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With what implications? An assessment of EU migration governance between Union regulation and national diversity

Emma Carmel
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The Centre for the Analysis of Social Policy
University of Bath
Claverton Down
Bath, BA2 7AY, UK

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Abstract

The analysis of EU migration policy has primarily been focused on evaluating its relationship to EU law, or its application to individual member states. This paper argues that neither focus can address the full implications and effects of EU migration governance. The Union’s migration and free movement policies set out to organize populations both within and beyond its formal borders. They are part of the broader governance of the European Union as an integrated market, and as an international policymaker. As such, the characteristics and effects of migration governance across the EU as a whole need to be assessed. At the EU level, EU policy and law on migration creates an illusion of policy coherence, applied to all member states, incomers and residents. Yet these apparently coherent EU policies always co-exist with three confounding factors 1) national and local variation in migration, integration and social policies 2) national and local labour market variation, particularly in the role of informal economy and 3) profound member state hierarchies in the EU’s political economy, enhanced by the ongoing crisis. Yet this does not mean that the EU’s migration policymaking is irrelevant to member states. Rather, migration governance in the EU is co-produced by the cross-cutting and sometimes contradictory policies of other actors. This co-produced governance, with its illusion of policy coherence, both disguises and entrenches significant hierarchy among member states. It contributes to an EU polity which manages diversity through inequalities.
Introduction

This article sets out to analyse and evaluate the socio-political and socio-economic implications of intensified and expanded EU policymaking on migration. It asks: How far do the European Union’s policies on migration constitute a form of migration governance, what form does this take, and what are the implications for member states?

The article argues that the EU’s involvement in migration policies and politics matters for individual member states and their residents, and that to interpret the implications of this involvement, it is helpful to adopt an analytical lens of governance. The empirical puzzle addressed by the article starts from two conditions. On the one hand, we have a plethora of Directives, Treaty law, and increasing case law, which is explicitly designed to change the relationship between free movement and migration generally in the EU, and to change the form, function and rights of different migrant categories for all member states (author reference). On the other hand, we see an extraordinary diversity of migration patterns, among and between Member States (MS)\(^1\), as well as very marked variety in regulation, shaped by the interactions of capital demands, regulatory capacity and xenophobic politics at both national and local levels. These two central features of the population politics in the Union: EU-level ‘migration management’ co-existing with national state diversity, are further rendered complicated and indeterminate by the ongoing consequences of the financial, economic, and sovereign debt crises.

Much of the discussion in EU migration policy has concerned itself with explaining (mostly political science) and evaluating (mostly EU legal scholars) the rapidly emerging set of directives, regulations and programmes which go to make up the substance of EU migration policy. As a result, the focus in key literatures has been on explaining the Europeanisation of migration policy – why member states have permitted or preferred the development of EU-level policies on migration. Or they have sought to evaluate the Union’s expanding jurisdiction in migration in the context of increasing institutionalisation of EU-level law-making *sui generis*. At the same time, studies on national migration politics discuss EU-level activity rather

\(^1\) There are 27 Member States of the Union. In this article, reference is made to three common sub-groups of countries. EU15 refers to the 15 countries which were member states of the Union prior to 2004: Belgium, France, Germany, Italy, Spain, Greece, Portugal, the UK, Ireland, the Netherlands, Sweden, Finland, Denmark, Austria, Luxembourg. EU8 refers to the eight 2004 accession countries in central and Eastern Europe: Poland, Hungary, Czech Republic, Slovakia, Slovenia, Estonia, Lithuania, Latvia. EU10 refers to all 2004 accession countries – EU8 plus Malta and Cyprus. EU2 refers to Bulgaria and Romania, which joined the Union in 2007.
patchily – usually as a rather generalised contextual feature in analyses of migration in border areas of the Union, of developments in border control, or of political economy. Even where it is discussed (Anderson and Ruhs, 2010; Caviedes and Menz 2011), such contexts are rarely brought to bear on further analysis of European Union policy and politics in this field. There is in addition, an important and growing literature on the local dimension of migration politics – integrating insights from migration studies and policy studies to understand the impact of local politics and policy of migration on patterns of migration and welfare outcomes for migrants themselves (see e.g. Caponio and Boukaert 2010). But in such studies, the EU is more remote than ever. Thus the article argues that an alternative analytical approach – a public policy governance analysis - might enable us to explain and evaluate these contrasting empirical findings in order to understand the shape of EU migration governance in its entirety.

The article proceeds as follows. First, aligned with the first question of the paper (how far current policies constitute a mode of governance), it outlines the specific analytics of governance adopted here. The second section summarises EU policymaking in the field of migration. The third section addresses how national and local diversity matter to the governance of migration in the Union. The fourth section examines the central issue of the implications of EU migration governance. In particular it argues for the importance of understanding the complex and unstable insertion of particular MS and their migrants into the larger political economy of the EU and its neighbourhood. Finally, the paper offers some critical reflections on the consequent implications of EU migration governance for inequalities among member states and their residents.

1. Analytical approach: public policy governance analysis

In order to proceed with the article’s evaluation of EU migration policies and their implications, I adopt an analytical approach which treats the content of these policies, and the frameworks and processes within which policies are made, explicitly as part of an interlinked whole. The article conceptualises policies on migration and mobility as migration governance, that is, as part of a wider set of structures, processes and institutional relationships. In doing

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2 The term ‘public policy governance analysis’; the questions which this analytical approach addresses; and in particular, the central importance of the critical analysis of public policy implications in a governance framework, stems from a body of work developed in a number of published and unpublished works, in addition to those cited in the text (examples include Carmel and Harlock 2008, Durrant 2012, Farr 2012, Paul 2012, Kan 2010, Morgan-Trimmer 2010).
so, the article makes a case for consideration, in Fligstein’s terms, of the links between the national and European political fields (2008: 216-8). The article argues that in order to evaluate EU-policymaking’s effects, we need to examine the content, outputs and processes of national-EU politics, their iterative interaction across policy fields, and dynamic relationships with wider contexts. It is these interactions which jointly constitute the political and social contours of Europe inside and outside the EU (Carmel 2013; Hansen and Hager 2010; Lavenex 2006).

In particular, analytically, the article draws on work from other policy fields (Carmel and Papadopoulos 2003), to suggest that treating policies as a matter of governance enables us to explain the articulation of political processes with the goals of decision-making, and to evaluate how this articulation generates wider socio-political consequences of policymaking. Public policy governance analysis is an approach to research enquiry. This approach addresses itself to questions regarding how governing is done, rather than treating ‘governance’ as an empirical phenomenon to be described or conceptualised (Carmel 2011b).

Thus, public policy governance analysis involves a critical assessment of “how and with what consequences the political ordering of social relations is achieved through public policy in and across a range of settings and scales” (ibid: 3). Answering these questions enables us to see the ways in which social subjects (whether collective, such as migrants, or institutional, like states), and their relationships, are constituted in policy and policymaking. Beyond this it enables us to assess what are the consequences of policymaking for the actors themselves, and for the wider socio-political context within which they act. The analytical focus is on establishing

- **how** the often complex links between public policy goals and processes shape the development of particular economic or social relationships or practices;
- **through the interaction of which** processes, actors and structures across a number of policy fields;
- **with which implications** in terms of social or political inequality (ie the political ordering of social relations) (ibid: 3-5).

Applying this analytical approach empirically then, involves assessing the EU as a highly consequential social-historical formation, whose role in political ordering of socio-economic relations is significant across its territory. For example, Fligstein uses his focus on the joint
national-EU production of institutions and politics across a number of fields to argue that “‘Europe’ as a social and cultural project is clearly a social class project.” (2008: 251), with socio-economic effects on inequalities, within and between member states, and with political implications as well. In terms of migration governance in particular, these consequences make their effects felt in the legal frameworks which migrants and others must negotiate in asserting rights and trajectories of integration. They are also felt in how institutional relationships of policy actors are shaped in the Union. Finally they have implications for our understanding of the EU’s changing political economy. It is the co-production of migration policies, whereby aims, targets and trajectories are elaborated, contested and developed, across both national and European political fields - which constitutes EU migration governance as a whole (Carmel 2013, Hansen 2010). This gives us a wider view of policy consequences of EU action - in member states and across the Union a whole - than those existing studies which address the politics of policy-making or its legal framings (Boswell and Geddes 2011; Menz 2009; Baldaccini, Guild and Toner 2007). As such, the public policy governance approach adopted here can enlighten our understanding of the workings of migration governance and its implications across the Union as a whole.

2. European Union migration policies: entrenching, expanding, intensifying

The European Union has become deeply engaged in the governance of migration into and within the Union over the last decade or so, increasing the speed with which new measures are introduced, expanding the policy areas with which migration policies interact, and intensifying the existing activities and actions.

The EU has developed a distinctive, and significant, role in demarcating an EU legal view on migration which stands beyond, and is applied to, all member states (Boswell and Geddes 2011; Kunz et al 2012). The Union has, through its Treaties, Programmes, Directives, Regulations, and softer measures, developed a specific view of its population politics, greater than the sum of competitions among its members, ie a population politics of the Union itself, rather than its component member states.

Carmel (2011a) argues that this population politics rests on the interaction of three key elements: security, utility and integration, which are combined to perform particular political
purposes in the EU-level governance of migration. These elements are linked together in policy discourses and legal measures, to create an illusion of policy coherence: as if migration policy is produced by, and applied to, all member states ‘without fear or favour’. Even if not coherent in practice, the very attempt to appear so is itself politically important and consequential. ‘Struggling for’ coherence itself involves a display of ‘Europeanness’, the showing-off of Union effectiveness in dealing with this most tricky and contentious of cross-border issues, which member states are unable to deliver alone (author reference). The illusion functions to demonstrate the Union’s humanitarian, even democratic, virtue, in providing ‘security’ (to those within the Union), meeting the needs of economic growth to the benefit of the Union (utility), and facilitating social integration (for those permitted to settle). It also shapes the trajectory and possibilities of political action for the Union, while at the same time disguising its political characteristics (see also Hansen 2010).

Entrenching Union perspectives on migration

The Tampere Programme, which set the terms of the implementation of the Amsterdam Treaty, in particular set out to re-negotiate the relationship between legal long-term residents and EU citizens (Kostakopoulou, 2002: 452ff). The parameters set by Tampere were crucial in carving out the terrain of migration policy-making as a legitimate one for the Union, and making feasible its expansion and intensification. These parameters were broadly to distinguish the illegal from the legal migrant, and in doing so, to pull the legally resident migrant towards an association of legitimacy, by approximation of the rights of free movers. As Hansen and Hager (2010: 132) argue, this development cannot be seen ‘simply as a structurally detached expression of the Commission’s benevolent intention’ to recognise third-country nationals (TCNs).’ Rather it was a political agenda fundamentally linked to the desire to use selective labour migration as a tool in managing the political economy of European labour markets and welfare systems.

In both the Hague and subsequent Stockholm Programmes, accompanied by the French-led Pact on Immigration and Asylum (Hansen and Hager 2010: 204), EU migration policies gained more impetus, and were governed with ever greater precision. This is evidenced in the specificity and imperative of instructions to the Commission and other actors; the accrual of new institutional actors in this policy field, and in the adoption of new budget lines and programmes. Over the decade and more since the implementation of the Amsterdam Treaty, the underlying dynamics of EU migration policies have been expressed in discourse, policy and law as responses to a common (that is, a European) socio-economic trajectory. This trajectory
conflates assumptions about future problems with future ambitions of the Union, and comprises three main dimensions: managing labour shortages and developing a knowledge-based economy; dealing with threats or risks from migration and minority ethnic communities; and sustaining welfare systems under demographic challenge (Commission of the European Communities (CEC) 2010a, b; Carmel and Paul 2013). By constituting this socio-economic trajectory as a common European narrative, the distinctive ways, and varying degrees to which, particular member states might experience any of these problems is disguised at EU level. Those countries which experience different problems and prioritise different goals due to their particular socio-cultural, economic and political organisation, are in this way rendered discursively and politically insignificant in EU migration governance. The assumptions of this EU narrative has notable implications for interpreting how the inequitable effects of Union migration governance are sustained over time.

These three apparently common imperatives are conveyed with a sense of ever more unrelenting urgency to Union action, vested in Commission and Council output. They are institutionalised and given legal justification in the specific articulation of ‘free movement’ regulation with ‘migration’ policymaking in the decision-making architecture of the Union. This articulation has persisted under successive Treaties, culminating in the Lisbon Treaty (for further details, see Ucarer 2009). The free movement of EU citizens, and its distinctive legal treatment as a fundamental freedom of the Union, is subject to separate legal and policymaking procedures from policies relating to third country nationals. As a result, issues arising from internal migration in the Union have not been addressed in EU policymaking in the last decade, despite the large increases in intra-EU migration which have taken place in the wake of the 2004 accessions. Migration of EU citizens within the Union is termed ‘mobility’ in official Union discourse. Such mobility is assumed, at Union level, to either be taking place unproblematically to the benefit of its member states and EU citizens concerned. Or it is considered to require promotion, with emphasis on the need for member states’ action to encourage more intra-EU mobility to promote better labour market integration across the Union. These assumptions are focused on the liberalising benefits of such mobility to the European Union economy, and follow a similar strong line from the OECD regarding the economic benefits of highly mobile labour forces (although with some more recent caveats, OECD 2012: 5-6). As we will see below, the treatment of free movement and migration as separate policy domains, with free movement considered as a distinctive, EU-regulated, rights-granting domain, is in any case highly problematic in practice (Carmel and Paul 2013). More recently indeed, free movement’s regulation has become the target of co-ordinated
pressure for reform from a group of major member states. Even more significantly, it is the first time that free movement has become a topic political bargaining outside the context of enlargement and market integration.³

**Expansion of activity**

The direction established by the Tampere Programme has been expanded in two key ways – expanding the field of migration policy, and inserting migration issues into other policy areas. The first can be seen in the expansion of the objects/targets of EU policy, the scope of Union action, and developing new types of measures. In each successive EU Programme (Tampere, Hague, Stockholm), new areas for Union-level engagement and action have been developed, and these Programmes are consequential. Thus since 2001, Directives passed include: family unification, rights of those seeking international protection, rights of those granted international protection, long-term resident third country nationals, single residence and work permit, high skilled workers, and researchers. Currently, those proposed include Directives on seasonal work, students, and (again) researchers, trainees (detailed in Carmel and Paul 2013). In addition to such legal measures, there has been an expansion in the scope of other Union migration-related measures in the last 10-12 years. This includes the founding, and normalisation, of FRONTEX as an integral part of the EU’s responsibility to protect the borders of the Union (van Munz 2009). A number of new social funds have been created, such as the Refugee and Integration Funds. These are of low salience in financial terms, but were designed to signal the expansion of support new agendas set out under the Hague Programme (ie integration of particular preferred – legally resident – migrants, with focus on labour market integration) (CEC 2011).

The second way to expand the migration policy field as a project for the EU has been to ensure that migration issues are prioritised in other fields. There is evidence of this in Development and Foreign Policy, where the idea of ‘circular migration’ was first justified, and then developed into a small number of highly asymmetric agreements with countries of origin, although eventually focused on third countries visa regimes, readmissions, and border control, rather than development as originally proposed (Boswell 2003; Lavenex 2006; Kunz et al 2012). Analogous, and perhaps more successful attempts to integrate migration

³ In March 2013, relevant Ministers of Germany, the UK, Austria and the Netherlands wrote a letter to the European Commission, requesting renegotiation of the terms of free movement and the social rights of free movers (The Guardian, 29.4.2013). This was discussed during June Council of Ministers, and the Commission will lead a report in response by December 2013.
management into negotiation over Neighbourhood policies and Accession are also evident (see Taylor, Geddes and Lees 2013). In addition, and more concretely, there has also been an expansion into increasingly central areas of ‘domestic’ EU policy. This started with a bare interest in migrants in Lisbon programme’s social inclusion programme in 2000, where migrants appear as an afterthought among a mish-mash of socially excluded groups, such as young people, homeless, women, long-term unemployed, older people (author reference). From such inauspicious beginnings, a path can be traced where interest in migrant integration was developed in employment policy and other areas. Currently, the integration of legally resident third-country nationals, particularly in education and employment, is given high priority in the three flagship programmes of Europe 2020 (author reference).

**Intensification**

The expansion of engagement in migration and mobility matters has been accompanied by more interventionist Commission practice under its secondary procedures, particularly in relation to free movement. This includes robust (if ineffective) condemnation of Italy regarding the deportation of Romanian Roma in 2010, and in the invocation of infringement procedures around free movement and social security regulations for a number of member states in since autumn 2011, including the UK in summer 2013. In addition, the revised Directives on asylum which are proposed, or in one case, recently passed, suggest a more ‘Europeanised’ view of asylum regulation, due to their substantially increased detail and specification of rights and responsibilities to be regulated. Co-operation of executive agencies in visa and asylum co-ordination, the 2011 adoption of a single resident permit for labour migrants, which requires Union-prescribed changes to national executive practices (rather than just policy goals), all also provide evidence that Union engagement is not merely at the level of generalised legal statements typical for Directives. One of the clearest examples here is in the establishment of FRONTEX. This development might be considered a ‘soft measure’ (non-legal) expansion of EU activity and authority in border control. In practice, FRONTEX’s increasingly frequent use as a semi-militarised EU border control force (especially in the Mediterranean), is a concrete measure with force and impact which changes the settlement of responsibilities among the Union - those member states most involved in providing FRONTEX services, and the member states of the borders. Other examples of intensified regulation which imply a settlement of mutual obligations as a result of Union policy include

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4 FRONTEX is an agency of the EU dedicated to supporting members in border control, patrols.
the 2010 review of Schengen\textsuperscript{5} procedures (EC 2010). The latter notably would alter the relationship between individual MS and the right of a majority of MS to sanction that state, to the point of excluding them from Schengen (this seems clearly targeted at Southern MS).

Nonetheless all these EU policy measures, mechanisms and actors, co-exist with the persistent and socially complex, national determination of admission, residence, labour market, and integration policies in member states. These national policies are also set against backgrounds of, in general, increasingly xenophobic and anti-immigrant politics. In the next section, I outline the other aspect of migration/free movement policy and policymaking in the EU – that of diversity, unmanageability, change – and of highly public and highly contentious politics in Member States.

3. Confounding factors of migration politics: the national and the local

This section comprises two parts, corresponding to key aspects of national and local variation affecting migration governance. The first concerns policy and politics, and the second addresses variety in labour geography and labour markets.

\textit{National and local policy variation}

Very few EU directives/regulations apply to the Union as a whole - even among the slew of Directives adopted since 2002. There are opt-out possibilities for Denmark, Ireland and the UK, which they choose to use in different combinations for different Directives. These sit alongside different terms of accession for newer member states, which preclude such opt-outs, combining to confound aspirations for universally applicable EU migration governance. In addition, substantial degrees of variation in the pace and terms of Directives’ implementation all mean that the ‘Union’ - even as apparently legally prescribed - is never quite co-terminous with the boundaries of its territory. There are several Unions involved in migration policy, of which the most highly developed and widely applicable is in asylum, - partly due to its longevity as an EU policy area, but also due to its embeddedness in wider overlapping legal regimes (Betts 2009). Schengen regulations are not adopted by all countries, and several accessions (Southern in the 1980s, Central-Eastern in 2004 and South-Eastern in 2007) have demonstrated that the supposed fundamental mobility rights of EU citizens can

\textsuperscript{5} Schengen refers to the Schengen Agreement, abolishing most border controls in a sub-set of member states (known as the Schengen countries, or Schengenland).
be waived - at least temporarily - when weighed against the interests of individual member states. Indeed, while the suspension of such rights in recent accessions, has been temporary, the consequences of such suspension measures turn out to be more substantial and long-term, as discussed below.

More marked, and fundamental, is that national selectivity for migration remains in place. It is commonly remarked on, especially in studies which emphasise the irrelevance of the EU to national migration policymaking, that the Lisbon Treaty confirmed member states’ right to determine overall admissions numbers for non-EU nationals. The EU Directives mentioned in the previous section neither appear to constrain member states much from developing their own regimes of selectivity for labour migrants (Howard, 2009; Paul 2012), or even for example, their own ‘high skill’ labour migration schemes (Cerna, 2013). National variation in migration policies from entry to residence and integration is well-understood, and varies by what Ruhs and Anderson (2010: 197), discussing the UK, call the ‘complex institutionalisation’ of migration policies and politics in national contexts, embedded in a number of interacting interests in cross-cutting policy fields (e.g. among many others Caviedes and Menz 2011; Favell and Hansen 2002; Carmel, Cerami and Papadopoulos 2011).

This variety is, in the context of the Union, not politically neutral, however. As Menz (2008, 2011) has shown convincingly, member states in migration policy, as in other policy areas, bargain domestically and in the EU to achieve policy gains. These bargains themselves are directly shaped by different domestic and international actors (capital, labour, states, NGOs, IGOs). They are also shaped by the form, political significance and ideological framings of any one policy area within individual member states and in the EU (compare Hansen and Hager 2010 on the European Round Table of Industrialists; Berg and Spehar 2013). Countries export their concerns and agendas to the EU, exemplified in Guiraudon’s (2000) analysis of member state venue-shopping. Alternatively, member states can focus on protecting perceived core interests, thus tolerating, and bargaining domestically, over developments which they might otherwise oppose (Menz 2011). So far, so much business as usual in the EU. However, although robust and revealing of member state interest politics, such empirical analyses treat the politics of migration policy in a rather truncated way. The analysis is focused on actor interests, and their relative ‘success’ in achieving their goals, but it is overly bound by its conceptual framing on degrees of Europeanisation (ie is there more or less Europeanisation?). As a result, Union policymaking is presented as a rather technical process denuded of
substantive content: what such Europeanisation implies for the political ordering of member states and their citizens is rather hidden from view.

**National and local labour market and social contexts: variation – and change**

In order to address such implications of varied member state interests and political competition, our analysis needs to contextualise the variety in member states’ engagement in, or insertion into, the European political economy. This identifies that the EU’s agenda on economic growth, starting with the Lisbon Programme of 2000 (seeking the ‘most dynamic knowledge-based economy in the world with more and better jobs and greater social cohesion’), and currently focused on its successor, the Europe 2020 programme (seeking ‘smart sustainable economic growth’) rests on assumptions about the existence of a European economy that can be managed/directed as a whole without significantly addressing inequalities which currently exist or would be produced by such economic growth models.

In the light of the extended economic crisis since 2007/8, such policy claims and aspirations can be rendered problematic simply on the basis of unfeasibility. But there are wider and more long-standing issues which also expose the significant variation and inequality in the implications of Europeanised policymaking for member states and migrants. Hansen and Hager have shown how far the politics of citizenship in the EU are shaped by de-regulation of national social protections at national level (Hansen and Hager 2010; also Schierup et al, 2006). Such analysis provides support to the contention that there is emerging an increasingly informalized political economy in Europe (Slavnic 2010), in which the employment of migrants, those emblematic members of an emerging precariat class (Standing 2010) is fundamental.

Yet this informalization of the economy and the degradation of social rights does not have the same starting point in all member states and is not evenly distributed across the Union. This unevenness means that not only can the metropolitan, core member states of the Union assert their interests in ‘Europeanising’ migration policies to the benefit of their political economy as discussed above. It also means that the combination of agendas in welfare reform, economic reform and migration reflects neither the interests nor capacities nor underlying political economy of many member states (Caponio and Campomori, 2013; Maroukis, 2013). The relative weight of so-called formal and informal economy varies widely by country and the sectors where there is most informalisation can result in major differences across all MS regarding their interest in particular forms of EU migration regulation, and their
capacity to implement it (Slavnic 2010; Maroukis and Triadafillou 2012; Ruhs and Anderson 2010, 202ff; Papadopoulos 2011). It also of course, makes a huge difference to the experience of migrants themselves – and there can be fewer distinctions between conditions of free movers and irregular migrants where the economy is more informalised. This is not to suggest that the situation of these migrants is equivalent, but to observe that, as Jordan and Düvell (2002) and Düvell (2009) have made clear, countries choose to tolerate different kinds of irregularity, even in different economic sectors. This does not mean that the European Union is simply irrelevant, and that all that matters for migrants local and domestic politics. Rather it is to note that we can expect Union-level regulation to operate with different effects in different member state, and to observe that this is centrally important to understanding the third part of our question: what are the implications of the current form of EU migration governance?

The ideal of welfare reform, which has underpinned Union policy agendas and national reform trajectories in social policy, employment policy, education and training in last decade and more is of the shift to a ‘social investment state’, (van Kersbergen and Hemerijck 2012; Hay and Wincott 2012). This reform agenda is premised on a universalised model of economic development which makes no sense in relation to many national and local political economies, and effectively sidelines major differences in their composition, position in the global economy, and current institutional form. These differences are significant in shaping the ways in which specific national and local labour markets in migrant labour develop. For example, the EU’s narrative on social investment presents welfare sustainability as a driver for welfare state reform, and, also, as a driver for EU migration policies. This twinning is explained by the need for migrants employed in expanding welfare sectors like health and care, as well as the need for increases in the employed population to sustain pension commitments. Yet this narrative disguises the highly gendered and often profoundly inequitable engagement of migrants in sustaining welfare systems in different countries. The recruitment of doctors and specialists from Poland to Germany and Sweden should not divert us from seeing the very significant and challenging consequences for Polish health services, just because such recruitment is part of a lauded ‘European labour market’ in mobile labour. Meanwhile, the unequal levels and terms of informal and quasi-formal employment of women in care work in different member states, also have consequences for intra-EU and non-EU migrants, their rights and life trajectories (Williams 2012). These aspects are also both shaped by the highly variable adequacy of welfare provision across the Union in the context of marketising reform agendas and restricted budgets, promoted by agendas of welfare reform and now austerity.
As such, the diversity of political economies and institutions of welfare provision among EU member states is central to our evaluation of the unequal political ordering effects of migration governance, and the disguise of these under EU-wide policies.

4. Contextualising EU migration governance: implications for member states, migrants and the role of Union policies

In the previous two sections, I sketched out some empirical terrain, which can be simplified as follows. I hold both these statements to be true:

a) The European Union’s migration and free movement policies play a significant role in organizing populations within and beyond its borders. In doing so, it regulates some of the political, social and economic relationships of these populations.

b) Member states of the European Union use their sovereignty to shape EU regulations, and diverge in their national politics and economics of migration, in ways which confound but do not outweigh EU policies.6

It is the co-existence and iterative interaction of these policies and political dynamics across member state and Union-level policymaking which constitutes EU migration governance (on how this affects rights regulation, see also Carmel 2013; Carmel and Paul 2013). The analytical perspective on governance outlined in section two involves a further step in the analysis- a contextualisation of this governance to assess its implications for the political ordering of social relations. It is the question of implications which this section of the article addresses.

Accession, free movement and migration

For many of the 2004 and 2007 acceding countries, there have been two particular vulnerabilities – economic inequality vis a vis EU15 and being on the border. The process of

6 There is a third vital dimension to the EU’s migration governance, highlighted to me by the issue’s editors, and that is the role of external governance (Lavenex 2006). This refers to how the EU, directly and indirectly shapes and is shaped by policies, political economy and structural positioning of its neighbours, countries of origin and transit (e.g. Kunz et al 2012). I do not address the external dimension directly in this article, which is why it is not included here, but in a more broad-ranging analysis of the political ordering effects of Union governance, this external dimension would indeed be central.
accession fundamentally shifted both the political geography and political economy of the EU8, and indeed the Union as a whole. In terms of political geography, some were required to abandon long-standing visa and labour migration agreements with neighbouring countries outside the EU, while also not gaining access to the labour markets of the EU15 on equitable terms (Lavenex and Ucarer 2004). At the same time, they became entry points for irregular migration, transit and residence, with consequently more requirement for - and dependence on - EU support in border control, and facing the social and political complications that arise from irregular migration, informal employment and poor public service and social welfare capacity.

Lendvai (2008) argues that the terms of accession were fundamentally problematic, indeed, impossible to fulfil, requiring as they did a ‘quantum leap’ to a post-fordist political economy when barely recovering from the industrial collapse of the previous decade. As EU8 and EU2 countries have been inserted into Europe’s political economy on unequal terms, the regulation of this political economy has functioned to enhance these inequalities rather than ameliorate them. This has implications for social rights as it does for economic growth. Likic-Brboric (2011) argues that the citizenship regime of the EU is marked by ‘asymmetries’, where the combination of absence of social and economic rights at national level is combined with securitization of migration at the EU level, resulting in a fundamental degradation of social citizenship. There is increasing evidence in support of this view, particularly in relation to recently acceded countries. Kurekova (2011: 144-5), explaining the terms of migration post-2004, notes that both the poverty of the social security system (inadequate benefits), and high unemployment, correlate strongly with emigration of medium skill, mid-working age population, often with family responsibilities. Meanwhile, we also witness the emigration of increasingly highly qualified younger migrants - the apparent success story of policies to invest in tertiary education so strongly promoted in policies for the ‘social investment state’, and considered essential the development of EU-favoured knowledge-based economies. Yet, despite the promoted promise of this economic and social model, such young people do not have access to job opportunities to match their education in countries of origin, and choose to migrate to improve such opportunities (ibid: 151-5). While such migrants move in search of new skills (especially language) and wider personal experience (Krings et al 2013), they also frequently remain employed in much lower-skill occupations in the country of migration, and there are often marked differences in their labour market trajectories, even within a single country (Ciupiius 2011). It is estimated that in formal employment, nearly one third of EU12 migrants are employed below their qualification level, with EU2 migrants having been
especially affected by the recession, which has further weakened the link between their employment and skill levels.

Furthermore, not only did the citizens of the 2004 and 2007 acceding states face highly differentiated, regulated, selective policies among their EU-15 ‘peers’, but these policies have had significant effects on population, migration and economic growth prospects. Projections of population gain and loss are very striking, and have significant implications for future economic growth and development for countries on the periphery of Europe - squeezed as they are between global periphery and core Eurozone countries. (Kanef and Pine 2010). In particular, the combination of declining fertility and migration mean that the decline in age group 15-34 year olds in EU15 might be 14%, but in EU10+EU2, it could be as much as a 29% drop between 2012 and 2025 (European Commission 2012: 263). Romania has seen 11% of its working age population migrate in recent years, while the figure for Latvia, Lithuania and Bulgaria is five percent (ibid: 253). This is of course a potentially massive loss of younger population, with clear consequences for the sustainability of both welfare states and social systems more generally - making it more difficult for EU10+EU2 countries to join the ranks of those countries enhancing economic growth through research intensive, high-skill, technological and innovation-led growth, as presumed and endorsed in the social investment model, and in Union policies.

**EU migration governance and the Union’s uneven political economy**

On accession, transition arrangements were put in place to regulate the movement of citizens from EU10 and EU2 countries to existing members EU15 (for up to seven years). Nonetheless it was possible to use the regulation of posted workers and GATS-based service provision (de jure or actual self-employment), for EU8 citizens to migrate. It is perhaps not accidental that in the key legal cases on posted workers concerned the employment of workers from the EU8. In these cases, the European Court of Justice ruled explicitly that workers posted from a country with worse wages than the country of posting could be paid those wages in the absence of a statutory minimum wage, even where collective agreements were in place. As Woolfson (2007; Woolfson and Sommers 2006) has argued, in the conditions of low wages and poor working conditions found in the EU8 (and now also the EU2), these rulings set in train competition for a lowering of wage standards under the radar of the protections which would otherwise be provided by free movement regulation (Cremers 2011). As a result we can identify the clear entrenchment of inequalities for some categories of migrant workers over others. This argument complements that of Papadopoulos and Roumpakis (2013 f/c),
who evaluate the legal cases which formally ruled on postings, as evidence of the re-regulation of economic relations at the EU level, with concomitant implications for producing and hardening inequalities among mobile EU labour.

Even in regular employment, data suggests that, compared to other EU nationals, EU10 and EU2 national migrants are strongly over-represented (against other EU nationals) among those employed on short-term contracts in all major countries of destination (up to 30% in Germany and 25% in Austria), and among those who are in part-time employment (CEC 2012: 273). Considering the over-qualification of EU10/EU2 migrants for many jobs, as against the desire to migrate to enhance income and skills, this evidence suggests that, the assumption of using mobile (skilled) labour as a means to generate high value economic growth, simply cannot come to fruition in a context of de-regulated labour markets. Indeed, the consequences of such a policy combination are more likely an affirmation of differences in both national economic trajectories and individual welfare.

Nor is it simply in relation to so-called ‘free movement’ that we can identify these political and economic hierarchies. For third country nationals, policies of ‘circular migration’ are increasingly proposed as the key solution to managing the tensions between security and utility, between market openness and state closure, especially in relation to the European South and its neighbours (Hansen and Jonsson 2012). Yet in practice, Cassarino (2013) argues the resulting policies constitute a ‘securitized temporariness’ which would locate third country nationals - even in formal employment - in a highly restrictive, and rights-limiting form of temporary labour. In addition, these nascent policies of circularity and mobility, still leave unacknowledged the extent and role of the informal economy in promoting individual migrants’ de facto strategies of circulation. These delay the apparently benign effects of circularity as promoted in the Union. Analysis of such strategies reveals that they are risky for all but the most ‘integrated’ migrants (those least likely to face border-crossing and visa difficulties). They are also frequently intended to circumvent otherwise restrictive institutional regulation of their residence and employment. As such they can become more illegal and insecure routes to ‘integration’ through informal economic activity, which might even harm access to future residence, employment and social rights (Devitt, 2013; Maroukis and Gemi 2013). Indeed these authors note that in the light of the current economic crisis, third country nationals migrants, regular and irregular, especially those in lower skill employment, adopt circularity as a strategy to supplement income in times of under- and unemployment. This is especially the case in countries with welfare systems which provide no
or inadequate benefits to those working in ‘non-standard’ employment, and where migrants do not have access to the family income which citizens have historically used (Triadifyllidou, 2013). Here we see how the uneven political economy of Europe, works in combination with the familistic, residual and crisis-ridden welfare systems in southern and eastern MS. This combination affects both the livelihoods of resident migrants and the de facto enhancement of survivalist, rather than developmental, strategies of circulation.

**Crisis and the periphery, or: entrenching iniquitous outcomes**

Despite the value of remittances to the EU8 countries of origin, Holland et al (2011) argue that any such remittances have in no way compensated for lost productive capacity in the countries of origin. Their (simulated) results for the impacts of the now EU8 and EU2 migrants on the output of countries of destination are generally rather small (the former significant in the UK, Ireland, Denmark and Sweden, and the latter in Italy and Spain). Even from an EU-level perspective, none of the output gains in countries of destination could compensate for the losses in sending countries. Nor do these countries exhibit inward third country-national migration at the volumes and skill levels to compensate for these losses (OECD 2012). Moreover, the impacts on sending countries are estimated as highly variable: generally around a loss of 3% of GDP, but in several cases very high indeed, at 6% in Lithuania, 5% in Bulgaria, even 10% in Romania (Holland et al 2011: 79). This evidence suggests that the high levels of emigration of the working age population meant that accession to the EU did not assist economic catch-up (although it might have prevented even more substantial gaps in economic growth developing). However, these authors also point out that there were three countries which did not experience substantial emigration – Slovenia, Czech Republic and Hungary. This points again not only to the diversity but also the inequality of experience – and loss – faced by some member states over others, and their capacity to respond to this under the current conditions of migration EU governance (see also Kurekova 2012: 161).

The sovereign debt and Eurozone crises have made these inequalities visible in a way which has not been the case over the last few years. The ‘common-sensical’ expectation that we would see high levels of returning migrants – and free movers – in response to the crisis, has also not happened (CEC, 2012: 255-6). Castles (2011) argued that migrant return to countries of origin is generally fairly unlikely solely due to the crisis, although he makes the case that return seems more plausible for free movers than others. While in general this argument seems sound, it seems likely to underestimate the rather more likely emigration from those periphery countries undergoing radical austerity, either as part of the Eurozone and ESM
(Portugal, Spain, Greece, Ireland) or as part of the more general debt crisis (e.g. number of central and East European MS, e.g. Latvia’s GDP collapsed by 17.9% in 2009) with its consequent increases in unemployment (Holland et al 2011: 100). In these countries, the fate of current migrants working informally, at a time when national minimum wages are falling below subsistence levels, and where the already limited and patchy existing social safety nets are being withdrawn, is extremely vulnerable – and unlike the national citizens, they are not entitled to legitimately move to a second member state to escape.

This EU migration governance – which keeps the poorest labour in its place – is intersected by the structure of the economic crisis and its highly unequal effects across the Union. In addition, there is an analogous and even more forceful effect of the Eurozone governance now being put into place on the Southern and Western peripheral economies of Europe, which is compounding, rather than relieving, the unequal first order effects of the crisis. This is because it is being structured to protect those MS with the power to resist adjusting their national political economy, and indeed the force to insist on its approach (see analysis by Streeck 2012). Thus we see in the management of the crisis, with cuts in social budgets, even in Spain, specific cuts in rights of migrants to health services, a further reinforcement and intensification the differentials of power and interest produced by EU governance, have similar intensification effects for migrants and migration policy.

5. Conclusion

The paper set out to integrate two aspects of migration policymaking in the EU: increased Union involvement which has or is likely to have real effects, and yet persistent and dramatic differences in migration policies and experiences among member states. I argued that we need to view migration policymaking as a question of governance, integrating an analysis of the politics and processes of governing with an evaluative focus on the implications of this interaction.

Rather seeing a universally shared trend to neo-liberal deregulation, therefore, the argument in this paper has been that we can see very marked inequalities among member states, in terms of their vulnerability to pressures for neo-liberal de-regulation, as well as their relative positions in the overall political economy of the EU – this is reflected in the patterns and experiences of migration, and how it is regulated in practice. Crowley (2001: 32), discussing free movement, wrote that ‘the attempt to combine freedom for some and restrictions for
others’ is ‘fundamentally unstable’. This applies just as well to our analysis of the relationship between free movement and other kinds of migration in Europe. This relationship, too, so defining of EU migration governance, seems fundamentally unstable, subject to the pressures to govern Europe as a single entity, offering (apparently) rights of free movement universally. Yet at the same time, the governance of the Union can entrench and confound hierarchies, inequality and difference among member states, citizens and migrants.

This argument has implications for our interpretation of the changing regulation of migration, member state autonomy in financial and economic regulation, and labour markets. I have argued here, that the nexus between national and EU fields is key to understanding EU migration governance. I have also argued that, applied to migration, this governance can be interpreted as being jointly produced by states and the EU, and as having fundamentally unequal effects across its member states, migrants and citizens, while paradoxically functioning to sustain the Union as a specific socio-political and economic formation. Yet, in order to maintain this formation over time, the European Union must also be able to structure and contain the inequalities it produces: it is this imperative which will shape the current and future policy terrain.
References


Caponio, T. and M. Borkaert (2010). The local dimension of migration policymaking. Amsterdam, Amsterdam University Press.


Commission of the European Communities (CEC). (2010a) An Agenda for new skills and jobs: A European contribution towards full employment, CEC 682.


Likit-Brboric, B. (2011) EU Enlargement, Migration, and Asymmetric Citizenship: Political Economy of Inequality and the Demise of the European Social Model?, Globalizations, 8:3, 277-294


