

# EU migration politicisation and legislative responses: a mixed bag

17<sup>th</sup> IMISCOE Annual Conference

Dr. Sandra Mantu

Centre for Migration Law

Radboud University Nijmegen

s.mantu@jur.ru.nl

## Politicization and contestation of EU mobility

- EU mobility as a threat to national welfare states, labour markets and source of societal insecurity  
→ calls to reclaim sovereignty
- 2008 economic crisis & 2015 'migration crisis' & contraction of national welfare states & changes in the labour market
- Politicization has negative effects:
  - National level: restrictive practices that aim to deny access to the welfare state, end residence rights and/or expel EU citizens
  - EU level:
    - CJEU: restrictive interpretation of EU law + emphasis on the condition to be legally resident to enjoy equal treatment with nationals of the host state and protection against expulsion on grounds of being an unreasonable burden on the social assistance system of the host state
    - Other EU institutions: Roos and Westerveen (2020) show that restrictiveness permeates the discourse of major EU institutional actors

## Politicization and EU integration

- Generally, politicization = negative consequences for the position of mobile EU citizens
- Jabko and Luhman (2019) question the idea that politicization is an obstacle to EU integration: the monetary and migration crises resulted in deeper integration and stronger EU governance while at the same time recognizing and incorporating national sovereignty concerns
- How does the ‘crisis as opportunity moment’ theory function in the context of EU mobility?
- Focus on EU legislative interventions in this area of law to address the contestation of EU mobility:
  - New sovereignty practices?
  - How are they institutionalised?

## EU legislative interventions

- Negative consequences of EU mobility + EU as a source of deregulation and austerity + abandonment of the so-called EU social model
- Relaunching 'Social Europe': harmonising citizens' rights in the social area + how much Europe?
- The European Pillar of Social Rights (2017)
- Key stream: Fair and enforceable labour mobility
  - Directive 2014/54 on the strengthening of the rights of EU workers
  - Directive 2014/67 (the Enforcement Directive) & Directive 2018/957 on posted workers
  - Regulation 2019/1149 establishing the European Labour Authority
  - European Platform on Undeclared Work
  - Revision of Regulation 883/2004 – not adopted
  - European Social Security Number – not adopted in the proposed form

## Conclusions

- Initial response by EU institutions focused on enforcement + effectiveness of existing rights
- Insufficient and inadequate response → eventually changes are adopted
- Mixed results:
  - Some substantive changes leading to more EU integration (revision of Posted Workers Directive and ELA)
  - Depth of changes and reconfiguration of sovereignty is minimal (ELA's powers are limited; 'same pay for the same work at the same place' in practice is more limited)
  - What is the place of EU mobility in the re-socialization of the EU (EU Pillar of Social Rights)?