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Limits and Contentions of EU Migration Governance: Reflections on the Juncker Commission and Beyond

by Emma Carmel

LIMITS AND CONTENTIONS OF EU MIGRATION GOVERNANCE: REFLECTIONS ON THE JUNCKER COMMISSION AND BEYOND • This article shows how the new European Commission (2014-2019) has prioritised issues of migration and mobility in the European Union. It explains the key measures promised by the Commission, and how these relate to existing migration and mobility governance (MMG) and its dynamic political context. An interpretive policy analysis is undertaken in order to expose the trajectories of the Union's MMG, and the ways in which these are contested. In particular, the article explains how the emphasis in the Commission and Council on enhancing the operational coherence in asylum and border control represents a strong centripetal force in migration governance. In contrast, mobility of EU citizens within the EU is subject to centrifugal, welfare protectionist, forces. In this latter domain, the Commission is set for an ongoing struggle in its assertion of a Union-wide approach. Finally it is argued that the result is a contingently Europeanised governance of mobility and migration. This establishes a highly unstable and contested political ordering of social, economic and political relations in the Union. These cut across conventional distinctions between the interests of member states and Commission. Together, these issues should lead us to explore more systematically how the «high politics» of Council and Commission are linked to the everyday practices of migrants, and their experience of EU policy.

KEYWORDS *European Union, migration governance, migration policy, mobility, European Commission.*

1. Introduction

In November 2014, a new European Commission was sworn in. This followed an unusually long and acrimonious battle among member states, and between member states and the European parliament, about the appointment of the new Commission President, and later about the appointment of the other Commissioners. Eventually, Jean-Claude Juncker, former prime minister of

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Luxembourg and one of the European Union's long-standing political insiders was appointed as President.

Juncker developed his own «political guidelines», commonly referred to as his «10-point plan», already in July 2014, when he was seeking the support of parliament and Council for his appointment as President of the Commission (Juncker 2014). This 10-point plan has remained the key reference point in all the announcements of new Commissioners regarding the work in their respective policy domains. The 2015 work programme for the Commission is also references the commitments set out in the plan (Commission of the European Communities 2014b). The text of the «political guidelines» is prominently presented in public communications as the key founding document for the work of the Juncker Commission. In another departure, Juncker has reformed the structure of the Commission, which under his Presidency is organized under a «first vice president» (his deputy), and five potentially powerful vice presidents, as well as the High Representative. Each Commissioner is involved in a number of «project teams» on key issues which cut across institutional domains; these are led by the vice-presidents. In both the guidelines and the work programme, much emphasis is placed on how this new and reformed Commission will work effectively, speedily, and will «get things done» with other EU institutions: «Together we can ensure that this time it is different» (*ibidem* 11).

So what do these developments of the self-declared reforming Commission and its President imply for EU MMG? With urgent humanitarian, strategic, and operational pressures stemming from changes in the wider political and economic developments of the Union and its neighbours, what is the role foreseen for EU migration and mobility governance?

This article first reviews the policy priorities and content of the new Commission as they have so far been developed. There follows a short section, which argues for the merits of taking an interpretive approach to the analysis of EU mobility and migration governance (MMG). Sections four and five of the article undertake such an «interpretive analysis» (Yanow 2000) to identify the contours and contentions which are currently shaping policy in this domain. The article finishes with some concluding remarks on the silence in the Union's MMG in respect of the relations of inequality which currently structure actual practices and experiences of migration and mobility in the EU.

2. Overview of Juncker Commission's commitments on migration

Overall, the Juncker Commission's engagement with MMG is marked by a degree of ambivalence between its high political prioritisation and the am-

biguity of its policy goals. As a signal of the importance which the Juncker Commission has placed on issues of migration, they appeared more than once in his «10-point plan». Most notably, point 8 of the plan has the title «Towards a new policy on migration» (Juncker 2014, 9). To supplement this sense of priority, Juncker's Commission is also the first in the European Union's history to have a Commissioner primarily focused on migration (formal title is Migration, Home Affairs and Citizenship). Of course, previous Commissions have had Commissioners with responsibility for migration – most recently under the Directorate General (DG) «Justice and Home Affairs» (which remains the title of the relevant Council of Ministers). Nonetheless, both Juncker and the new Commissioner have emphasized the change in orientation of the DG that the name-change implies. Not least of this change, is that legal affairs are dealt with under a separate DG Justice, enabling the demands of the home affairs and justice roles to be better met.

The migration of EU citizens is also mentioned in the 10-point plan as a matter of developing a «Deeper and Fairer Internal Market with a Strengthened Industrial Base» (point 4, Juncker 2014, 6). The new social affairs Commissioner, furthermore, has the title Employment, Social Affairs, Skills and Labour Mobility. Again, this is the first time that labour mobility has been included in the title of a DG. In the highly symbolic world of EU politics, such changes are designed to send strong signals about the Commission's engagement with particular issues. This is the case even in DGs, like social affairs, which are frequently re-named. The two Commissioners primarily concerned with migration are thus Dimitris Avramopoulos (Migration, Home Affairs and Citizenship) and Marianne Thyssen (Employment, Social Affairs, Skills and Labour Mobility), and they each participate in a number of the project teams.

At this stage (February 2015) there remains understandably relatively little to report about formal progress on moving «Towards a new policy on migration». Indeed, the very title «Towards» scarcely conveys determined and focused action on specific policies. The 2015 work programme includes the development of a «European Agenda on Migration» by the end of the year. Yet the summary of the expected content of this Agenda is typically unrevealing, and in the EU context, rather mundane. For example, it will aim to «balance a fairer and responsible approach to legal migration, in order to make the EU an attractive destination for talent and skills, with firm measures against irregular migration and people trafficking and smuggling». It should facilitate «greater internal and external cooperation, offering protection to persons in need, based on responsibility and solidarity and preventing tragic events such as those recurrently happening in the Mediterranean» (Commission of the European Communities 2014b). Such phrases have been the commonplaces of EU migration governance for 10 years and more (Carmel 2011), even if the emphasis on the Mediterranean is currently enhanced.

This political and institutional emphasis on the importance of migration, combined with less certainty on the policy trajectory, could create the impression of «EU migration business as usual» in the work of the Juncker Commission. The guidelines certainly have qualities of a typical EU compromise text designed to balance or appease competing interests. However, the objectives under the heading of migration policy from the 10-point plan, offer a specific list: application of the common European asylum system, increasing Frontex's budget, repatriating «irregular migrants» by «co-operating» with third countries, and penalising human traffickers through enforcement of existing law. Legal migration into the EU is referred to only by reference to a review of existing legislation. This appears to be a strongly securitized orientation for the Union's migration policy (Juncker 2014, 9-10).

This is however, made more ambiguous again, as the Migration and Home Affairs Commissioner, Dimitris Avramopoulos, has recently indicated that he intends to organize this «Agenda» around three objectives: the assistance of vulnerable migrants (trafficked people as well as asylum seekers); reinforcing «Europe's borders in respect of [sic] migrants rights and to better manage irregular migration flows»; and finally, to facilitate legal migration («opening legal channels») and supporting integration (Avramopoulos 2015a). This formulation at least hints at a political response in the Commission to the difficulties faced by migrants crossing the Mediterranean which goes beyond mere securitization. In particular, it appears to offer some recognition that such migrants are frequently both «irregular» and seeking asylum, by a combination of circumstance and legal definition. How far the Commission will be able to help generate an effective and co-ordinated response to such difficulties in practice, is explored below.

Two commitments for the Commission to contribute to legal reform were already specified in relation to mobility and migration governance in the 10-point plan. These are a review of the so-called Blue Card Directive (BCD), and of the Posted Worker Directive (PWD). The former is slated for reform due to its lack of success in developing a legal route for migration into and within the Union. In particular, the creation of an EU-defined and regulated category of movement and residence for «third country nationals» across MS borders, which was intended by the BCD, has not emerged. Member states instead developed their own high-skill migration programmes to supercede that of the EU, radically undermining the «European» or «EU-wide» quality of the Directive's intentions (Cerna 2013). The PWD regulates mobility and social rights of EU workers posted to work for the same employer in another member state. It has been subject to a number of highly controversial rulings from the European Court of Justice, effectively undermining the original intent of the PWD, due to the legal privileging of market integration over the protection of posted workers' social rights (Woolfson and Sommers 2006;

Papadopoulos and Roumpakis 2013). While we should not expect speedy reform in either of these domains, Commissioner Thyssen has been tasked with developing a «labour mobility» package during 2015, which includes a «targeted review» of the PWD, along with work on the social rights of mobile labour in the Union (Commission of the European Communities 2014a).

In summary, this descriptive overview shows that the Commission is giving due recognition to the social and political importance of MMG in the Union, its member states and its citizens (e.g. DG changes, overall profile in 10-point plan). In addition, in some cases there is admirable clarity about the targets of this prioritization (e.g. more money for FRONTEX; reviews of Directives). However, there is also evidence of tensions regarding the substantive content and purpose of these priorities (e.g. on reforming the Directives and dealing with irregular migration). On closer inspection, we can identify several concurrent developments, and perhaps a re-configuration in the orientation of policies relating to migration in the Union. In order to interpret the implications of these developments, however, we need to contextualize the Commission's pronouncements and political practices in light of existing orientations and the rapidly changing political dynamics in the Union.

3. Interpreting MMG in the European Union: «seeing like the Union»

The remainder of this article takes as its starting point the idea that much EU governance can be understood as follows. The limits, purpose and efficacy of EU governance, both in general, and in particular policy domains, are defined by the limits of what aspects of governance and policy can be (legitimately) contested in and through the EU institutions¹.

Of course, member states choose to oppose the power and authority of the Commission to act in a particular policy area. This is a political dynamic both evident and conventionally understood, including in media reporting and public discourse. In academic discourse these political dynamics between Commission and MS can be studied as «Realpolitik», in the realist IR tradition, or from the perspective of Europeanisation (Featherstone and Radaelli 2003), or even multi-level governance (Zincone and Caponio 2006). The emphasis in this article is rather different. It is that, in addition to such political «game-playing», the member states, the Commission, and other authorities, as well as less obvious political actors, in their political and policy practice achieve something in addition. In particular, they *all simultaneously*

¹ The key policy making and legal institutions which comprise the «European Union»: the formal law-making triumvirate of Commission, Parliament, and the Council of member states, as well as the European Court of Justice, the European Central Bank.

contest and struggle over what can be contested as a matter of EU governance, and by whom, as well as how an issue is to be characterized, limited and specified as «European». In doing so, they establish highly contingent boundaries of European governance. It is the *limits of these contestations* themselves that establish the contours of EU governance, and that instantiate relations of power and authority in individual policy domains, and more widely. This perspective could perhaps be viewed as a sociological interpretation and extension of Ferrera's 2005 analysis of the boundaries of transnational and national governance. It is because of these mutual contestations among all actors – and the limits to such contestations – that we can talk of the *joint*, or *transnational*, production of migration governance in the EU (Carmel 2013; on the transnational character of migration and social policy, see Faist 2014).

In order to interpret these contestations and how they contribute to the joint production of MMG in the Union, I borrow a simple phrase from Scott (1998), and his approach to understanding political practice as «seeing like a state». For Scott, «seeing like a state» involves identifying and interpreting the «projects of legibility» which states historically imposed on the territories, trade, cities, culture and people to be governed. In the EU context, this approach interprets the assertion of Union-wide authority to act in any one policy domain, as attempts to increase the «legibility» of populations and spaces, to be organized, categorized and regulated by EU policy and practice. Creating such legible categories shapes the possibilities for political action in the social world, as most eloquently shown in Foucault's work (e.g. 2007). Typically in migration studies, we might think of the socio-legal categories bestowed on migrants by states, or by the EU, according to their entry route, residence, ethnicity or employment. But in contradistinction from a strictly Foucauldian approach, «seeing like the EU» involves interpreting both the meanings of political discourse and action, and also the political contexts in which they arise in the Union (Yanow and Schwartz-Shea 2014). It is in understanding these contexts and dynamics that we can interpret the *social and political implications* of «seeing like the EU» in MMG. Only when we identify these implications, can we make visible, and evaluate, the instantiations of power and authority that are achieved through the substantive policy content of MMG, and the politics which make it meaningful and possible.

This article now proceeds as follows. In sections four and five below, the article contextualizes the Juncker Commission's emerging approach to MMG by examining, first, the political-policy lines of contention around migration and mobility, and second, around migration, asylum and security. The implications of the dynamic political context for MMG are assessed. In doing so, the article discusses the political «blind spots» and silences which are concealed in the current trajectory of EU migration politics and policymaking, and explores the implications of these for European Union governance more widely.

4. Establishing the limits of EU migration governance: migration and mobility

The European Union makes a legal and institutional distinction between migration (of so-called «third-country nationals», or TCNs) and mobility (of EU citizens within the Union). This is reflected in the institutional responsibilities of DGs, and in the Treaty-based rights of member states and the Union to make policy in these areas. In respect of the EU's MMG, the Union-wide responsibility for population movement has been seen predominantly as organizing and regulating the space of what is seen as «internal» movement: mobility. «Migration» in contrast, comes from «outside» – beyond the boundaries of the Union, and is subject to a different ordering of rights categories by the EU and its MS (Carmel and Paul 2013). Until relatively recently, at the EU-level, «mobility» was not considered a policy or political problem. Since the Maastricht Treaty, the social category of the «EU citizen» had become accepted as commonplace; free movement of labour was embedded as a fully Europeanised, Treaty-based right. When, in light of 2004 accessions, MS became concerned about mobility from the new member states, a number of strategies were adopted to manage these, mostly by adopting limited entry restrictions (Kvist 2004). In light of this distinction between migration and mobility, mobile EU citizens were mostly absent from the three-fold discourse of EU migration around security, integration and utility (Carmel 2011). By definition «insiders», EU citizens presented no risk in need of securitization; being already, not just the same as «us», but actually being «us», they required no integration; and although the underlying rationale for mobility was utilitarian (to enhance «European» economic development), their relationship to that economy was one couched in terms of citizenship and rights.

This way of seeing mobility and migration has been challenged recently by two key developments. These stem directly from the «way of seeing» EU mobility as a matter of rights accorded within an *internally*-regulated European space. The first is the degradation of social rights in the application of European labour law; and the second, is the enhancement of, and political objections to, third country nationals' and EU citizens' rights through the application of European law on free movement. In respect of each of these aspects, we can identify a problematic positioning for the Commission.

In respect of the first, this article has already mentioned the problems associated with ECJ rulings on posted workers. In the *regulation of posted worker rights*, EU citizens moving from one country to another with the same employer are subject to the legal fiction that they are not mobile. In a series of rulings, member state competence to organize its own labour market regulation has been undermined – especially in respect of the protections organized

through collective bargaining (Papadopoulos and Roumpakis 2013). Posted workers are of course in fact mobile, and posting is in practice frequently used to subvert national labour law protections – both legally and illegally (Cremers 2013; Hayes and Novitz 2013). In this case, a combination of policy, law and social practice make any «legible» rights-based status something of a chimera for this category of EU citizens. At the same time, however, the case law does contribute to the development of an «internal» economic and social space, subject to EU regulation, in which domestic political forces and institutions are subordinated. Even if the targeted review of the PWD were to assert a more effective protection of individual rights, it seems unlikely to change the implications of these fundamental arrangements, which undermine the political authority of social partners in the EU and in member states.

In respect of the second issue, the *social rights of mobile European citizens* has become a matter of vigorous and in some cases, bad-tempered exchange between the Commission and a number of member states. In this domain, European Court of Justice rulings appear on the whole to enhance the rights of mobile EU citizens and their families (Shaw and Miller 2013). Indeed, derived from law on the freedom of movement in the EU, EU citizens in some cases have acquired rights to family unification and entry of their «third country national» family members which are more «generous» than those afforded to nationally resident citizens (*ibidem*, 140-141). The current state of law remains, however, notoriously ambiguous and inconsistent. Despite this, the Commission moved in 2011 and 2012 to the «second stage» of dispute with a number of member states about their application of the rights of EU citizens, especially in respect of their social rights².

The legal inconsistency, combined with Commission pressure to enhance the application of EU-wide regulation of free movement in member states, has taken place against a background of anti-immigrant and anti-EU sentiment among European publics. Germany, Austria, the UK and the Netherlands wrote a letter to the Commission in April 2013, requesting that the Commission review free movement legislation. In the meantime, public discourse in several member states has demonstrated the national and local limits of the «mobility/migration» distinction as a European «project of legibility». In several countries, anti-immigrant sentiment is couched in terms which can be ethnicised (typically anti-Roma), while welfare and economic protectionism

² Details of the Commission's claims, but not its reasoning (which is not made public), can be found at the European Commission's website and press releases. For Austria, Cyprus, the Czech Republic, Germany, Malta, Lithuania, Spain, Sweden, Poland and the UK – IP/11/981 (August 25, 2011); for the UK only – IP/11/1118 (September 29, 2011) and IP/12/417 (April 26, 2012); for Germany, Austria and Sweden – IP/12/646 (June 21, 2012); for the Czech Republic and Lithuania – IP/12/75 (January 26, 2012).

are drawn on in order to challenge the boundaries of who and what counts as «inside» Europe. The Commission's response to the letter was to organize a report on the social rights of migrants, which by sheer dint of its volume was designed to challenge MS claims about the unsustainability of free movement (ICF GHK and Milieu Ltd 2013). The EU «way of seeing» necessarily denies the different positioning of MS, and their political economies, in the Union's MMG. For some MS – notably those with Eastern borders – problems of emigration, transit, and now also the likely increases in irregular and asylum-seeking migration from Ukraine are central issues. Yet these perspectives are silenced in the politics of Union-wide migration.

It is this dispute and the fallout from the PWD legal cases which contextualize the new Commission's work task to offer a «package» on labour mobility during 2015. Commissioner Thyssen's recent speech to the Council of Europe was strongly worded:

We see the basis for solidarity eroding. Workers coming from abroad are seen as bringing unfair competition. Their right of access to social benefits is being questioned even when they are paying into the system... EU labour law, as well as the European Social Charter, guarantee workers since many decades high standards of social protection, like... the right to be employed in another Member State and social security coordination that underpins it. We should remain vigilant ... to ensure that those fundamental social rights are upheld also at times of economic hardship (Thyssen 2015, 2).

However, there are also strong constraints on the Commission. It seems that the EC wishes to emphasise its support for the social rights and status of mobile European *labour*. The tone of the Commission's perspective is not merely utilitarian; mobility means more than a way to generate economic growth. In the workplan and in Thyssen's speech, the social rights attached to mobile labour are seen as a significant aspect of the European character of governance. However, the implications of this emphasis on protecting *labour* mobility, rather than *citizen* mobility, means that the boundaries of the EU's MMG are more open for contestation by MS, than was the case in the previous Commission. Member state governments are likely to withdraw existing social entitlements, offering utilitarian arguments about the relative (economic) value of different EU migrants – in just the same way as is applied already to third country nationals in national immigration policies. Paul (2013) shows how free movement in the EU is subject to MS' «strategic contextualization», whereby MS develop their national labour migration strategies in relation to the ways in which mobile European labour is governed in the EU, in order to optimize the utility of different labour migrants (also Paul 2015). In a context of deepening inequalities in Europe, within as well as between

member states, the implications of the Commission's focus on protecting *labour* mobility, and of MS' focus on establishing its limits, are a profound challenge not only to the practice of mobility, but also to the principle of rights-based mobility regulated in a single «European» space. In addition, there are other challenges to the idea of mobility, that stem from renewed discussion about «security» concerns. It is to these that this article now turns.

5. Establishing the limits of EU migration governance: Migration, asylum and security

This section of the article contextualizes the work of the new Commission in relation to two key developments in migration and border control. The first is the promotion of operational co-ordination as a means to pursue an EU project of legibility, spanning border control, the Common European Asylum System (CEAS) and the evaluation of Schengen. This development has been underpinned by a sense that migration and asylum is «in crisis», above all, in the Mediterranean. The second concerns a newly emerging re-conceptualization of «mobility», not as a rights-based European category of population, but rather as a «risk» and as a challenge to «security».

Regarding the first, the crisis in the Mediterranean, which came to public attention in the autumn of 2013, is both humanitarian and political. Strikingly, its solution is currently being framed, and resolved, by reference to *EU operational policy co-ordination*, rather than to political or legal developments. Both the Commission and the Justice and Home Affairs Council³ reiterate the importance of «solidarity» and «burden-sharing» among MS – the originating problem of much of the crisis. MS continue to dispute their relative responsibilities in receiving refugees and irregular migrants who arrive over the sea. Meanwhile, the Commission and Council as a whole assert the prioritisation of a number of operational measures, which together deepen and inscribe Union-wide procedural and practical responses to the political issue of irregular migration. These include the more effective operational implementation of the Common European Asylum system, with its single unified legal status in the EU. Measures, also in the Juncker Commission's workplan, include the expectation of a larger budget for FRONTEX; intra-EU institutional co-ordination between EUROPOL and FRONTEX; and renewed emphasis on joint working with «authorities» in third countries in

³ The JHA Council is the Council of member states' interior ministers, and is the formal representation of member state interests in this policy domain.

order to prevent migrants getting to the Mediterranean⁴ (Commission of the European Communities 2014c; Justice and Home Affairs Council 2014a; DG Migration and Home Affairs 2015).

It is, though, not only in relation to the Mediterranean that enhancing the measurement, monitoring and control of populations is promoted in such operational co-ordination. In an important institutional move, the evaluation of Schengen's operation has been re-conceptualised, both strategically (as a point of tension among MS about border control) and operationally (as a more fully Europeanised resource for the practical management of migration). In December 2014, the JHA Council approved the decision to partially «Europeanise» the evaluation of Schengen's implementation. That is, it moved from being solely a matter for intergovernmental responsibility, to one jointly held by the Commission and the Council (Justice and Home Affairs Council 2014c). This evaluation process of Schengen is internally oriented, and operationally focused, as it concerns the relationship between MS on border control. This partial «Europeanisation» is also supported by the promotion of the EU's «SMART» borders scheme for operational and technological co-operation, and has the potential to further routinize aspects of Schengen's operations, with limited political oversight (Bigo *et al.* 2012).

Operational co-ordination in border control, the CEAS, and Schengen embeds a European/EU «way of seeing» and «way of doing» in everyday policy practice. It occurs outside the heated debates of «high politics» between MS and Commission, or among member states. Nonetheless, it establishes jointly-conceived «European» institutions, policy culture and practice. It involves the assertion of the «Europeanness» of EU MMG at exactly the point where such governance meets the social practices of real migrants: on boats, in offices, and at border control points.

Of course, such EU practices have their technological and political limits. As examples, we can cite: the long-term failure of the Schengen Information System to achieve its goals of information sharing and co-ordination; the longstanding dispute between Italy and Malta about the role of FRONTEX and Malta's withdrawal from participation in FRONTEX in the early 2010s; the crisis which erupted over deaths in the Mediterranean in autumn 2013; and the emergency adoption of a *national* naval operation, *Mare Nostrum* by Italy to deal with this crisis in 2014. However, such examples also illuminate the extent to which claims to European Union authority over MMG are asserted in the combined agendas of the new Commission and the JHA Council. The trajectory of both Commission and Council, of using EU operational co-

⁴ Space precludes an analysis of the political ordering effects which are direct implications of the EU's «way of seeing» in «external governance» (Lavenex 2004) and in its practice of so-called partnerships, although these are considerable (Adepoju *et al.* 2009).

ordination as a way of managing political conflict around questions of border control is hardening with the new Commission. With it comes the (attempt to) assert political authority over an unstable policy terrain.

Finally, and most recently, another challenge has arisen from a *new characterization of «mobility»* evident in the JHA Council. The proposed European Agenda on Migration, identified in the Commission's workplan for 2015, is closely partnered with another new Agenda, with a due date of May 2015: the European Agenda on Security (Justice and Home Affairs Council 2014b). Notionally driven by concern about EU citizens travelling through other EU countries on their way to fight in Syria, Libya and Iraq (and returning), in this formulation, the EU's «way of seeing» mobility as rights-based, is re-oriented. Mobility and its regulation are still articulated as EU «projects of legibility» that is, they specify ways in which the Union can organize, regulate, and act on social subjects. However, the mobile people to be «made legible» in the EU are instead those migrants characterized as threatening the Union and its component MS. This securitization of some (ethnicised and racialised) EU citizen migrants' mobility echoes, at the EU level, how political and legal framings of deservingness and illegality of migrants at national level cast a long shadow over the «included» and the «citizen» (Amaya-Castro 2011; Chauvin and Garces-Mascarenas 2014). This reorientation of «mobility» can make any number of populations in a territory vulnerable to exclusion; «integration» is no longer enough to prove one's citizenship (Anderson 2013).

6. Concluding remarks

The European Union's MMG, as a project of legibility to establish a specifically EU-regulated social, political and economic space, is ongoing and incomplete. It generates specific ordering effects over migrants and member states, but it is also highly contested. The result is a field of power and political practice which does not align straightforwardly with conventional distinctions about the politics of the Union. By assessing the new Commission's workplan in terms of its contextualized social and political meanings, we can make two observations.

The first is that among all the policy pronouncements, declarations of intent and strategies developed in the last 15-18 months in the EU – including those looking forward to the work of the new Commission for 2015 – questions of economic growth, development, and social protection are treated as almost entirely separate from questions of migration and mobility. Yet even while the Commission will be trying to protect the social rights of mobile European labour, the increasingly «informalised» economies and labour markets of the Union will continue to offer legal, semi-legal, and illegal, possibilities of circumventing both

the application of rights and securitized measures of exclusion. This observation contributes further to the exposure of the limits of EU governance explained in this article. There is then, an everyday impossibility of imposing a coherent and closed *European* governance through the European Union – whether because it is resisted by individual MS, institutions, or migrants (inside and outside the territory of the EU). The second observation is that notwithstanding this contingency in EU MMG, the trajectory of asserting a form of EU governance in the fields of «population management» is set to continue, with further attempts to embed the Europeanisation of policy practice – in 2015 and beyond.

References

- Adepoju, A., F. van Noorloos and A. Zoomers (2009), *Europe's Migration Agreements with Migrant-Sending Countries in the Global South: A Critical Review*, in «International Migration», 48, 3, pp. 42-75.
- Amaya-Castro, J.M. (2011), *Illegality Regimes and the Ongoing Transformation of Contemporary Citizenship*, in «European Journal of Legal Studies», 4, 2, pp. 137-161.
- Anderson, B. (2013), *Us and Them? The Dangerous Politics of Immigration Control*, Oxford, Oxford University Press.
- Avramopoulos, D. (2015a), *Speech to the European Migration Forum*, 27 January, http://europa.eu/rapid/press-release_SPEECH-15-3781_en.htm, accessed 13th February 2015.
- Avramopoulos, D. (2015b), *Speech to Informal Meeting of JHA Ministers*, Riga, 29 January, http://europa.eu/rapid/press-release_SPEECH-15-3900_en.htm, accessed 13th February 2015.
- Bigo, D., S. Carrera, B. Hayes, N. Hernanz and J. Jeandesboz (2012), *Justice and Home Affairs Databases and a Smart Borders System at EU External Borders. An Evaluation of Current and Forthcoming Proposals*, CEPS Papers in Liberty and Security in Europe (52, December).
- Carmel, E. (2011), *European Union Migration Governance: Utility, Security and Integration*, in E. Carmel, A. Cerami and T. Papadopoulos, *Migration and Welfare in the New Europe. Social Protection and the Challenges of Integration*, Bristol, Policy Press, pp. 49-66.
- Carmel, E. (2013), *Mobility, Migration and Rights in the European Union: Critical Reflections on Policy and Practice*, in «Policy Studies», 34, 2, pp. 238-253.
- Carmel, E. and R. Paul (2013), *Complex Stratification: Understanding European Union Governance of Migrant Rights*, in «Regions and Cohesion», 3, 3, pp. 56-85.
- Cerna, L. (2013), *Understanding the Diversity of EU Migration Policy in Practice: The Implementation of the Blue Card Initiative*, in «Policy Studies», 34, 2, pp. 180-200.
- Chauvin, S. and B. Garces-Mascarenas (2014), *Becoming Less Illegal: Deservingness Frames and Undocumented Migrant Incorporation*, in «Sociology Compass», 8, 4, pp. 422-432.
- Commission of the European Communities (2014a), *Annex to the Commission Work Programme 2015. A New Start. Annex 1*, COM(2014) 910 final, Strasbourg, EC.16.12.2014.

- Commission of the European Communities (2014b), *Commission Work Programme 2015. A New Start*, COM(2014) 910 final, Brussels, CEC.16.12.2014.
- Commission of the European Communities (2014c), *Implementation of the Communication on the Work of the Task Force Mediterranean*, SWD(2014) 173 final, part 1/2, Brussels, CEC.22.5.2014.
- Cremers, J. (2013), *Free Provision of Services and Cross-border Labour Recruitment*, in «Policy Studies», 34, 2, pp. 201-220.
- DG Migration and Home Affairs (2015), *Safe Routes, Safe Futures. How to Manage the Mixed Flows of Migrants Across the Mediterranean?*, Background document for first meeting of European Migration Forum, 26-27 January, Brussels, CEC.
- Faist, T. (2014), *On the Transnational Social Question: How Social Inequalities Are Reproduced in Europe*, in «Journal of European Social Policy», 24, pp. 207-222.
- Featherstone, K. and C.M. Radaelli (2003), *The Politics of Europeanization*, Oxford UP.
- Ferrera, M. (2005), *The Boundaries of Welfare: European Integration and the New Spatial Politics of Social Protection*, Oxford, Oxford University Press.
- Foucault, M. (2007), *Security. Territory. Population*, Basingstoke, Palgrave Macmillan.
- Hayes, L.J. and T.A. Novitz (2013), *Workers Without Footprints: The Legal Fiction of Migrant Workers as Posted Workers*, in B. Ryan (ed.), *Labour Migration in Hard Times: Reforming Labour Market Regulation?*, London, Institute of Employment Rights, pp. 99-118.
- ICF GHK and Milieu Ltd (2013), *A Fact Finding Analysis on the Impact on the Member States' Social Security Systems of the Entitlements of Non-active Intra-EU Migrants to Special Non-contributory Cash Benefits and Healthcare Granted on the Basis of Residence*, Brussels, DG Employment, Social Affairs and Inclusion.
- Juncker, J.-C. (2014), *New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change. Political Guidelines for the European Commission*, Strasbourg, European Parliament.22.10.2014.
- Justice and Home Affairs Council (2014a), *Council Conclusions on «Taking Action to Better Manage Migratory Flows»*, Justice and Home Affairs Council meeting, Luxembourg, 10 October 2014, Brussels, CEU.
- Justice and Home Affairs Council (2014b), *Development of a Renewed European Union Internal Security Strategy*, Brussels, CEU.
- Justice and Home Affairs Council (2014c), *Legacy of Schengen Evaluation Within the Council and Its Future Role and Responsibilities Under the New Mechanism*, Brussels, CEU.
- Kvist, J. (2004), *Does EU Enlargement Create a Race to the Bottom? Strategic Interaction Among EU Member States in Social Policy*, in «Journal of European Social Policy», 14, 3, pp. 301-318.
- Lavenex, S. (2004), *EU External Governance in «Wider Europe»*, in «Journal of European Public Policy», 11, 4, pp. 680-700.
- Papadopoulos, T. and A. Roumpakis (2013), *The Meta-regulation of European Industrial Relations: Power Shifts, Institutional Dynamics and the Emergence of Regulatory Competition*, in «International Labour Review», 152, 2, pp. 255-274.
- Paul, R. (2013), *Strategic Contextualisation: Free Movement, Labour Migration Policies and the Governance of Foreign Workers in Europe*, in «Policy Studies», 34, 2, pp. 122-141.
- Paul, R. (2015), *The Political Economy of Border-Drawing. Arranging Legality in European Labor Migration Policies*, Oxford-New York, Berghahn.
- Scott, J.C. (1998), *Seeing Like a State*, New Haven, Yale University Press.

- Shaw, J. and N. Miller (2013), *When Legal Worlds Collide: An Exploration of What Happens when EU Free Movement Law Meets UK Immigration Law*, in «European Law Review», 38, 2, pp. 137-166.
- Thyssen, M. (2015), *Speech on the Future of the Protection of Social Rights in Europe*, 12th February.
- Woolfson, C. and J. Sommers (2006), *Labour Mobility in Construction: European Implications of the Laval un Partneri Dispute with Swedish Labour*, in «European Journal of Industrial Relations», 12, 1, pp. 49-68.
- Yanow, D. (2000), *Conducting Interpretive Policy Analysis*, London, Sage.
- Yanow, D. and P. Schwartz-Shea (eds.) (2014), *Interpretation and Method: Empirical Research Methods and the Interpretive Turn*, M.E.Sharp.
- Zincone, G. and T. Caponio (2006), *The Multilevel Governance of Migration*, in R. Peninx, M. Berger and K. Kraal (eds.), *The Dynamics of International Migration and Settlement in Europe. A State of the Art*, Amsterdam, Amsterdam University Press, pp. 269-304.

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