

Chapter 2

From International Migration to Freedom of Movement and Back? Southern Europeans Moving North in the Era of Retrenchment of Freedom of Movement Rights

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Whatever the weather, we must move together. (Message on poster popularising the Marshall Plan, 1950)

2.1 Introduction

Europeans have always moved to European neighbouring countries to battle wars, study, work or start a family. Over time, mobility on the European continent has changed remarkably: if in the postwar period, Southern Europeans were recruited as guest workers via bilateral agreements established between states, the creation of freedom of movement allowed people to migrate freely and on their own choice. The consolidation and extension of freedom of movement rights continued as the European Union has grown “ever closer”, it gradually extended from workers and their families to include students, retirees, job seekers and every European Union citizen with sufficient financial resources to support her/his stay. Over time freedom of movement has gradually evolved in a form of international migration unique in the world which, encompasses a population of half a billion people and 32 countries (EU28, EEA and Switzerland). In the context of the economic crisis that has started in 2007, citizens and political elites in several member states are challenging in systematic manner the principle of freedom of movement for the first time. At the EU level too, the hitherto progressive expansion of rights for freemovers which culminated with the introduction of Directive 38/2004 was stopped after in mid 2000s.

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This chapter examines the transformation of freedom of movement as a particular policy area at the supranational, European level and then moves on to document and discuss the political and policy responses to the intensification Southern Europeans' migration to Northern Europe in times of economic crisis. It starts by process-tracing the evolution of the freedom of movement regime from the guest worker schemes, the hallmark of European labour mobility in postwar period. It then moves to its period of intense consolidation and Europeanisation at the policy and political level. Finally, it zooms-in how and to what extent this past trends have changed after the last two enlargements and the new South-North migration triggered by the economic crisis. The chapter argues that the new South-North migration is taking place in an era of retrenchment of freedom of movement rights. The recent Eastward enlargements drive the political contestation of freedom of movement rights and together with the worsening of economic conditions in North-Western EU countries have led to policy changes that effectively contract the rights of freemovers. Such retrenchment of rights announce the end of a "golden era" of freedom of movement as it becomes increasingly similar with international migration from third countries. The ongoing changes negatively affect all European citizens including Southern Europeans moving in the EU since the start of the economic crisis. In particular, the young Southern Europeans who have been socialised and experienced Europe as a continent of free mobility because the contraction of rights comes at the time when they most need mobility rights to escape the financial and economic crisis in their countries.

2.2 South-North Mobility in the Postwar Europe: Guest Workers on Old Migratory Routes

In the postwar period, many Southern Europeans went to work in the more industrialised countries in the North of Europe as guest workers (Castles and Kosack 1973; Piore 1979; Hammar 1985; Messina 2007). War-ridden economies North-Western European countries recruited workers from a variety of countries but focused primarily on the Mediterranean basin – Italy, Greece, Spain, Portugal, as well as Yugoslavia, Turkey and Northern African countries – and their former colonies. Southern Europeans were amongst the most numerous migrant community in the countries. For example, in 1980, in Western Germany, Southern Europeans represented over a quarter of all foreign workers (Italians made up 14% of all foreign workers, Greeks 6.6%, Spaniards 4% and Portuguese 2.5% (Schmitter Heisler 1992: 39 and Chap. 9 in this volume). Belgium and France received similar high numbers of Southern Europeans in the same period (see Chaps. 7 and 8 in this volume). Elsewhere in North-Western Europe, Southern Europeans were also numerous. In the Netherlands, Southern Europeans who were categorised as 'Mediterranean' made up 1.1% of the total population of the country, with Spaniards rather than Italians being the most dominant, 0.8% or 123,000 (Rath and Sagar

1992: 206). Compared with these countries, Britain was a deviant case in Northern Europe as it primarily recruited workers either from its colonies outside Europe or from and the Baltic states via the European Voluntary Workers Scheme (Kay and Miles 1988) There were, however, some exceptions. Italians workers concentrated in London and the large cities or in Bedford where they worked for the London Brick Company (see Chap. 10 in this volume).

As a rule, guest worker agreements were state-to-state deals that Southern European countries signed with France, Switzerland, and Belgium in the 1940s, and with Germany, the Netherlands, and Austria in 1950s and 1960s. The repeated recruitment in Southern Europe as well as the family members who soon joined the workers in Northern Europe carved a marked migratory route from the South to the North of Europe. In the Fordist-Keynesian regulation model, the guest worker scheme played an essential role. Imported foreign workers provided a secondary labour force. They offered Northern European countries a reliable and fast solution to shortages, an on demand 'army of reserve workers' as Marx called it ready to power heavy industries and presumably ready to return at the end of their contracts. More importantly and paradoxically, guest workers were also contributors to Northern European economies via flexible pay-as-you go schemes which offered few social entitlements during what has been called the golden era of the welfare state. The majority of guest workers in postwar Europe were male, blue-collar workers who found employment in high-unionised industries. They were the ideal protected workers especially in conservative-corporatist varieties in Northern Europe. Yet as native workers in similar positions benefited of extended protections, foreign workers found themselves on flexible welfare trajectories.

In 1973 and because of the Oil crisis, Germany suddenly stopped new recruitments and most Western European governments followed suit by 1974. By the 1980s, everywhere in Europe the old guest worker programmes came to a full stop: the foreign workers have gained either permanent permits, became citizens in the country where they lived or returned.

Envisaged as temporary programmes, guest worker schemes led instead to the permanent settlement of the postwar migrants. Rather than triggering a large-scale return migration of the postwar workers, worsening economic conditions made migrants remain in the country and bring their families. The Oil Crisis together with the major transition from industrial to service based economy caused high unemployment, and deregulated the labour market with the logic that it would create new jobs. In particular, unemployment hit hard precisely the sectors in which foreign workers originally were recruited: the heavy industry, manufacture and mining. Also, native workers were now competing shoulder-to-shoulder with foreign workers for flexible work contracts and with women who were increasingly gaining access to paid work. In practice, these macro-economic changes prevented new recruitments from abroad. It also meant that many of the guest workers themselves entered unemployment and were in need of social protection just as native workers.

From the perspective of post-1973 crisis, the guest worker scheme seem as exceptional as the economic conditions in which it was born. The shortages of

labour force in key sectors of economy that characterised the early postwar years was the opposite of high unemployment that swept across North-Western Europe in 1970s and 1980s just as much as generous state investment for reconstruction funds including the multibillion dollar Marshall Plan was the opposite of the debt states accumulated in the Oil Crisis. In fact, they seemed so unlikely that in 1986, the migration scholar Stephen Castles (1986) wrote ‘an obituary’ of the guest worker scheme in *International Migration Review*.

The crisis had different impact for different communities of guest workers. Amersfoort et al. (1984) find that that unlike the Turks, Tunisians and Moroccans, the migrants from Spain, Italy, Portugal and former Yugoslavia had high return rates. Moreover, emigration statistics of these countries report that departures declined significantly since 1973. Studying the effect of the Oil Crisis on migration within European Union and the Nordic Community, Rinus Penninx (1986) notes that the only generalizable trend is that new inflows “seem to diminish, if the free circulation zone as a whole is going through a period of stagnation or recession, ultimately, this leads to a less rapidly growing foreign population of member states” (1986: 957). On return migration, however, Penninx finds no general trend. For instance, the Portuguese community decreased in Western Germany and in France but it stabilized in Norway and the Netherlands and it increased in Luxembourg.

However, for Spain, Greece and to some extent Italy return migration was somewhere more significant. Return was driven primarily by the accession of Spain and Greece to the EU and Italy’s *miracolo economico* of the 1960s. The Southern enlargement marked by the accession of Greece in 1981, Spain and Portugal together in 1986 had similar temporary restrictions introduced in the accession treaties as those applied for the Central and Eastern European states. In fact, the Southern enlargement was the first time the European Community enforced temporary restrictions on freedom of movement of people. The restrictions were imposed for a period of 6 years after each enlargement although Straubhaar (1984) noted they were scheduled initially to run for 7 years in the case of Spain and Portugal. The period was reduced because of the unexpected *extremely low* mobility of workers from these states. During the transition period, the number of Portuguese living in the EU increased by only 30,000 (3%) while the number of Spanish citizens actually decreased by 25,000 (−5%) (Dustmann et al. 2003: 44; Entzinger 1978).

Noteworthy is that there was no real end of Southern Europeans’ migration story, no declaration or obituary was written for the South-North migratory route. The route did not disappear, it was transformed. While migration from the South to the North slowed down significantly, the same routes were used by the returning Southern Europeans as well as Northern Europeans moving South. Soon after the accession of the Southern European states to the EU (with the exception of Italy who was one of the six founding members), mobility patterns on this migratory route changed their character and parts of these flows became increasingly similar to North-North intra-European mobility. While certain migration patterns remained stable (see for instance low-skilled Portuguese migration in Chap. 5), new Southern European flows that had little in common with the postwar migration also emerged. Similarly to what had been observed in other parts of the EU, young and educated

Southern European citizens headed to European cities in search for jobs but also to pursue cosmopolitan lifestyles and projects of self-realisation (Favell 2008; Recchi and Favell 2009). Finally, the emergence of a new migratory route in the reverse direction, running from the North to the South of Europe and the intensification of migrations from Central and Eastern Europe to both Southern and Northern Europe clearly indicated the decline of the South-North route.

Comparing the Southern Europeans' 'old' and 'new' migrations, one matter stands out. In the postwar Europe, they were able to work abroad because of the guest workers schemes while the more recent Southern Europeans have been able to move within the EU as Union citizens who enjoy freedom of movement rights. In the following section, I discuss the evolution of freedom of movement and its associated rights.

2.3 The Archaeology of European Freedom of Movement: From International Migrants to Freemovers

Some sort of freedom of movement exists for all people regardless of their nationality by virtue of holding a passport. However, not all passports are the same some passports carry different mobility rights across the world. Possessors of Afghan passports, for example, can travel freely to 28 countries at the same time that possessors of British, Finnish and Swedish passports have near global mobility rights because they are able to enter freely to 173 of the 193 countries in the world (Henley and Partners Visa Restrictions Index 2013). The wide disparity in mobility rights has given rise what Stephen Castles (2005) calls "hierarchy of passports". However, the kind of mobility regimes passports establish is rather limited as it only secures free entry but guarantees no right to residence in the country, no rights for family members or other post-entry rights. Before the establishment of the European Community and freedom of movement, Europeans travelled under the same conditions as other international migrants using their passports and enjoyed limited rights once in the country. The emergence of a regional space for unrestricted mobility a profound change in the way the Europeans moved across the continent. Compared with similar regional projects such as NAFTA in North America, MERCOSUR in South America or the Euroasian Economic community, European freedom of movement of people stands alone because in the European case, mobility lies at the heart of the EU and together with the freedom of movement of services, goods and capital forms the four core freedoms of the Union. To recall the centrality of freedom of movement of people within the EU and the progressiveness of the regional integration project in Europe, Adrian Favell (2014) calls it "the fourth freedom" of the EU. Others, on the other hand, see it as an anachronism for the contemporary narrative on immigration. The editors of a leading EU law journal (Editorial Comments 2014) describe freedom of movement as a dream that turned into nightmare "legally over-complicated, politically abused allegedly costly and popularly

misunderstood?”. Indeed, monitoring reports on the implementation of freemovers rights have revealed repeatedly irregularities with the transposition of the Directive in practice (Shuibhne and Shaw 2014). In April 2014, the European Commission acknowledged the problem and adopted the Directive 54/2014 that sets new rules to ensure better implementation of the rights of workers and jobseekers.

Freedom of movement is not only a generous mobility regime but it also generates additional rights including social rights in the member states of destination (Bauböck 2007; Kostakoulou 2007; Maas 2007; Olsen 2008). Nonetheless, a notable absence is the lack of political rights for mobile Europeans in national elections although recent mobilisation in favour of these rights have found new momentum in the European public sphere (Shaw 2007; Barbulescu 2012; Bauböck et al. 2012). The European freedom of movement therefore provides for ample entry *and* post-entry rights linked with residence which, create to a fairly unrestricted space human mobility within Europe. I underline *fairly* because it is not an absolute right. From the beginning, the treaties included safeguards that protect the interests of the member states from ‘unreasonable burden’ on the social assistance system (Article 14 of the Directive 38/2004) (see Chap. 7 on Belgium) and allow them to restrict freedom of movement on grounds of public policy, public security and public health (Article 27.1).

The freedom of movement of people was established at early stages of European integration. In its original definition in the Treaty of Rome (1957) it established under Article 3 ‘the abolition, as between the member states, of obstacles to freedom of movement of persons, services and capital’ and took more than 10 years until it was implemented in 1968 with the Regulation 1612/1968. The policy was the result of convergence of interests between the Italy and the North-Western European countries, notes Moravcsik (1998: 149): “Italy sought to export labour and the other [Northern European], especially Germany, sought to import it, so it was easy to agree in principle on freedom of movement”. Italy in particular argues Romero (1993: 52), was keen in signing off the policy because of the emerging European employment market provided with a solution to the chronic unemployment and poverty that led to Italians’ mass emigration the turn of twentieth century (see Chap. 4, this volume). Paradoxically, the promise of freedom of movement *for* people announced in the Treaty of Rome that implied it would apply to all nationals was materialised into a labour mobility *for* workers in 1968. Peo Hansen and Stefan Jonsson (2014: 227–30) show that the change of wording from freedom of movement for nationals to workers was determined in the negotiation leading to what we now know as the Treaty of Rome. France requested to integrate Algeria, who at the time was part of Metropolitan France, to the European Community. In this case, Italy was amongst the opponents. Algeria’s integration to the common market would have meant that its agriculture and especially Algerian workers who had French citizenship would now have competed with the Italian products and Italian workers. Algeria became an independent state before the implementation of freedom of movement but the early negotiations surrounding the Algerian case helped the member states understand that by replacing nationality with workers, they

gained some leeway in deciding who qualifies for the worker status and under which conditions could they enjoy free mobility.

The initial introduction of freedom of movement of workers served both instrumental objectives of the European integration (Olsen 2008). At its early phase, integration focused on developing the economic advantages of the Union and on building the common market. Freedom of movement of workers complemented the freedoms of services, goods, capital and added substance to the common market. It also served the political objectives of the EU by creating a sense of unity, amongst the people of Europe, or a quasi-European demos and, therefore, legitimising the newly established Union.

Until the Treaty of Maastricht (1992), freedom of movement evolved consistently and progressively expanding the groups of EU citizens who could enjoy these rights from workers and their families to economically non-active people with sufficient economic means to support themselves. These changes were implemented through a series of European Community regulations 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC throughout the 1980s and 1990s. Generally, the regulations sought to amplify the scope of the freedom of movement to include students, pensioners and economically autonomous people. The Treaty of Maastricht (1992) marked a milestone in the evolution of freedom of movement: it elevated the status of freemovers to citizens of the European Union and introduced new political rights for the mobile Europeans. Bellamy and Warleigh (2005) note that provisions made by the Treaty of Maastricht sought to substantiate the single market and tackle the democratic deficit between the citizens and the European elites. The freedom of movement expanded progressively until the mid 2000s when it culminated with the Directive 38/2004, also known as the 'Citizenship Directive'.

The Directive also established a right of permanent residence for Union citizens and did away with the exclusive relationship between freedom of movement rights and EU citizens by expanding them to third country nationals. Nevertheless, the latter were to benefit of these rights freely as did the EU citizens but only under extraordinary circumstances: if and only if third country nationals complied with certain conditions requested by the member states. This last addition corrected what William Maas (2008) has called the 'unfulfilled promise' of EU's citizenship: its inability to extend the rights that Union citizens enjoyed since 1950s to long-term legal residents from third countries. In other words, what the Citizenship Directive achieves was to take further the legacy of Maastricht by consolidating the scope of freedom of movement and by expanded its associated rights; but, crucially and most importantly the Directive marked a firm move from the economic logic of market-minded freedom of movement that dominated the European agenda until Maastricht to the nation-building project of 'making' citizens and setting the basis for a European political community.

In addition to the large number of regulations, guidelines, statements and communications from the European Commission, the Court of Justice of the European Union (CJEU henceforth) played an important role in interpreting the scope and limitations of both freedom of movement rights and Union citizenship through a

vast jurisprudence on these matters. CJEU interpreted Union citizenship as destined to become the *fundamental* status rather than a *complementary* status to the national citizenship. A series of the Court's rulings¹ have consolidated this interpretation over time. The most remarkable example of the "court-driven empowerment" (Joppke 2010: 171) of the Union citizenship is the CJEU's decision in the *Grzelczyk*² case. The court reaffirmed the right of a French-national student, Rudy Grzelczyk, who after 3 years of studying in Belgium and working to support himself throughout his studies, to minimum subsistence allowance offered by the Belgian authorities. The CJEU held as follows:

[U]nion citizenship is destined to be the *fundamental status* of nationals of the member states, enabling those who find themselves in the same situation to enjoy the same treatment in law irrespective of their nationality, subject to such exceptions as are expressly provided for.³

In November 2014, the CJEU made a major decision on the rights to social protection for freemovers. In the landmark *Dano* case,⁴ CJEU has ruled that Union citizens lose the right to access to certain social protection packages if after the first 3 months they do not fall under the categories protected by the Citizenship Directive: workers (be them dependent or self-employed), former workers or jobseekers. Elisabeta Dano, a Romanian Roma and lone mother in charge of a 5-year-old with whom she resided in Germany since 2011. Ms Dano was living with her sister who also providing for her financially. At the time she made the new claim, Ms. Dano was already receiving two types welfare benefits in Germany – child benefit and lone parent benefit – and had applied for a third one, a special non-contributory cash benefit known as basic provision under the SGB II. It is for this third type of benefit that the Court decided that she was not entitled to claim it. The Court argued that Ms Dano was not eligible for this benefit because, at the time of claiming the benefits she was neither a worker, a former worker or jobseeker. The Court noted that "it is apparent from the documents before the Court that Ms Dano has been residing in Germany for more than three months [at the time of making the claim] that she is not seeking employment and that she did not enter Germany in order to work" (Paragraph 66).

In September 2015, the Court ruled a restrictive decision in another case on EU citizens' access to welfare rights. In *Alimanovic*,⁵ the decision confirmed that the

¹Most notable from an extensive jurisprudence, *Ritter- Coulais v Finanzamt Germersheim* C-152/03, *Case Sala v Freistaat Bayern* C-85/96, *Case Bindar v London Borough of Ealing* C-209/03, *Case Trojani v CPAS* C-465/02, *Case Ioannidis* C-258/04.

²Case *Rudy Grzelczyk v Centre public d'aide sociale d'Ottingnies-Louvain-la Neuve*, C-184/99.

³Emphasis added. Case C-184 *Grzelczyk* *ibid*, Para 31.

⁴Case *Elisabeta Dano and Florin Dano v Sozialgericht Leipzig* (Germany), C-333/13 http://curia.europa.eu/juris/document/document_print.jsf?jsessionid=9ea7d2dc30d5753e894d7fd2478683bfe79fccce5f4b.e34KaxiLc3qMb40Rch0SaxuObNf0?doclang=EN&text=&pageIndex=0&part=1&mode=DOC&docid=159442&occ=first&dir=&cid=312950

⁵Case *Alimanovic et al. v Jobcenter Berlin Neukoeln* (Germany) C-67/14 <http://curia.europa.eu/juris/document/document.jsf?text&docid=167661&pageIndex=0&doclang=EN&mode=req&dir&occ=first&part=1&cid=602229>

member states can refuse social assistance to EU citizens who lose the status of Union workers. The Alimonovic family are Swedish citizens who resided in Berlin Germany. The family is composed by Nazifa the mother, Sonita elderly daughter and two minors still in the care of the mother: Valentina and Valentino. The family settled in Germany in early 1990s where the three children were born, but moved to Sweden in 1999. They returned to Germany in 2010. The mother and the older daughter worked on temporary contracts for nearly a year from June 2011 to May 2012 after which they applied for unemployment benefits. When these were exhausted, they applied for social assistance for people in long-term unemployment (known as Arbeitslosengeld II). The Court ruled that Germany can stop these payments because neither the mother nor the daughter have managed to retain their status of Union workers. The directive specifies that in order to retain the worker status, the EU citizens had to have worked for more than 1 year, laid off and registered with the relevant employment office. Even in this case, the Union worker can retain the status for only 6 months. Both the mother and the daughter exhausted the 6 month period and therefore lost the status of Union worker.

Dano and *Alimanovic* cases are transformational for European freedom of movement beyond their legal consequences. Both rulings turn the light on the two elements of the freedom of movement that have been contested by the public and the far-right anti-immigration parties but which have slowly found their way on the agenda of mainstream political parties. The first is the fact that free movement might mean unconditioned freedom to settle and the fact that freedom of movement would be used by some Europeans to “shop” for more generous welfare benefits than those of their countries of origin. *Dano* and *Alimanovic* spoke directly to growing angst with free movement and addressed heads-on both concerns. The decision stated black over white that host member states can indeed deny non-contributory benefits to freemovers and that they enjoy relative generous rights that come with freedom of movement for a period of 3 months. After this period, freemovers can retain these rights *if and only if* they are workers, former workers, jobseekers or have enough financial resources to be economically self-sufficient. When freemovers do not hold such statuses, then they lose the rights established by the Directive. The Directive (Article 7.1) is clear on the right to reside after the first 3 months is conditioned by freemovers’ financial self-sufficiency and “comprehensive sickness insurance” so that they or their family members do not become “a burden on the social assistance system in the host state”. While the European freedom of movement creates ample mobility rights (Article 5 in the Directive) and a wide set of rights for the first 3 months of residence (Article 6), freemovers’ need to meet the self-sufficiency criteria to retain these rights after the first 3 months (Article 7).

The asymmetry in rights between before and after the 3 months period had created public concern and confusion about freedom of movement and the *Dano* and *Alimanovic* doctrines have helped dispel them. In effect, these cases do nothing more than to switch the light and lay bare what seemed to be the best-kept secret on freedom of movement: its limits. While these limits have been part of the deal from the beginning, they have rarely entered the public debate on freedom of

movement and they were consistently omitted from the promotion campaigns of the European Commission that pushed for more intra-European mobility and focused on the special rights of the freemovers. Perhaps more importantly is that before *Dano* and *Alimanovic*, the limits of freedom of movement seldom have been enforced. However, these recent decisions of the CJEU have received much media attention and announce a period of retrenchment of freedom of movement rights.

In the following section, I explore the policy and political responses to freedom of movement in times of crisis and zoom-in on their consequences for the migration of Southern Europeans.

2.4 Freedom of Movement, No More? Political Contestation of Freedom of Movement in Times of Crisis and How It Affects Southern European *en route* to Northern Europe

Since the start of the economic crisis of 2007/2008, political and public discourse increasingly challenge the freedom of movement of people within EU as an absolute right. Alarmed by the prospect of large inflows from the Central and Eastern European member states upon the end of the transition restrictions, numerous political leaders have spoken publicly on taking measures to ‘control’ migration from the other EU member states. The anticipation of the end of restrictions for Romanian and Bulgarian workers in January 2014 —while most European countries were facing their own internal economic crisis— triggered a wave of anti-immigration reactions in the EU as well as outside of it (see Barbulescu 2014).

In the spring of 2013, ministers of four member states – UK, Germany, Austria and the Netherlands—wrote a joint letter to the European Commission and Council [at that time under Irish Presidency] warning it of the fact that some cities in their countries were being put “under a considerable strain by certain immigrants from other member states” (Ministers of Interior of Austria, the Netherlands, UK and Germany 2013). The letter called for tougher controls for freemovers including efficient repatriations and re-entry bans: “[a]ll necessary measures need to be taken to deal with the consequences of this type of immigration and to fight its causes. This includes legal as well as financial measures.” Interestingly, the member states refer to freedom of movement as “this type of immigration” and pleads for new “legal” measures to tackle it. The letter is important because it makes visible an emergent coalition of freedom of movement hardliners amongst the North-Western EU member states who, not accidentally, have also been the main receivers of migration from the other member states. In response, a parallel coalition supporting freedom of movement emerged and brought the Scandinavian countries and the Central and Eastern European states together. The ministers of Sweden, Finland and Norway jumped in defence of freedom of movement in a joint letter set to the *Financial Times* (January 2014). The elections for the European Parliament in May 2014

exported the heated debate on possible restrictions to freedom of movement rights to all member states.

What seemed a pro-mobility coalition between the new member states and the Scandinavian states collapsed with the arrival of the so-called “refugee crisis” in the summer of 2015. Central and Eastern European countries have shown antagonistic attitudes towards the freedom of circulation of refugees and asylum seekers. Some of the new member states refuted EU quotas for refugees and sought to seal off their borders as a way of preventing asylum seekers to enter. In reply, European Council President Tusk rang the alarm: “Let there be no doubt, the future of Schengen is at stake and time is running out. The clock is ticking, we are under pressure, we need to act fast” (Tusk 2015). Ironically, by threatening to quit the principle of freedom of movement for refugees and asylum seekers, the new member states put under risk the mobility of EU citizens including that of Central and European citizens who have been the main protagonists of intra-European mobility over the last decade.

Nonetheless, the strongest contestation of freedom of movement for EU citizens comes from the Northern European countries. For instance in the UK, in anticipation of the elections for the European Parliament as well as general elections, David Cameron declared that ‘free movement in EU needs to be less free’ (EUActive 2013) (for a full discussion on the UK, see Chap. 10, this volume). The Dutch Socialist Deputy Prime Minister, Lodewijk Asscher, used the colour codes used to announce weather calamities and called for ‘orange alert’ in anticipation of EU labour migration (EUObserver 2013). The Commission replied arguing that the member states raised concerns about welfare tourism including abuses but have not submitted evidence to support its existence. Instead, the Commission replied by taking a technical fact-checking approach and commissioned an independent study (ICF GHK 2013) which suggested a set of actions seeking to help the member states combat welfare tourism and make the most of freedom of movement (EC 2013). The GHK report (2013) found minuscule numbers of EU citizens who do not work, who are not economically active but who receive benefits from another EU member state. They represented less than 1 % of all such beneficiaries (of EU nationals) in six countries studied (Austria, Bulgaria, Estonia, Greece, Malta and Portugal) and between 1 % and 5 % in five other countries (Germany, Finland, France, The Netherlands and Sweden). Data obtained by *The Guardian* on unemployment benefits found that a similar number of EU citizens receive them as Brits in other EU countries (19 January 2015).

Calls for more control on freedom of movement is not new. Previous episodes in which freedom of movement has been contested were of lower intensity and, more importantly, they came from individual member states rather than a consolidated block of hardliners. Yet, I argue that they paved the way for the first serious challenge that freedom of movement faced since its introduction. For instance, the eviction of Roma effectively limited the rights of Roma EU citizens and led to their repatriation from Italy in 2008 and France in 2010 – a practice that continues to the present day. Freedom of movement was challenged also from the left for it

depreciated workers' rights and conditions by excluding posted workers from other European states to have the same protections local workers had. A series of rulings from the CJEU confirmed the right of companies to contract posted workers under the same conditions as workers in their countries of origin rather than workers in the countries where they are employed.⁶

The fact that member states' initiatives and statements challenging freedom of movement remained largely unsanctioned from the Commission but were rewarded by the public had the unexpected effect of "normalising" the contestation. From this point onwards, it was only a matter of time before a coalition of member states would write to the Commission asking for new measures to better control the mobility from the other member states.

In the context of the economic crisis and enlargement *fatigue* in the Northern Europe, individual member states have introduced new policy measures that de facto contract freedom of movement rights. UK and Germany have made changes that restrict access to social rights while Belgium has intensified the number of expulsions for EU citizens (see Chaps. 7, 9, and 10 in this book). The UK initially entertained the idea of quotas for migration from the other member states as it would help the Conservative Party meet its campaign pledge: to cap net migration including migration from EU to less than 100,000. However, the German Chancellor Angela Merkel convinced David Cameron to retreat from setting a cap on EU migration (The Guardian 2014). Cameron also consulted with European Commission chief Jean-Claude Juncker before delivering the Staffordshire speech in which he announced the new measures. In Brussels, a European Commission spokesman reacted to the plan set by Cameron by saying that it was up to "national lawmakers to fight against abuses of the system and EU law allows for this."

The recent talks about restrictions on freedom of movement also made their way in the European Parliament. A Spanish MEP, representing the newly established left wing party *Podemos* inquired the Commission about the effects the recent policies announced by the Northern European states on the rights of Spaniards. Pablo Iglesias filled a written question for the Commission asking about the particular situation of Spanish citizens in Germany who according to a draft law provides for penalties of up to 3 years imprisonment for people in breach of the country's residence conditions. The Commission responded reaffirming that it would check whether the draft is compatible with EU law (EP Written Answers 2014). In addition, Switzerland who is an associated state has voted in February 2014 in a public referendum to limit freedom of movement by submitting the new arrivals to quotas. The European Commission has already declined Switzerland's proposal to implement the quotas for migration from the other member states and presented the broad association agreement as one package that cannot be renegotiated separately.

⁶Case *Laval Un Partneri Ltd v Svenska Byggnadsarbetareförbundet* [2008] IRLR 160 C-341/05 and Case *International Transport Workers Federation v Viking Line ABP* [2008] IRLR 143 C-438/05.

It is important to mention here that the politicisation of freedom of movement is not restricted to Northern Europe, but a similar process occurs in Southern Europe especially in Italy and Spain where Romanians and Bulgarians have tended to migrate. However, in Southern Europe politicisation intensified before and after the Eastward enlargements rather than at the time the transitional restrictions were lifted (Barbulescu 2013).

The once isolated challenges are slowly building into a consensus amongst the North-Western European states. The fact that the freedom of movement and not European citizenship is the target of contention shows that people have not appropriated the later in the same way as the former. Nonetheless, the emerging consensus focuses on a freedom of movement with more safeguards for the receiving states. Ultimately, this new focus translates into the following dilemma: how can member states organise the migration of wanted migrants while keeping out the unwanted migrants. This dilemma is precisely the one that states, including those who lead the contestation on freedom of movement, face when seeking to control migration from outside the EU. Because policies on freedom of movement and international migration seek to achieve what is increasingly the same result, they are becoming more alike at the policy level.

The concern of political elites about migration were not new as they followed the Eastward EU enlargement in 2004, 2007 and 2013. The economic crisis that started in 2007 has only aggravated this concern. It is important to mention here that public opinion and political leaders do not systematically target Southern Europeans in particular. Often, the rising numbers of Southern Europeans arriving in the North European countries since the start of the crisis have had little or no impact on the public opinion in the countries of destination and seldom featured in the media. An exception to this has economic liberal outlet, *The Economist* that has published from a series of columns profiling it: "They are coming: Hope for a better life is pushing young Europeans abroad" (13 September 2013) and "PIGS can fly: Some European economic migrants are more welcome than others" (16 November 2013). From the point of view of migration scholarship, one of the puzzle is the invisibility of the new Southern European migration. In sharp contrast, in the countries of origin in Southern Europe, the new emigration has moved to the top of the public agenda inciting talks about a veritable "brain drain" and "exile" migration of the young professionals.

While Eastern Europeans and Roma in particular are the poster child for limiting freedom of movement, changes in this policy area such as the ones announced by the *Dano* decision equally affect the Southern Europeans who are moving in times of crisis. More dramatic is that the rights as freemovers are called into question at a moment when Southern Europeans most need them to deal with the effects of the crisis. The impact on the ongoing contraction of freedom of movement rights is set to be higher for Southern Europeans. Unlike Central and Eastern Europeans, the young Spaniards, Italians, Portuguese or Greeks moving now to North-Western Europe have grown up in a Europe in which mobility is free and is a defining feature of being in the EU.

2.5 Conclusions

Southern Europeans have been the pioneers of European freedom of movement establishing migratory routes connecting the South with the North of Europe in the postwar period. However, when these routes were initiated, Southern Europeans were mere international migrants recruited by the Northern European countries largely through guest worker schemes. The exception to this rule was Italy, which was a founding member of the EU. With time, European Union has expanded and together with it, European freedom of movement has strengthened and expanded to incorporate new rights. With the accession of Spain, Greece and Portugal to the EU, the migratory route lost its significance only to re-emerge in the context of the economic crisis.

However, this new migration of Southern Europeans comes at a time when freedom of movement is challenged in a number of member states. A coalition of member states bringing together the UK, Germany, the Netherlands and, Austria—who share a hard line agenda on freedom of movement—have already taken action by introducing restrictive policies seeking to reduce access to social benefits, to effectively expel homeless EU citizens and to extend the re-entry bans for offenders. We, therefore, observe a hollowing out of freedom of movement rights, as political consensus builds up to limit rights associated with freedom of movement and in doing so, making it increasingly similar to international migration. While the contraction of freedom of movement rights and their systematic challenge have been triggered by the 2004, 2007 and, 2013 Eastward enlargements, Southern Europeans who chose to move to another member state since the start of the crisis will be equally affected by the ongoing changes. Brought up in the Europe in which freedom of movement was beyond doubt and even promoted by the member states and EU institutions, Southern Europeans see their rights endangered when they need them the most: to escape the financial and austerity crisis in their countries. Freedom of movement or the euro, once emblematic achievements of European integration are being tested under the shock conditions of the most severe crisis in living history. The EU institutions still seem determined to paint freedom of movement in terms of win-win situation benefiting sending and receiving member states alike. At the national level, however, the narratives on international migration and freedom of movement are becoming increasingly similar.

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