



## **A European labour market with national welfare systems: a proposal for a new Citizenship and Integration Directive**

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### **Executive summary**

The inconsistencies and perverse incentives created by the European Union's current rules on migrants' access to national welfare systems has undermined public confidence in free movement and has left people in many countries feeling that the system is out of control. We argue that this can be corrected without a complicated EU Treaty change but by amending existing EU law.

We propose a new EU Directive on Citizenship and Integration, which would fundamentally change the EU's rules on access to benefits, based on the following central reforms:

- Firstly, it would state the supremacy of national citizenship over EU citizenship by reiterating that welfare benefits are as central to it as the right to vote in national elections. It would set out that welfare benefits, social housing and publicly funded apprenticeships are in principle reserved for national citizens and can only be granted to EU citizens in limited circumstances.
- Secondly, the Directive would set out a test for sufficient integration in a migrant's new host country – benefits would only be paid where the EU migrant has lawfully resided in their host State for three years.
- Thirdly, national laws and collective agreements protecting local workers from being undercut by the exploitation of migrant labour should be ring-fenced from EU law provided that these national rules do not discriminate between a State's own citizens and other EU citizens. These laws might set out conditions surrounding the terms of hiring; terms in the contract of employment or services; as well as how the migrant is provided for by his/her employer or contractor whilst in the host State.

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- Fourthly, the Directive should set out clear safeguards to protect certain fundamental rights of EU migrants. Stronger safeguards should be put in place to protect EU citizens from discrimination in the private sector. Children of an EU citizen would have a right to access childcare and primary and secondary education. EU citizens would have a right to access public healthcare within their host State, but, for the first three years, the costs would be borne by their state of nationality and, insofar as there was a shortfall, through private health insurance that they were required to purchase.

This proposal would have important public policy implications. The current EU rules impede governments who want to have active employment policies where it ‘always pays to work’ as subsidies or benefits to facilitate domestic employment can end up going to EU migrants – effectively subsidising low-paid or low-skilled migration. The proposal stops this. Secondly, it would rid the current framework of much of its complexity with all the possibilities for abuse and misunderstanding generated by this. Finally, it would create a suitable balance between national citizenship and EU citizenship. The latter is to be additional to and must not compromise the former, which is the basis of the social contract between a citizen and his or her State. Nevertheless, this proposal grants EU citizens many opportunities and allows them the full benefits of a society when they have integrated into it.<sup>2</sup>

### **1. The contradictions, inconsistencies and perverse incentives created by existing EU law on free movement and citizenship**

EU rules on migrants’ access to welfare benefits have grown in an ad hoc way. Many of the principles date from a time when free movement rules were designed to facilitate the movement of workers between a small, economically cohesive group of EU countries. However, following enlargement of the EU to poorer member states with wildly contrasting welfare systems and the EU Court’s expansion of the rights associated with ‘EU citizenship’, this framework has been undermined by a number of contradictions, inconsistencies and perverse incentives, which are not in the interests of host societies, EU migrants, or the state of their nationality. They also give rise to a number of misunderstandings which obscure the many advantages of EU migration and undermine public confidence to an extent that many people now feel the system is out of control.

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<sup>2</sup> Although it takes a different position from this paper, the most sophisticated analysis on the different types of relationship offered to EU citizens by host societies is F. de Witte, ‘The role of transnational solidarity in mediating conflicts of justice in Europe’ (2012) 18 *European Law Journal* 694.

The primary legal basis for EU migrants' access to welfare benefits in the EU Treaties and Court of Justice case law is EU citizenship. All EU citizens and their families resident in another Member State are, subject to a limited number of exceptions, entitled to a wide range of welfare benefits on the same basis as a Member State's own citizens.<sup>3</sup> Two important protections were put in place. Firstly, residence does not equate with physical presence in another Member State but is only available to those who can show sufficient resources not to be a burden on the social assistance system of the host State and have comprehensive sickness insurance.<sup>4</sup> Secondly, Member States are not required to grant social assistance during the first three months.<sup>5</sup>

However, these checks have been eroded in two ways. Firstly, the Court has stated that social assistance should be provided after three months if it does not provide an unreasonable burden on the State. Regard must be had to whether the person is experiencing temporary difficulties, the duration of residence of the person concerned, her personal circumstances, and the amount of aid granted.<sup>6</sup> Only the most flagrant examples of abuse or high sums are therefore likely to be able to be refused. Secondly, residence can be easily acquired by EU migrants working or setting themselves up as self-employed for three months, even if these activities do not pay enough for the migrant to be economically self-sufficient.

The second central source of welfare benefits for EU migrants and their families is where EU citizens work or are self-employed in another Member State. Benefits are, in principle, to be offered on the same basis to EU citizens and their families as to host State nationals in an equivalent situation. National welfare systems were to be protected by three safeguards. Firstly, benefits are not granted to jobseekers unless they directly facilitate access to employment.<sup>7</sup> Secondly, access to an important benefit, subsidised housing, was historically restricted.<sup>8</sup> Thirdly, benefits granted to those who have ceased employment are limited.<sup>9</sup>

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<sup>3</sup> Case C-85/96 *Sala v Freistaat Bayern* [1998] ECR I-2691.

<sup>4</sup> Directive 2004/38/EC, article 7(1)(b)

<sup>5</sup> Directive 2004/38/EC, article 24(2)

<sup>6</sup> Case C-140/12 *Brey*, Judgment of 19 September 2013.

<sup>7</sup> Case 316/85 *Lebon* [1987] ECR 2811; Case C-138/02 *Collins v Secretary of State for Work and Pensions* [2004] ECR I-2733, para 58

<sup>8</sup> Regulation 1612/68/EEC on freedom of movement for workers within the Community, OJ 1968, L 257/2, article 10(3).

<sup>9</sup> These have to be linked to that employment or facilitate access to future employment. See Case C-413/01 *Ninni-Orasche* [2003] ECR I-13187.

These restrictions on access have also been significantly eroded. There has been increased use of in-work benefits by national governments (in the UK these mainly comprise various tax credits), thus opening up welfare systems to a group, workers, who historically only made use of certain benefits (i.e. children's education). Alongside this, EU law restrictions on the grant of housing to EU citizens were abolished in April 2006.<sup>10</sup> Most significantly, the threshold for accessing these benefits, namely being a worker, has become extremely relaxed. It covers employment of short duration<sup>11</sup> and part-time employment, with work of twelve hours per week sufficient to qualify somebody as in work.<sup>12</sup> This work does not have to provide enough remuneration to ensure that the EU citizen is economically self-sufficient. EU law, therefore, allows individuals to qualify for benefits where employment is neither a central activity of their lives in the host State nor enough to lift them out of poverty.<sup>13</sup> This problem is likely to be exacerbated when the Court considers what level of self-employment is sufficient to qualify a citizen for benefits. To date, it has stated that services must be provided on a stable and continuous basis but the Court has been, as yet, vague about the level of economic activity that must be generated to meet this test.<sup>14</sup>

The relaxation of the thresholds and safeguards mentioned above has led to a number of problems for EU migrants, host societies and sending countries. These include:

**Undermining national employment strategies:** A strategy of number of national governments to counter welfare traps and create employment opportunities is to develop welfare systems where it will always 'pay to work', typically through the grant of 'in-work benefits' such as the payment of tax credit. EU law makes it easier for migrants to access these benefits than non-work benefits as there is no residence requirement. Consequently, payment of these in-work benefits no longer just acts to promote local employment but also acts to attract labour from other parts of the EU – effectively subsidising low-paid or low-skilled migration. This makes welfare provision both more expensive and, insofar as labour is attracted to a region, thwarts the objective of these benefits as this immigration puts downward pressure on already low wages.

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<sup>10</sup> Directive 2004/38/EC, article 38(1).

<sup>11</sup> Joined Cases C-22/08 & C-23/08 *Vatsouras & Koupatantze v Arbeitsgemeinschaft (ARGE) Nürnberg 900* [2009] ECR I-4585.

<sup>12</sup> Case 139/85 *Kempf v Staatssecretaris van Justitie* [1986] ECR 1746.

<sup>13</sup> In *Genc*, a case from Germany, the employee was working 7 hours per week and earning €175 per month. When residence was refused on the grounds this was insufficient, she found work at 25 hours per week, earning €422 month. The Court stated that it was for the national court to decide based on her employment contract being indefinite, subject to a collective agreement and allowing her paid holidays. Case C-14/09 *Genc v Land Berlin* [2010] ECR I-931.

<sup>14</sup> Joined Cases C-357/10 to C-359/10 *Duomo Gpa*, Judgment of 10 May 2012.

**Distortions of labour markets that harm local and migrant workers:** The payment of in-work benefits to subsidise low pay for citizens from other EU States leads to a number of unfortunate consequences. Employers in the host State are incentivised to offer low wages not just through poor employment contracts but also through contracts for services with little employment protection, knowing that as the host government will make welfare payments to the EU citizen, they will still enter into these. This can lower conditions for all workers: national and migrant alike. There are also distortions in the sending countries. Clearly, it may be beneficial for sending countries if the EU migrant was previously unemployed in their home state but where that was not the case, it acts to subsidise host country labour markets at the expense of sending country labour markets, leading in some cases to skill flight and a reduction in wage competitiveness.

**Disruption to local welfare and public services planning:** Local planning in fields where there is a limited supply of public services, such as housing or education may be destabilised if large numbers of EU migrants need to access these services, particularly as demand is difficult to predict. This possibility for dislocation has been exacerbated by EU law granting migrant workers and self-employed not just access to benefits associated with the contract of employment but to any benefits which are offered to the host State's own nationals.<sup>15</sup> Benefits must also be paid both to those who come in from another EU State but whose remuneration for that work does not make them economically self-sufficient<sup>16</sup> and to those who have worked for a short time in the host country, possibly on precarious short-term contracts, but are now unemployed.<sup>17</sup>

**Development of a remittance culture in welfare:** It is up to EU migrants where to spend or invest their earnings and wealth. There are, however, particular concerns about the ability under EU law for EU citizens to claim benefits for dependents who live in another country.<sup>18</sup> This is seen by many people in host societies as a violation of the social compact by suggesting a lack of commitment by the EU citizen to their host State. In addition, as the benefit may go much further in the home State than the host State, the remittance of child benefits acts as an incentive to parents to live apart from their children.

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<sup>15</sup> Case 32/75 *Cristini v Société nationale des chemins de fer français* [1975] ECR 1085.

<sup>16</sup> Case C-46/12 *L.N., v Styrelsen for Videregående Uddannelser og Uddannelsesstøtte*, Judgment of 21 February 2013.

<sup>17</sup> Directive 2004/38/EC, article 7(3)(c). The benefits may be only accessed for six months in such a case.

<sup>18</sup> Case C-542/09 *Commission v Netherlands*, Judgment of 14 June 2012.

## 2. Protecting national welfare systems within the EU Treaties

Paradoxically, various principles in EU law provide a number of safeguards which could counter many if not all of the problems described above. However, these protections have so far proved ineffective or are undeveloped.<sup>19</sup> There is particular leeway here for the EU legislature to curb many of the difficulties if it so wished.

Firstly, Member States can impose residence conditions before granting benefits. These residence conditions can both prevent EU citizens placing an unreasonable burden on host State welfare systems and ensure that EU migrants have demonstrated a certain degree of integration into their host society before acquiring benefits. These conditions may also be long. For example, a Dutch five year residence condition for a student maintenance grant was declared lawful.<sup>20</sup> They may also be used to restrict the remittance of benefits abroad.<sup>21</sup> Secondly, EU law makes clear that EU citizenship shall be additional to and not replace national citizenship.<sup>22</sup> This would suggest that the former cannot be deployed to undermine any benefits granted by the latter. Finally, EU law provides for the protection of domestic labour markets. Restrictions on free movement may be imposed to protect against 'social dumping': actions which excessively undercut local wage practices.<sup>23</sup>

These three elements offer the possibility for change through EU legislation and within the current EU Treaties. We suggest that this should be done through a new Citizenship and Integration Directive, which would amend Directive 2004/38, the current Citizenship Directive.<sup>24</sup> The EU Treaties grant particular discretion within this field as, unlike other Treaty principles, the right of EU citizens to move to and reside within another Member State does not constrain EU legislation but is rather subject to the limits and conditions set down by such legislation.<sup>25</sup>

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<sup>19</sup> National integration conditions, such as residence requirements, have proved difficult to enforce as national governments have often been unable to show that they are proportionate. This proportionality test involves demonstrating that they do not go beyond what is necessary to secure the objective sought, and this has proved very challenging to meet. Good recent examples include Case C-20/12 *Giersch*, Judgment of 20 June 2013; Case C-220/12 *Meneses v Region Hannover*, Judgment of 24 October 2013.

<sup>20</sup> Case C-158/07 *Förster v Hoofddirectie van de Informatie Beheer Groep* [2008] ECR I- 8507

<sup>21</sup> Case C-212/05 *Hartmann v Freistaat Bayern* [2007] ECR I-6303, paras 33-34.

<sup>22</sup> Article 20(1) TFEU.

<sup>23</sup> Case C-341/05 *Laval v Svenska Byggnadsarbetareförbundet* [2007] ECR I-11767, para 103.

<sup>24</sup> EU legislation is not subject to the same proportionality constraints as national legislation. The proportionality principle, when applied to EU legislation requires only that it not be manifestly inappropriate to the objective pursued. This grants much more leeway to the EU legislature, and (unlike national laws) it is rare that EU legislation is found to be disproportionate. See, most recently, Case C-348/12 P *Council v Manufacturing Support & Procurement Kala Naft Co. Tehran*, Judgment of 28 November 2013 para 120.

<sup>25</sup> Articles 20(2) and 21(1) TFEU.

It could also be amended by the ordinary legislative procedure, and, unlike Treaty amendments, therefore does not require the agreement of all national governments to bring into force these amendments.<sup>26</sup>

### **3. A new Citizenship and Integration Directive**

The Directive would have four sections: the pre-eminence of national citizenship, integration of EU citizens within the host society, protection of the dignity of domestic workers, and clearer protection of certain fundamental rights of EU citizens.

#### **a) The pre-eminence of National Citizenship**

Citizenship forms the central compact between a State and its citizens. It provides not simply political rights but also a wide range of social entitlements.<sup>27</sup> Whilst the EU Treaties have long recognised that central political rights, namely the right to vote in national elections and to hold high office are reserved to a State's own national, there is a lack of clarity about social rights.<sup>28</sup> A new Directive should recognise the importance of this compact and that social entitlements, as an expression of this, are pre-eminently for a State's own nationals. The Directive would state the following:

- It would restate that matters of social assistance and social security, pensions, public housing, public health, public education, youth employment policies (such as publicly funded apprenticeships) are matters for national parliaments and are not to be regulated in any general way by EU law.
- Entitlements within these fields form part of domestic citizenship traditions and State's democratic identities. EU law must, therefore, respect the importance of national laws and processes as is required by the EU Treaties.<sup>29</sup>
- Whilst recognising the right of EU citizens to move to and reside within another Member State, EU citizens should not be able to access the benefits of another Member State unless they can demonstrate sufficient integration within the society of that State or that denial of these benefits violates the fundamental rights set out in the Directive.

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<sup>26</sup> Article 21(2) TFEU.

<sup>27</sup> The famous statement for this is T. Marshall, *Citizenship and Social Class* (1950, CUP).

<sup>28</sup> Notwithstanding that the German Constitutional Court has stated that Germany's constitutional and democratic identities require that the central elements of these be determined by the German parliament. 2 BvE 2/08 *Lisbon Treaty* Judgment of 30 June 2009 (German Constitutional Court) paras 251-252. The Polish Constitutional Tribunal has talked in similar terms, stating that matters of social justice cannot be transferred to the Union, K 32/09 *Lisbon Treaty*, Judgment of 24 November 2010, para 2.1

<sup>29</sup> See both Article 4(2) TEU and Article 20(1) TEU.

Such an approach would anchor social entitlements to national citizenship. This would reinforce both the importance of the duty of care owed by a State to its own citizens and emphasise that national welfare systems are a matter for national parliaments decided by national elections. It would set out, as the Treaty requires<sup>30</sup>, a series of limited exceptions when EU citizens could access these domestic citizenship entitlements. These would be set out as additional to national citizenship and, rather than being a central principle of EU law, something which is an exception to the rule and to be granted in limited circumstances. There would be no open-ended aspirations to furthering EU citizenship which could be used by the Court of Justice to extend welfare access in creative ways.

#### **b) The integration of EU migrants into the host society**

As mentioned earlier, the Court of Justice has indicated that national governments can restrict access to benefits to those who have integrated into their societies to prevent both benefit tourism and to contain costs. We believe, as we think most people do, that there is a strong case of fairness that foreigners who have contributed to a society for a sufficient period should be able to benefit from the social provision offered by the host society. The question is typically the length of residence required and whether other factors can be taken into account.

We would recommend that integration would be presumed after three years residence within the host State. Such benefits are typically given more generally to all non-nationals after five years residence.<sup>31</sup> We believe EU citizenship should have some advantages, and, as a consequence, the period of residence should be less than for non-EU migrants but long enough so that the EU citizen has had time to contribute considerably to their host society. Furthermore, as benefits are contingent on residence, these would not be payable to family members who live in another Member State. The one exception to this would be the case of frontier workers and their families. If these lived within a certain distance of the host State, this should be considered residence.<sup>32</sup> In line with current EU law, time spent in detention for committing a criminal offence would not count as residence.

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<sup>30</sup> In Article 20(1) TEU

<sup>31</sup> Prevailing national practice was institutionalised in Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents, OJ 2004, L 16/44, articles 4 & 11, albeit that the United Kingdom and Ireland do not participate in this Directive. On the study see K. Groenendijk & E. Guild, 'Converging Criteria: Creating an Area of Security for Europe's Third Country Nationals' (2001) 3 *European Journal of Migration and Law* 37.

<sup>32</sup> The Court has found residence rules illegal where they involved frontier workers and migrant workers on the grounds that integration occurs by dint of payment of taxes. Both the relevant cases involved frontier workers. Furthermore, if EU legislation set out a definition of integration the Court should not gainsay it by virtue of Article 21(1) & (3) TFEU which allows the legislature to set the conditions for movement and residence and measures of social protection which secure this end, Case C-542/09 *Commission v Netherlands*, Judgment of 14 June 2012; Case C-379/11 *Caves Krier Frères*, Judgment of 13 December 2012.



Such a test would have a number of advantages. It would abolish the current distinction between in-work and other benefits which has led to many perverse effects. It would be simple to administer. It would eliminate the distinction between certain forms of benefit, notably student maintenance grants, which are only granted to permanent residents, and other benefits. There would be an onus on EU citizens to register as soon as possible with authorities in their host State to start the clock ticking, which would have the benefit of allowing EU States to monitor movements better (this might be particularly helpful with taxing the self-employed).

It would also reduce the pull effect for migration within the European Union. Citizens are unlikely to move to other States if employment or self-employment is insufficient to support them and/or their families. Furthermore, other citizens of EU States do not have the right to reside in another Member State for more than three months unless they have sufficient resources for themselves and families not to become a burden on the social assistance system of the host State and comprehensive sickness insurance.<sup>33</sup> Internal EU migration would, thus, be largely confined to tourism, the employed and self-employed whose remuneration makes them economically self-sufficient, and those wealthy enough to live off their means without having to work.

### **c) Protection of the dignity of domestic workers**

Poor treatment of citizens from other EU States by employers or contractors has knock-on effects on the working conditions for host State nationals. It can lead to the latter having to accept significantly lower working conditions than has traditionally been the case or face unemployment. Even in the absence of egregious practices, the high wage differentials between different EU States can place unacceptable downward pressure on these markets. As have been noted earlier, EU law allows States to derogate from free movement principles to safeguard working conditions for employees.<sup>34</sup> Alongside this, Article 31 EUCFR states that every worker has the right to working conditions which respect his or her health, safety and dignity. This provision does not create justiciable rights, certainly in the United Kingdom and Poland, which can be invoked in domestic law.<sup>35</sup> Nor does it act as a basis for EU legislative competence. However, the Treaties provide that the Charter is to have equal legal value to these.<sup>36</sup>

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<sup>33</sup> Directive 2004/38/EC, article 7(1)(b) & (c).

<sup>34</sup> Case C-341/05 *Laval v Svenska Byggnadsarbetareförbundet* [2007] ECR I-11767, para 103.

<sup>35</sup> Protocol on the Application of the EUCFR to the United Kingdom and Poland, article 1(2).

<sup>36</sup> Article 6(1) TEU.

At the very least, this means that national laws giving effect to the ideas in the Charter should be protected from EU law. Finally, legislation has previously been adopted to protect national pay laws from the demands of EU free movement law.<sup>37</sup>

There is, therefore, a strong legal basis for including in the Directive provision that national laws or collective agreements which serve to protect worker dignity are, in turn, protected from EU law subject to the proviso that these laws/agreements serve to protect EU citizens and a State's own nationals equally. To limit the possibility for subsequent disagreements and unanticipated judicial rulings, a list of such activities should be set out. These include national laws which govern recruitment, such as restrictions on non-national advertising or advertising targeting certain other EU States characterised by lower levels of pay or gangmaster contracts. It would cover national restrictions on terms of contract or performance. These would include matters such as health and safety or wage levels. Host States should, in particular, be free to set a living wage for certain sectors (even if it is above the national minimum wage) and insist that no contracts – be they employment or for services – be offered below that wage. Finally, it should also exempt national restrictions on employers' or contractors' provisions for citizens from other States, including bonded agreements or tied housing.

#### **d) The rights of citizens of EU States to certain services and non-discrimination in the private sector**

An unhappy feature of the current situation is both a debate which denigrates the considerable contribution made by most EU migrants to their host societies and too many instances where they are exploited. Our proposed three year residence rule might contribute to a sense of vulnerability on their part. It is important that migrants' contribution be recognised, their dignity safeguarded and they be protected from this sense of vulnerability. We propose a number of ways of doing this.

- The protection offered against discrimination on the grounds of gender or racial and ethnic origin in the fields of the supply of goods and services has no equivalent in the field of EU citizenship law so as to prohibit discrimination on grounds of nationality.<sup>38</sup> There should be the same protections.

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<sup>37</sup> Directive 96/71/EC concerning the posting of workers in the framework of the provision of services, OJ 1997, L 18/1, article 3.

<sup>38</sup> Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJ 2000, L 180/22, article 3(1)(h); Directive 2004/113 implementing the principle of equal treatment between men and women in the access to and supply of goods and services, OJ 2004, L 373/37. We do not propose that this principle apply to public housing.

As in those fields, these would not just prohibit such discrimination, but also offer the same judicial remedies, public interest machinery and burden of proof requirements as are offered to prevent discrimination on the grounds of gender or race.

- The refusal of public benefits during the first three years of residence might compromise certain fundamental rights of the EU citizen. Two fields are of particular concern: education and healthcare. EU citizens' children should be granted access to public education on acquisition of residence. However, in keeping with existing EU citizenship law, this right to public education would not be sufficient by itself to secure residence for the family. The right to healthcare is equally important. Few would be comfortable with a seriously ill EU citizen being denied treatment. Our proposal is that, for the first three years of residence, the costs of EU migrants' healthcare in another Member State must be provided by their State of nationality subject to the cost of the same treatment provided in that state.<sup>39</sup> There might be exceptional circumstances where the tariff provided by the State of nationality does not cover the cost of the healthcare provided by the host State. To cope with this, there should be a general requirement that all those resident in an EU State for less than three years possess sickness insurance to cover the risk of a difference in cost.<sup>40</sup>

#### **4. Conclusion**

The advantages of the proposed Directive are numerous. Firstly, it would reaffirm the importance of the social contract between a citizen and his or her State, and that nothing should be done to undermine it. Secondly, it would have important public policy implications. The current rules impede Member States who want to have active employment policies where it 'always pays to work' as subsidies or benefits established to facilitate domestic employment can end up going to nationals from other EU States. The proposal stops this. Thirdly, it would rid the current framework of much of its complexity with all the possibilities for abuse and misunderstanding generated by this. Finally, it would create a suitable balance between national citizenship and EU citizenship. The latter is to be additional to and must not compromise the former.

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<sup>39</sup> Access to publicly financed healthcare in another Member State is now regulated by Directive 2011/24/EU which grants patients the right to cross border healthcare, albeit that the cost of this must be provided by their State of nationality subject to the tariffs provided by it.

<sup>40</sup> The right to healthcare in the EU Charter is less unequivocal than the right of respect for family life and the rights of the child. Individuals are only to have access 'under the conditions established by national laws and practices.' Article 35 EUCFR.

It is still something which, nevertheless, grants EU citizens many opportunities and allows them the full benefits of a society when they have integrated into it.<sup>41</sup>

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<sup>41</sup> Although it takes a different position from this paper, the most sophisticated analysis on the different types of relationship offered to EU citizens by host societies is F. de Witte, 'The role of transnational solidarity in mediating conflicts of justice in Europe' (2012) 18 *European Law Journal* 694.