to them there, interviewees often find out only upon arrival that the purpose of the appointment is their removal from residence registries. Indeed, several interviewees noted that municipal officers asked to examine their identity card before proceeding to physically destroy the cards in front of them without any prior warning. This experience was described as traumatic by interviewees who faced accusations by municipal employees of being 'welfare tourists'. As Carlo recounts: '[a] woman from the municipality told me: "why did you have to come here to take money from the Belgian state? Take the money from the Italian State instead!"' (Carlo, MO, field notes, 20 April 2016).

Receiving a deportation order in such circumstances marks a significant setback, casting doubt on their migration project and, more generally, their aspirations. MacLeod (2009) and Van Meeteren (2012) define the aspirations of undocumented migrants not as their migration motives before departure but as what they want to achieve during their stay in the receiving society. Aspirations are thus less rational than goals and evolve as opportunities and constraints unfold in the receiving society. For some immigrants, the deportation order is accordingly a turning point that symbolizes the collapse of personal and professional strategies. Carola, for instance, was about to apply for permanent residence in Belgium when she discovered that the financial help she had received to enrol in a training programme was the cause for the termination of her residence permit. Upon receiving the deportation order, she felt that 'all time and effort spent in the host country are being erased' (Carola, WU, field notes, 15 April 2016). Similarly, Sonia – who was working through a subsidized employment programme – received a deportation order after the authorities decided that this particular type of employment scheme was a form of social assistance. To her, this experience marked the beginning of a phase of doubt in which professional and family perspectives were reconsidered:

> After the deportation order, I no longer knew what my reason for being in Belgium was, a country that had made me precarious and sanctioned me. I was thinking for a year: should I stay, should I go, what do I do? (Sonia, WU, field notes, 28 April 2016)

On the other hand, immigrants who have the economic and/or social capital to react may perceive the loss of a residence permit as a mere bureaucratic annoyance. Claudia, for instance, was already unsure about staying permanently in Belgium and, for her, the deportation order therefore only acted as a trigger that precipitated the decision to return. To facilitate the transition, she could count on the network she had managed to maintain in Italy in spite of the years spent in Belgium (Claudia, WO, field notes, 14 April 2016).

Overall, using a discourse of 'welfare tourism', continuously repeated by Ministers and elected officials, is an essential instrument for lower-level civil servants to carry out their mission of serving deportation orders to EU migrants. Arguing that its welfare system is endangered by migration, they put into practice the State's message on the undesirability of unproductive EU migrants at the local level. By insisting on this idea in spite of these EU migrants' de facto non-deportability, the authorities try to strong-arm EU citizens into leaving voluntarily. Accordingly, the use of bureaucratic intimidation – materialized in letters, conversations and physical actions such as the destruction of identity cards – allows the State to reaffirm its control over a population – mobile EU migrants – who traditionally considered themselves as having an unquestionable right to move and settle anywhere in the EU.

The 'Schizophrenic Welfare State' and EU Migrants' Precariousness

In the post-war context, freedom of movement developed along the idea of responding to workforce needs of some European states while addressing unemployment issues of others. From the very beginning, ensuring mobile workers access to welfare was thus considered a cornerstone of the success of the European integration process. Nevertheless,

as we have shown above, welfare policies have progressively turned into an instrument to restrict the freedom of movement of the specific category of EU citizens who need their destination country's social protection system. The fact that states may be committed to freedom of movement in supranational instances while simultaneously taking measures to restrict its exercise on its territory may appear contradictory at first sight. However, Bourdieu (2012) had already conceived the State as a Leviathan having both a left hand in charge of protecting via welfare policies and a right hand in charge of enforcing the economic discipline, sometimes at the expense of citizens' well-being. This logic is naturally not applied exclusively to immigrants. The use of conditionality and sanctions in social policies has intensified for both nationals and immigrants alike during the economic crisis. In other words, the crisis confirmed that states are increasingly prioritizing fiscal austerity over protection. Or rather, to continue with Bourdieu's analogy, undesirable mobile and immobile EU citizens are discovering that the left hand that was supposed to protect is increasingly used to serve the right hand's punitive function. This ambiguity in roles is particularly hard to understand for immigrants unfamiliar with their destination country's welfare system.

In Belgium, the policy of removing residence permits is implemented by the authorities with an air of strict and rigorous law enforcement. However, the experience of Italian migrants also reveals the inconsistent and arbitrary application of this practice and, most importantly, the lack of coordination between administrations dealing with residence and welfare issues. Several interviewees felt that they were not properly informed of the risks by welfare agencies upon asking for benefits. No one warned them that applying for help could lead to the loss of one's residence permit. Like other interviewees, Rossella notes that there is an inherent contradiction in Belgian social policies: 'If you offer a service [like the social integration income] to everyone because we are all European, if you allow me, then you cannot tell me six months later that you remove it and send me away!' (Rossella, WU, field notes, 23 May 2016).

The feeling of unfairness and of 'being tricked' by what we call a 'schizophrenic welfare state' is aggravated by the sense that third country migrants receive a more favourable treatment. For Camillo, 'Newcomers[2] come here and after three months they receive a passport and an allowance!' (Camillo, MO, field notes, 29 March 2016) and for Paola:

> Blacks here have everything! They receive the card from the welfare agency and they get everything paid for. There is something that is wrong with this system. They give them a house, and me I had to redo the house entirely and I pay rent. For them, they put first the house in order and then they go in. (Paola, WO, field notes, 24 May 2016).

In comparing their situation as undocumented EU migrants to that of documented third country nationals, interviewees revealed the existence of 'hierarchies of deservingness'. For undocumented EU migrants, EU citizenship and freedom of movement have been internalized and come with a sense of entitlement of being more deserving of residence and welfare rights within the EU than third country nationals.

> […] Europe is one. Why do I have to be illegal? Here is my house. The Blacks, they are illegal, the Moroccans [as well], not because it is racism but because it is reality! If I'm European, how can I be illegal?! (Paola, WO, recorded 24 May 2016)

The ambivalent attitude of the State was even clearer for those among our interviewees who continued to receive unemployment and social benefits after the issuance of a deportation order and the removal of their residence permit. Redouane, who was ordered to leave after three-and-a-half years of residence in Belgium, was informed by the unemployment office that he could still receive unemployment benefits until he reached the age of retirement in 2018: 'The [social] rights stayed as before, also the health insurance and the unemployment benefits, but they destroyed my identity card' (Redouane, MO, field notes, 22 April 2016).

Immigrants who find themselves in these situations receive contradictory orders from the State due to the lack of coordination between migration and welfare authorities. At the same time, the sense of being treated unfairly is further reinforced by a process already identified by Lipsky (1969: 30) by which street-level bureaucrats develop conceptions of clients (in this case a conception as 'welfare abusers') 'which deflect responsibility away from themselves'. As noted by different scholars (Maynard-Moody and Musheno, 2000; Perna, 2017), in times of crisis, it is not uncommon for street-level bureaucrats to make moral judgements about the deservingness of their clients and interpret rules to grant access to some people and sanction others. In our case, these bureaucratic contradictions result in pushing EU migrants further into precariousness – not a precariousness characterized by the absence of rights but by ambivalent status and limited and unstable rights maintained or granted at the whim of the authorities through a highly arbitrary process.

Immigrant Resistance and Social Mobility

Confronted with the situation of being undocumented, new Italian migrants who do not wish to leave the country need to show formal or informal compliance with the State's injunction to stop being a burden on the Belgian welfare system. In other words, they need to assert their deservingness as EU citizens using their freedom of movement. We identified three routes that immigrants can follow in their bid to restore their legal status and obtain a new residence permit: resistance, downward social mobility and upward social mobility.

For those who have the necessary social and economic capital, the first reaction is often to resist by turning to a lawyer, a trade union or a non-profit organization to undertake legal action against the Migration Office that had issued the deportation order. In spite of its cost and uncertainty in its outcome, this process at least grants migrants with a temporary residence status that formally allows them to stay for the duration of the legal proceedings. Several informants also noted that they were driven by greater goals than their own well-being:

> I fought to get back what I had worked for and also out of a sense of civic duty. For me it was important. It is not possible for things to go this way, society does not protect you, they [the authorities] must! (Sonia, WU, field notes, 28 April 2016)

Another way to oppose the obligation to leave is to attempt to re-register with the municipality using a different work status. Some of our interviewees were indeed offered

a job after receiving a deportation order and managed to regularize their administrative status. Regularization entails registering once more with a municipality. In such a situation, collecting evidence to demonstrate deservingness (e.g. a long-term employment contract) becomes crucial for convincing authorities that one is no longer likely to apply for benefits. Others were hoping to regularize their status by getting married (or officially registering as cohabitating partners) to a Belgian citizen or an Italian citizen with a permanent resident status. In both cases, the solution to the precariousness experienced by the immigrant entails convincing the State that they deserve to stay on the territory – either on the grounds of their demonstrated economic value or due to strong personal links with the country (e.g. marriage). When successful, this path can be qualified as 'upward social mobility' because it turns undocumented EU migrants with a precarious status into bona fide mobile EU citizens with a residence status and social rights in their host country.

These opportunities that lead EU migrants from illegality to a stable legal status are, however, quite limited. A more frequent route for those who do not want to return and are unable to find stable employment is to accept downward social mobility; that is, to accept a status so utterly precarious that it allows them to comply formally or informally with the State's request not to be a burden on the welfare state. One such avenue consists in formalizing precariousness by registering as a self-employed worker with the municipality. Indeed, authorities tend to be laxer in those cases because the self-employed status comes with a lower level of social protection. Others engage in the 'gig economy' seizing a job opportunity in the digital world (e.g. language teaching online) that allows them to be in a contractual relation with a foreign employer without being noticed by the Belgian authorities. However, the simplest way to stay in Belgium while keeping off the radar of the migration and welfare authorities is to engage in undeclared work. But income from the black market is often too low or irregular, and in order to compensate for the shortfall and for the absence of social protection, migrants engaged in undeclared work often have to accept lower living standards, share housing or ask relatives for financial support.

Conclusion

Since the beginning of the economic crisis, the topic of migration and welfare has gained salience in Europe as observed at the EU, national and local levels. As shown in this article, initial controversies concentrated on flows of EU citizens moving to North-Western Europe from Central and Eastern Europe but also from Southern Europe. Yet, following the so-called 'refugee crisis' of 2015, the right of asylum seekers to seek refuge in Europe is also increasingly being questioned in the name of the potential threat they represent to host countries' welfare systems. In this sense, it can be argued that welfare state reforms initiated during the economic crisis in the name of austerity are supporting discourses on selectivity of both EU and non-EU immigrants based on their potential economic contribution. For EU migrants in particular, European legislation that allows national authorities to remove the residence permits of poor migrants accused of being burdens on the welfare state has been used to limit their freedom of movement. Such a policy interpretation is in line with the activation approach to social policy that prevails in EU law since 2000, as it confirms the transformation of social policies from

instruments to protect groups at risk of social exclusion into instruments incentivizing individuals to participate in the labour market. In this sense, we have been able to confirm that the logic at play behind the removal of residence permits of EU citizens is in many respects similar to the one that sanctions non-mobile precarious citizens (e.g. long-term sick and unemployed).

The process of curtailment of the freedom of movement of precarious EU migrants, however, takes the form of a series of administrative decisions that are perceived as contradictory and misleading by mobile EU migrants. The immigration authorities and social services often work in different directions, giving rise to what we have called 'the schizophrenic welfare state'. Where immigration authorities interpret welfare use by EU migrants as a motive to exclude 'unproductive migrants', the social services often continue to fulfil their protective function by advising immigrants to apply for benefits even when this practice puts them at risk of losing their right to reside in their host country. That being said, certain categories of EU migrants have been treated more favourably than others on the grounds of the same EU legislation. While Roma migrants in France have been physically removed from French territory, undocumented Italian migrants – and other citizens from EU-15 Member States who have migrant organizations, trade unions and elected officials in their home countries who are willing to defend them – are de facto non-deportable within the EU. Non-deportability, however, does not prevent those EU migrants from experiencing varying degrees of precariousness and does not ensure that they will be able to muster evidence of deservingness to convince authorities to revert their decision.

Overall, the practice of removing the residence permits of EU migrants who use certain types of welfare benefits forces an increasing number of EU migrants to accept being economically active without (or with more limited forms of) social protection. In other words, by transforming EU citizens into holders of a precarious status, this policy ensures the persisting presence of a cheap and docile workforce in destination countries. Also, it reinforces the long-term process of labour market segmentation currently at play in European economies, which was itself a trigger for the mobility of EU migrants sanctioned by this policy in the first place. As the use of social protection becomes an instrument of EU Member States' internal immigration control, EU migrants who cannot either rapidly find stable employment in destination countries or otherwise acquire a less precarious status by demonstrating deservingness (e.g. via marriage) are increasingly being forced to accept downward social mobility. This is visible through their acceptance of unstable work contracts with more limited social rights (e.g. self-employment), their participation in the 'gig economy' or their participation in the black market economy. As revealed by our fieldwork, omitting to declare one's residence in the destination country and participating in the irregular labour market are also becoming strategies of adaptation for newcomers desiring to stay off the authorities' radar as long as they cannot obtain a stable employment contract. This practice feeds the informal economy, which leads to lower tax revenues and increased risks of social exclusion for workers. The pressure to accept undeclared work also strongly contradicts the right to freedom of movement; a core principle that guided the European integration process and was meant to guarantee workers stronger chances of maximizing income while providing them with adequate levels of social protection.

Finally, forcing EU migrants to make a case for their 'deservingness' in order to justify their stay in another Member State has a broader effect on EU citizens' perception of the added-value of holding European citizenship. Contrary to their initial perception that freedom of movement is largely unconstrained, undocumented EU migrants are met with 'workfarist' regimes in their destination countries where migrant employment has become a civic obligation (Chauvin and Garcés-Mascareñas, 2014). This unexpected situation places undocumented EU migrants in a position where they fear the competition of third country nationals when demonstrating deservingness. Nicholls et al. (2016) have already identified that strategies of deservingness contribute to the stratification of precarious migrants. In this article, we have gone a step further and shown that undocumented EU migrants – who have objectively more legal avenues to regularize their status – actually feel threatened by asylum seekers and third country migrants whom they perceive are more likely to be recognized as deserving immigrants. As the arrival of numerous asylum seekers across Europe in recent years entails growing competition between precarious migrants, the use of welfare for controlling EU migration is likely to feed further xenophobic sentiments towards third country nationals.

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Notes

1. The authors of this article chose to use the terminology 'EU migrants' over 'mobile EU citizens' to reflect the precariousness of status many participants in this research share with third country nationals.
2. By 'newcomers', the interviewee refers to recently arrived asylum seekers.

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