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Strategic interaction among EU member states

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Does EU enlargement start a race to the bottom? Strategic interaction among EU member states in social policy

Jon Kvist*, *Danish National Institute of Social Research, Copenhagen*

Summary This article examines whether Eastern enlargement has led the EU 15 member states to enter strategic interactions implying a race to the bottom. The question is whether concerns about welfare migration have led to downward pressure on the EU 15 member states in the form of more restrictive access to their labour markets and adjustments of their social policy benefits. We find little empirical evidence to support the assumption that welfare states with generous benefits and accessible labour markets will become magnets for welfare migration. Nevertheless, the study demonstrates that the EU 15 member states do enter strategic interactions as if such migration would occur. The majority of them have temporarily restricted the free movement of workers from the acceding countries. EU 15 member states with the least restrictions are the ones most active in adjusting their social policies. Strategic interactions in social policy may thus intensify in the future as transitional periods come to an end and future enlargements come into place.

Key words EU enlargement, race to the bottom, social policy strategic interaction, welfare migration

Résumé Cet article examine l'idée selon laquelle l'élargissement aurait amené les 15 pays membres existants à entrer dans des interactions stratégiques impliquant une "course vers le bas" en ce qui concerne les niveaux de protection sociale. Selon ce scénario, la peur d'une migration motivée par la recherche de prestations sociales plus élevées aurait provoqué les gouvernements de l'Europe des 15 à limiter l'accès aux droits relatifs au marché du travail et à la sécurité sociale. Les données empiriques ne soutiennent guère l'hypothèse selon laquelle les systèmes de protection sociale dans l'Europe des 15 exerceraient un pouvoir d'attraction sur des migrants potentiels. Néanmoins, l'étude démontre que les gouvernements de l'Europe des 15 n'ont pas attendu qu'un tel flux migratoire se produise pour entrer dans des interactions stratégiques. La plupart d'entre eux ont mis en place des restrictions temporaires à la libre circulation des travailleurs originaires des nouveaux pays membres. Ce sont les pays ayant les politiques sociales les moins restrictives qui s'activent le plus à en limiter les conditions d'accès. Les interactions stratégiques risquent donc de s'intensifier au fur et à mesure que les périodes de transition arriveront à terme et que le processus d'élargissement continuera.

Introduction

The Eastern enlargement of the European Union (EU) on 1 May 2004 is 'a great moment for Europe. 75 million people will be welcomed as new citizens of the European Union. Our common wish is to make Europe

a continent of democracy, freedom, peace and prosperity. Our aim is One Europe' (Rasmussen, 2002). Those were the words of the Danish Prime Minister, Anders Fogh Rasmussen, when (acting as president of the EU) he declared the successful end to the accession agreements with 10 countries in

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December 2002. Exactly one year later his close colleague, Danish Minister of Employment Claus Hjort Frederiksen, announced measures that regulate work permits and conditions for migrant workers from the acceding countries and curb their social rights for a transitional period. He said:

Danish employees can now sleep safely. EU enlargement will not result in undue pressure on wages. Firms can be happy that they will get access to labour from the new EU countries. And we can all be happy that we have put a fence around the Danish welfare schemes. (Frederiksen, 2003)

This U-turn in policy is not unique to Denmark. All EU 15 member states have either adjusted their social policies or closed their labour market to workers from the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia and Slovakia. Ireland was the last EU 15 member state to announce such measures on 23 February 2004. At that time, 235 persons from these countries resided in Ireland.

The paradox of EU 15 member states wanting to include the eight Central and Eastern European countries (also known as CEEC 8) in the EU, but to exclude their workers from EU 15 welfare states, raises important questions regarding the future of social policy in Europe. Are welfare states sustainable in a world where Community rules have partly dissolved territorial borders in social policy and when EU enlargement expands the potential numbers of social policy claimants? The dominant view within comparative welfare state research is that exogenous pressures stemming from European collaboration are far less important than endogenous pressures such as ageing populations (Esping-Andersen, 1999; Pierson, 2001). Most studies of European integration support those claims when they find national governments to be sovereign in social policy, as European social policy predominantly comprises market-enabling measures securing the free movement

of workers (Streeck, 1995; Scharpf, 1999; but see also Leibfried and Pierson, 2000). Europeanization studies, in contrast, examine how national states adapt as part of their membership of the EU, not only due to coercive pressures from the European Commission and the European Court of Justice, but also as a result of mimetic and adjustment pressures, just to mention a few (e.g. Buller and Gamble, 2002). However, European integration and Europeanization studies in general and enlargement studies in particular have so far not adequately addressed two issues. The first comes from their nearly exclusive focus on multi-level interaction between the national state and the European level, thereby largely neglecting interaction between member states (where the European level merely provides the context for their interaction). The second relates to the study of the impact of enlargement. Here there has been a preoccupation with the impact of enlargement on new member states or one-country studies. Thus a recent review of the enlargement literature finds a lack of systematic multi-country studies looking at the policy impact of enlargement in the older member states (Schimmelfennig and Sedelmeier, 2002). None can to the best of our knowledge be found in social policy. This study is a first step to fill this lacuna by looking at the impact of enlargement on social policy in existing member states.

This article addresses whether concerns about welfare migration have led the EU 15 member states to enter strategic interactions implying a race to the bottom. This is inspired by studies, mainly performed in economics and political science in the US, that point to a downward bias in benefit levels caused by each state not being as generous as it would have been without concerns over welfare migration (Brueckner, 2000; Schram et al., 1998). Here we focus on policy change more broadly by examining how the EU 15 member states restrict access to their labour markets and adjust their social policies in order not to appear attractive to citizens from other, especially new, member states. Importantly, the

term 'race to the bottom' does not reflect the popular usage which describes a situation in which the policies of all countries have met at the lowest denominator, i.e. the *most* restrictive access to labour markets and the *least* accessible and generous benefits. The term is used here as shorthand for a downward bias in restriction and benefit accessibility and generosity.

In brief, we find that fears of welfare migration are largely unfounded, but that the EU 15 member states have acted as if migration would take place. This may signal the emergence of a new policy dynamic in European social policy that has potentially damaging effects, especially for persons who are mobile within the EU. To substantiate this argument the following sections examine European integration in social policy, the size and nature of EU enlargement and resulting migration, the migration worries accompanying EU integration and enlargement, and the strategic interaction which the EU 15 member states have so far undertaken in designing their policies related to enlargement.

European integration and social policy

Historically, the European Commission (Commission) and European Court of Justice (ECJ) have been instrumental in intensifying European integration of social policy, mainly by building on legal regulation and case law. Lately, however, there has been a shift from deepening to widening EU social policy as reflected in the increased use of softer policy measures or modes of governance rather than legal regulation, the inclusion of more policy fields, and the greater role played by the Council vis à vis the Commission and the ECJ. The Council thus adopted the European Employment Strategy in 1997 followed by the European Social Inclusion Strategy in 2000 and the Strategy on Pensions in 2001, and more are in the making. These strategies are

subject to various versions of the Open Method of Coordination that stipulates common objectives and whereby individual member states can freely choose how they achieve those objectives. There are neither legally binding measures nor economic sanctions, just as initiatives supporting the strategies are modest when compared to similar national initiatives. Building on partnerships and a social dialogue between the partners in the labour market are other soft policy instruments prevalent in EU initiatives. The increased use of partnerships, social dialogue and open methods of coordination in ever more areas of social policy extend the scope, rather than intensify the depth, of European integration (Kvist, 2002a).

Another helpful analytical distinction can be made between positive and negative integration that are the result of direct pressures resulting, respectively, from initiatives to develop social standards at the EU level and from market compatibility requirements (Leibfried and Pierson, 2000). Initially, neo-functional theories predicted that collaboration in economic and technical fields, negative integration, would gradually spill over into other fields such as social policy by way of deciding on common policies, positive integration (Haas, 1968). Today, the EU has legislation on labour law and health and safety at work, coordination of migrant workers' social security, free movement of workers, equal opportunities for men and women on the labour market and in social security systems, and a ban on discrimination based on race or ethnicity. Albeit important in their own respects, when compared to national social policy these achievements are commonly agreed not to have led to significant positive integration in social policy in the sense of creating a European social policy (Streeck, 1995; Scharpf, 1999).

Negative integration has, however, indeed evolved. Without resulting in significant positive integration, this development does put pressure on national social policy (Ferrera, 2003). Such pressure includes the freedom to

establish enterprises in other countries and to deliver services across borders, as well as the mutual recognition of qualifications. None of these three aspects is dealt with in the Accession Treaty and they are thus Community rules which entered into force on the first day of enlargement. Let us illustrate how negative integration may impact on national social policy with two Council Regulations that have been described as ‘market enabling’ or ‘market making’ (Streeck, 1995). The objective of Regulation 1408/71 (originally 3/58) is to reduce barriers to cross-border mobility by coordinating national social-security systems in the fields covered by ILO Convention 102 (unemployment, sickness, invalidity, maternity, children, old age, and survivors). Four principles imply that: national states cannot discriminate against resident EU-nationals from other countries in the field of social security; migrant workers can take out their benefit in a different country to the one where the right was earned; eligibility periods at different times can be aggregated; and the setting of benefits can be accumulated on the basis of the time spent in the respective countries. Extensive case law by the ECJ has vastly expanded the personal field of application and the material base by including still more benefits (Martinsen, 2003). For example, family members of a migrant worker have rights to family benefits and student grants according to the rules of the migrant workers’ host country, also when those family members reside in another EU member state. Since Regulation 1408/71 is not part of the Accession Treaty, and therefore has to be followed immediately after enlargement, such aspects have led to worries about social raids (see below).¹

The objective of Regulation 1612/68 is to integrate the migrant worker in the host country by securing the same rights as nationals.² Discrimination based on nationality is prohibited with regard to conditions of employment. But also ‘he shall enjoy the same social and tax advantages as national workers’ (Article 7, 2). Case law has extended the personal and material scope of the regulation.

Social advantages have been interpreted to include traditional health and social services as well as benefits in transport, culture and leisure. Originally covering workers with a contract of employment (i.e. more restrictive than Regulation 1408/71), case law extended the personal scope of application of Regulation 1612/68 to include persons undertaking work at 10 hours per week, trainees, and even if the salary cannot fully support the person or is lower than the minimum level in the host country. Persons covered are thus a worker who ‘undertakes genuine and effective work under the direction of someone else for which he is paid’ (Commission of the European Communities, 2002). Moreover, the migrant workers’ household members are covered (i.e. partner, children, and parents of both adults), meaning that they also have right to the same social and tax advantages as nationals. This regulation is, unlike 1408/71, part of the Accession Treaty. This allows member states to make exemption to these Community rules during a transitional period. All EU 15 member states use this possibility in order to avoid so-called unintended use of their welfare systems (see below).

Overall we witness a dual development in European social policy. Positive integration is characterized by widening and use of non-binding forms of governance where the prohibition of discrimination based on gender, race and ethnicity can hardly be seen as changing the blueprint of the national welfare state. In contrast, negative integration is continuously deepened through case law. Rulings of the ECJ that most likely aim to secure the social protection of EU citizens and a European labour market by adopting a broad definition of work and of who qualifies for social protection and other benefits, and by making more benefits exportable, have, paradoxically, intensified pressures on national social policy. At least EU regulations and their interpretations lie at the heart of anxieties voiced in the EU 15 member states on the potential adverse impact of enlargement on national social policy.

Table 1 The population and economic size of EU enlargements

Year	Acceding countries	Population		Wealth		
		Absolute (1000s)	Relative (% of EU)	GDP (% of EU)	GDP per capita (% of EU)	
1973	EC 9	Denmark, Ireland and the UK	64,227.8	30.8	21.5	69.8
1981	EC 10	Greece	9,700.8	3.5	1.7	47.8
1986	EC 12	Spain and Portugal	48,498.9	16.7	12.3	73.4
1995	EU 15	Austria, Finland and Sweden	29,339.3	8.4	6.8	81.4
2004	EU 25	Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Slovakia, Slovenia and Poland	74,100.0	19.5	4.8 ^a	24.7

Note: ^a 2002.

Sources: Eurostat (1999; 2004a; 2004b), OECD (various years).

Social tourism, social dumping and social raids

Never before have so many countries and persons entered the EU at the same time (Table 1). This has fuelled fears that a large number of new EU citizens will move to the older member states. The relative increase of the EU population is, however, significantly smaller than when Denmark, Ireland and the UK joined in 1973 and only 2.8 percentage points bigger than the 1986 Southern enlargement with Portugal and Spain. In fact the 2004 Eastern enlargement compares with the combined two Southern enlargements in the 1980s. However, it should be noted that another 29.5m Bulgarians and Romanians are likely to become EU citizens in the near future, perhaps by 2007, making the combined Eastern enlargements of the EU in the 2000s amount to a population increase of the EU of about 27 percent.

The collective gross domestic product (GDP) of the 10 acceding countries amounts to 4.8 percent of the EU 15 GDP (see Table 1). This is less than for all preceding enlargements, except the accession of Greece in 1981. Whereas the current enlargement in economic terms is smaller than previous enlargement rounds, it also results in greater differences between rich and poor EU member states. Comparatively less wealth in acceding coun-

tries is seen as a push factor for migration, and the higher wealth of older member states as a pull factor. On average the GDP in the acceding countries is only a quarter of the EU 15 average. This conceals wide differences within the CEEC 8. Slovenia is the richest country with a GDP per capita of 48.3 percent of the average EU 15 GDP and nearly three times the level of the poorest new member, Latvia. All CEEC 8 look better when their GDP is measured by purchasing power parities (PPS) that take prices into account and so give a better indication of local living standards. Slovenia has a GDP per capita measured in PPS at 69 percent of the average EU 15 (2002), which is close to the level in the two poorest EU 15 countries, Greece and Portugal, both at 71 percent of the EU 15 average (Eurostat, 2003). Although Latvia remains the poorest of the new member states with a GDP per capita in PPS at 35 percent of the EU 15 average in 2002, this is 8 percentage points higher than in 1995 (Eurostat, 2003). For all new members where data are available there is a similar positive development with 8 or 9 percentage points from 1995 to 2002, corresponding broadly to the period where European Agreements allowed free trade in most areas (agriculture being the main exception). Living standards close in on the EU 15 member states', but the acceding countries will need between 20 and 35 years

at current growth rates to catch up with the older EU member states.

European collaboration holds the promise of peace and prosperity, but is also feared. In connection with enlargements some population groups in new and old member states dread the loss of established rights when, respectively, entering or expanding the Community. Whereas the majority of citizens in the acceding countries believe that EU membership has benefits for both their country and themselves, the populations in the EU 15 countries mainly believe that enlargement will benefit their country and less so themselves in a narrow sense (Kvist, 2002b). Privileged groups tend to view enlargement more optimistically than less privileged groups, and positive attitudes to enlargement vary with education and socio-economic position. Mobility concerns related to enlargement can be summed up under three headings; social tourism, social dumping and social raids.

Social tourism describes a situation where people migrate in order to get as many social benefits as possible and to contribute as little as possible. Public debates on the Eastern enlargement of the EU have reflected concern over a massive move of people from new to old member states because of differences in social-policy systems. This is seen as potentially leading to the deterioration of social policy for original target groups in the host country and the erosion of the financial basis for its welfare system as a whole. Indeed new EU citizens, except workers, will enjoy the same rights as old EU citizens to move within the Community after enlargement, and also for residential purposes. But residence permits in these cases do not translate into social rights, and hence fears of welfare migration in this form are largely unfounded.

Social dumping takes two forms. One relates to the situation when business as a product factor leaves the country in reaction to increased competition from abroad. To avoid this, wages are lowered or working conditions worsened to enable countries or firms

to become or remain competitive in the market. This pressure stems from a globalization of the economic system with the creation of the Single Market in the EU as a regional version, and where enlargement thus increases the pressure by broadening the market to areas characterized by generally lower wages and to some extent lower standards of social policy and working conditions. The Commission and heads of government in the EU 15 argue that this version of social dumping is partly counteracted by new members having to accept the 'acquis communautaire' in the social field, including directives on health and safety.

The other form of social dumping relates to labour or business as a product factor entering the country. It takes place when migrant workers establish themselves as entrepreneurs or self-employed people in EU 15 countries. This is possible through the free movement of services that entails the right to offer services across borders and to establish companies in other countries. In particular, trade unions have expressed fears of social dumping by the influx of so-called 'arms-and-legs companies', that de jure are companies established to promote a service, say in the building industry, but de facto are one-person companies offering labour under wage and working conditions that are below the normal standard in the country.

Whereas social tourism and social dumping are commonly used labels for national fears related to the phenomena described above, this article introduces the term *social raids* to portray the third form of fear. We define social raids as surprise attacks on national social security by a small or large group of people from abroad. Social raids resemble social tourism in its effects, but differ in its form. Unlike social tourism, the migrants in social raids are able-bodied workers and their family members. Indeed, the very nature of social raids is that getting work is used as an entry ticket into the national welfare system, sometimes with a view to exporting benefits to the home country. Such worries have been

expressed by the commissioned work on enlargement in both Denmark and Sweden. For example, these studies note that ECJ case law means that one person's work of 10 hours per week is sufficient to qualify for benefits, also for his/her partner and children, as well as parents of both adults (Beskæftigelsesministeriet, 2003a; Rollén, 2003). Besides anticipating such behaviour by individuals, the Swedish study also envisages a situation where social raids are organized:

. . . it may be a business idea to sell offers of labour that gives rights of residence and access to the Swedish welfare system. Offers of labour could be fictive, of little scope and/or badly paid. There are many versions of how less scrupulous persons against pay could entice people in need of support for living or health care. After a short while those persons would become the responsibility of the Swedish society. (Rollén, 2003: 153)

These concerns share a belief that national labour markets and welfare systems become open to nationals from other countries, and that this may result in people shopping around to get the best mix of benefits, wages and taxes. The question of whether indeed persons and labour are mobile across borders and, if so, whether they are rational and in a position to perform such cost-benefit calculations when deciding upon a future host country, is addressed in the following section.

Welfare magnets or myths?

Did previous enlargements result in welfare-led migration? In both Southern enlargements of the EU, transitional measures were adopted that disallowed the free movement of persons for seven years. There were 345,000 Greeks in 1987, the last year of the transitional period, resident in the then nine EU countries. This number rose to 435,000 in 1995 equal to a 23 percent increase (Eurostat, 2000). In the last

year of the transition period for the second Southern enlargement round, 1991, there were 864,000 Portuguese and 477,000 Spaniards living in the EU 10 member states which, respectively, rose by 6.1 percent to 917,000 persons, and fell by 1.3 percent to 471,000 persons in 1995. In all three instances, there were discernible variations in the migration patterns across countries and between years just as there was significant return migration, especially in the Spanish and Portuguese cases. This led a Eurostat study to conclude that 'there has been no clear, common or consistent relationship between changing patterns of population and labour stocks, or immigration, and the accession of Greece, Spain and Portugal' (Eurostat, 2000: 181).

But it may be argued that not much can be learned from history. Most importantly, the migration potential was largely exhausted before Greece and, especially, Spain and Portugal entered the EU. This may not be true to the same extent for the Eastern enlargement as emigration was not allowed prior to the fall of the Iron Curtain and migration has been subject to restrictive bilateral agreements and non-acceptance of political refugees. Combined with a perception that wage and benefit gaps between Eastern and Western parts of the EU are larger than they were between Northern and Southern parts this leads certain observers to maintain expectations of mass migration following the Eastern enlargement (e.g. Sinn, 2002).

Today some 0.2 percent of the population residing in the EU are citizens from the new members countries (see Table 2). This is far less than current shares of foreign nationals from non-EU countries living in EU 15 member states, markedly less than the share of EU 15 nationals living in another EU 15 member state (0.8 percent) and considerably less than that of the contingent of Spaniards and Portuguese residing in the EU 10 back in 1986 (Eurostat, 1999; 2004a).

Moreover, there are wide variations among EU 15 countries in the current stock and projections of their future CEEC residents (see

Table 2 Stock of CEEC residents in the EU 15 member states, most recent year

EU-15 member state	Year	Stock (most recent year)		
		Persons	% of national population	% of CEEC residents in EU 15
EU 15		794,953	0.21	100.00
Denmark	2003	9,551	0.18	1.20
Finland	2001	12,804	0.25	1.61
Sweden	2001	22,868	0.26	2.88
Belgium ^a	2001	13,208	0.13	1.66
Netherlands	2002	55,591	0.35	6.99
Luxembourg	2003	1,865	0.42	0.23
Austria	2001	56,930	0.70	7.16
Germany	2001	470,892	0.57	59.24
France ^a	2001	25,869	0.04	3.25
Greece ^a	2001	23,671	0.22	2.98
Italy	2002	38,399	0.07	4.83
Spain ^a	2001	16,249	0.04	2.04
Portugal ^a	2001	963	0.01	0.12
Ireland ^a	2001	235	0.01	0.03
United Kingdom ^a	2001	45,858	0.08	5.77

Note: ^a Figure for CEEC 10 residents, i.e. including persons from Bulgaria and Romania. Including persons from Bulgaria and Romania in all EU-15 countries would lead to around 1m CEEC citizens residing in the EU 15 in 2001, among them an estimated 400,000 employees (Boeri and Brücker, 2003), and raise the share of CEEC residents in countries listed above where information is given for CEEC 8 residents.

Source: Boeri and Brücker (2003) and own calculations.

Table 2). Austria, with its legacy of the Austro-Hungarian Empire and borders to four of the acceding countries, has the highest population share of persons from the acceding countries and a large share of the total CEEC nationals living in the EU 15. Germany, with long borders to Poland and the Czech Republic, has the lion's share of CEEC nationals in the EU 15. The smallest population share of CEEC nationals is in Ireland and Portugal. The remaining EU 15 member states are situated in between these extremes depending not least on their geography, economy and cultural ties to new member states.

Germany and Austria are expected to receive two-thirds or more of coming migrants, whereas the projected inflows to Ireland and Portugal are negligible. Migration is, not surprisingly, estimated to be biggest in the years immediately following enlargement. Without transitional periods restricting labour mobility the annual migration to the EU 15

from the CEEC 8 could vary between 287,000 (2004) and 358,000 (2005) persons (Brücker et al., 2001). Similarly, the total number of CEEC 8 citizens in the EU 15 is estimated to grow to 1.24m in 2004, over 2.9m in 2010, to 3.6m in 2020 (Boeri and Brücker, 2003). Interestingly, imposing transitional periods of two, five or seven years on the free movement of workers merely affect the timing of migration, but not the overall volume (Boeri and Brücker, 2003). Transitional periods contribute to a postponement of the expected migration, not a lowering of migration levels.

Two observations must be made. First, there are great uncertainties in projections on migration flows as reflected by varying estimates in different studies (see examples in European Commission, 2001). Second, migration may be a problem for the sending countries and a solution for the receiving countries. Depending on the extent and nature of migration, youth and brain drain may become a

challenge facing the new member states (see Krieger, 2004). In contrast, such migration may help old member states partly overcome some of the challenges stemming from ageing populations caused by low fertility. Such replacement migration is, however, not without problems. As argued by the UN, 'inflows of migrants will not be able to prevent population declines in the future, nor rejuvenate a national population, unless the migration streams reach comparative high levels' that are probably not politically feasible (UN, 2000: 11).

Irrespective of the scope and nature of migration, the issue remains whether European integration and enlargement lead to policy changes in existing welfare states. A Norwegian newspaper article illustrates this. Being a member of the European Economic Area (EEA), Norway, together with Iceland and Liechtenstein, applies Community rules. The article pointed out that wives of male Polish seasonal workers would get the right to the Norwegian care allowance. This was enough in an emerging discussion to prompt the establishment of a working group to look at the Norwegian social-security system in light of enlargement (*Dagbladet*, 2004a). Politicians may thus react to enlargement as if welfare migration will take place, even when the available evidence suggests negligible effects or even contradictory results for the sustainability of social policy. Policy reactions and strategic interaction among EU 15 member states are examined in the following two sections on, respectively, restrictions on labour mobility and national adjustments to social policy.

Postponing the inevitable: restricting the free movement of workers

The Accession Treaty regulates, among other things, the free movement of workers. Pushed through by Germany, it gives EU 15 member states (and acceding countries by way of reciprocity) the possibility of restricting the free

movement of workers for a transitional period of up to seven years according to a 2+3+2 model. In the first two years following accession, all old member states may thus apply national rules on access to their labour market (persons from Cyprus and Malta are excepted). Then member states can choose to continue to apply national rules for another three years or they can apply the Community rules, i.e. Regulation 1612/68. When countries decide to follow Community rules they maintain a safeguard clause meaning that they can reintroduce work permits temporarily if they experience an unexpected disturbance in the labour market or some region or profession. After five years, member states must apply Community rules, unless they can show that they experience, or are under threat of, 'serious disturbances' to their labour market in which case they can apply national rules for another two years. In other words, Regulation 1612/68 on free movement of workers will apply in all countries seven years after the enlargement, and perhaps in most countries after five or two years.

The Accession Treaty also contains aspects that promote mobility. Regulation 1408/71 on the coordination of social security rights was not part of the negotiations and thus applies from the start. The same goes for the mutual recognition of professional qualifications, the freedom to deliver services across borders and the freedom to establish companies in other member states. For these reasons, Germany and Austria insisted on, and also got, the right in the Accession Treaty to apply flanking measures to address serious disturbances or the threat thereof in specific (service) sectors of their labour markets. Finally, the Accession Treaty contains a standstill clause which means that the rights of access to the labour market of a given member state cannot fall behind the current status at the time of the signature of the Accession Treaty (March 2003).

Only workers can be restricted from free movement; other citizens are free to move from day one. This includes the self-employed, students and persons moving for residential

Table 3 EU 15 member states and Eastern enlargement: restrictions on free movement of labour and adjustments in social policy (as of 27 February 2004)

<i>Country</i>	<i>Measure</i>
Denmark	Temporary residence permits dependent on getting jobs on normal working conditions during the transitional period of seven years. Unemployed migrants lose residence permit and rights to social benefits. Social partner's role in allocating and monitoring jobs. Possible shortening of transitional period after two years. Possibility of taking up maternity leave abroad abolished, stricter monitoring of sickness benefits abroad.
Finland	Transitional period restricting free movement of workers for two years, possible prolongation after talks with social partners.
Sweden	Proposal of temporary residence permits dependent on offer of job of a certain length that meets normal working conditions and pays a wage sufficient to live on.
Belgium	Transitional period of two years followed by evaluation.
Netherlands	Annual quota of 22,000 workers on contracts, 11,050 guest workers and no limits on seasonal workers or on IT and Communication specialists. Work permits only granted in sectors with lack of labour. To be reviewed May 2006.
Luxembourg	Decision pending, probably two-year transitional period and restrictions in certain sectors.
Austria	Transitional period of seven years. Quota of 8% of foreigners in labour force.
Germany	Transitional period of seven years. Quotas set annually. In 2002–03 the quota for all CEEC 8 nationals was 85,280 persons. Quotas have so far not been exhausted, e.g. only 82% of quota for 2001–02 was used. Level of quota depends on the situation of the German labour market where one extra percentage point of unemployment results in a reduction of the quota with 5%. However, within the cleaning and building industry there is a fixed quota of 20,000 persons maximum.
France	Transitional period of five years (2+3 years). After first two years, decision on whether to prolong or not. Bilateral agreements allow young professionals from Hungary and Poland to get work, just as seasonal workers from Poland have free access. Similar bilateral agreements are negotiated with other CEEC 8 countries.
Greece	Decision pending, likely to adopt transitional period of initially two years.
Italy	Decision pending, likely to adopt transitional period of initially two years.
Spain	Transitional period of two years. Then decision on whether to prolong dependent on the situation of: (a) the Spanish labour market and its labour migration; (b) the decisions made by France and Italy; (c) the Report by the European Commission; and (d) the situation of accession talks with especially Romania, with whom Spain shares certain linguistic and cultural ties.
Portugal	Decision pending. Looks to Spain and likely to initially impose a two-year transitional period.
Ireland	No restrictions on free movement of workers, but plans to implement measures like the UK.
United Kingdom	No restrictions on free movement of workers. New worker registration scheme introduced. Migrant workers have to register within this scheme to be able to access public health care and for children to attend schools. Failure to do so may result in expulsion from UK. Two years of continuous work, possibly longer, required to get access to a range of public services and social-security benefits, including Income Support, Job Seeker's Allowance, State Pension Credit, Housing Benefit, Council Tax Benefit and social housing.

purposes, as part of Community rules that also state that such persons must be able to support themselves. Workers already in the member state during the transitional period, or who were already there at the time of accession, will be covered by Community rules on equal treatment in working conditions, tax and social advantages as well as the rules on coordination of social-security schemes.

An important difference between the current enlargement round and the Southern enlargement rounds is the varying positions on the free movement of workers in the years immediately after enlargement. In previous enlargement rounds all existing member states took the same stance, except Luxembourg that had somewhat more restrictive rules than others when Portugal and Spain joined the EU. For the Eastern enlargement, ten EU 15 member states declared early that they will make use of transitional periods restricting the free movement of workers, but the length of such periods differs as well as their bilateral agreements with acceding countries (see Table 3). The remaining five initially declared that they would not make use of transitional periods, but three of them – Denmark, Sweden and the Netherlands – have reversed their positions. Only Ireland and the United Kingdom maintain that they will not restrict access to their labour markets.

Denmark was first to launch a measure (on 3 December 2003) after one year of negotiations between political parties and based on a study that was strategically held back during its 2002 EU Presidency. The agreement between a broad coalition of political parties stipulates that workers from the CEEC 8 can get permission to stay in Denmark only if they have a job meeting regular standards of work related to wage and working conditions (Beskæftigelsesministeriet, 2003b). If the migrant worker loses his/her job, the residence permit will be withdrawn and the only economic support will be a subsidy to travel back to the home of origin; no social security will be available. The stated purpose of the Danish

measure was to allow mobility of workers and to 'prevent unintended use of social security benefits'.

The Netherlands declared (on 23 January 2004) that they had reversed the decision originally made by the Kok II Government in 2001 (SZW, 2004). Their changed position, it is argued, was based on a deterioration of the Dutch labour market, a new study by the Dutch Central Plan Bureau which estimated the detrimental effects on the Dutch labour market and the costs of enlargement on social security could reach a maximum of €70m by 2006. The Dutch government also justified their move by referring to other EU member states which had decided to change their position on restriction on labour since December 2002. Against this background the Netherlands continues its practice of requiring work permits for nationals from the CEEC 8 just as it imposes a quota of 22,000 employees until May 2006. If the quota is not exhausted by then, the Dutch government will consider relaxing its policies. And if the quota is reached it will continue its policy of requiring work permits and uphold the quota. However, the opposition – comprising Liberals, Christian Democrats and the Pim Fortuyn Party – demanded further restrictions. Therefore the government and these political parties agreed (on 12 February 2004) to review the Dutch labour market sector by sector and only allow migrant workers in sectors in need of labour supply.

A Commission established by the Swedish government recommended in January 2003 the implementation of a national measure during the transitional period. This requires, inter alia, tariff wages and more control (Rollén, 2003). First the Social Democratic government, backed by the opposition, decided on 17 December 2003 to stick with the Swedish open-border policy. Only if the government were to find serious reasons to believe there would be a disturbance of the labour market should it return to the Parliament. Impressed by the Dutch policy reversal, a national television programme and trade-

union lobbying, Prime Minister Göran Persson argued 44 days later that Sweden should implement some form of measure during the transitional period. 'We would be naïve if we didn't see the risks if we were to be the only country welcoming people from Eastern Europe to work for peanuts and giving them access to our social benefits', Persson said at a press meeting (*Dagens Nyheter*, 2004). The Social Democrats also argued that a national measure is in the interest of migrant workers themselves so that they are not exposed to exploitation, as vividly illustrated by trade union-sponsored H&M look-alike posters of largely undressed migrant workers in the building industry. Three months of fierce debate followed before the Government proposal on transitional rules for labour mobility, see Table 3, was voted down in Parliament on 28 April 2004. The ruling Social Democrats suffered a historic defeat by a united Opposition. Nevertheless, the Social Democrats did get support to assess the need for reforms of the tax and welfare systems to avoid social raids and social dumping. Hence, Sweden does not apply restrictions on labour, but may adjust its social policies in the coming years.

The U-turn of the Swedish Government in January fuelled debates in Norway and the United Kingdom. The Norwegian opposition and trade unions had long (and in vain) pressured the government to restrict movement of workers. But the day after the Swedish Prime Minister Persson's initial announcement, the Norwegian Minister of Local Government declared that 'the pressure on Norway would be enormous if Norway was the only country without such arrangements' and that the government would immediately have another look at the question (*Dagbladet*, 2004b).

The Swedish developments prompted the British Labour Government to rethink its position (*Guardian*, 2004a). It was already under pressure from Conservatives and the tabloid press that argued 40,000 persons each year would move to Britain following enlargement (*Guardian*, 2004b). This figure was pro-

vided by the pressure group Migration Watch UK, and is triple the figure in the study commissioned by the Home Office estimating the inflow at between 5,000 and 13,000 persons (Dustmann et al., 2003). Following a heated debate, even within the Labour Party (*Guardian*, 2004c), the government announced on 23 February 2004 that it would not require work permits for access to the UK (*Hansard*, 2004a). Nevertheless, it would require migrant workers to register in a new workers registration scheme. Access to a series of social security benefits and public services would be restricted.

Within the group of member states that early on said they would restrict labour mobility, only Germany and Austria have firmly stated that they will impose a seven-year transition period accompanied by a prolongation of their practice of having quota schemes and bilateral agreements. Belgium, Finland and Spain have announced that a two-year transitional period will be followed by an evaluation of whether to continue or not with restrictions on labour mobility. Similar evaluations will also take place after a two-year period in France, but their starting point is a five-year transitional period. Greece, Italy and Luxembourg shadow developments in other countries as they still had to decide on the length and content of their transitional measure at the end of February 2004. Most of these countries not only take account of their domestic scene, but also look to the position of other neighbouring EU 15 member states when deciding upon the length of their transitional period.

As the maximum seven-year transitional period is divided into three subperiods, and since accession negotiations are in train with Bulgaria and Romania, we can expect strategic interaction related to enlargement to continue for some years to come. However, the transitional periods for the current enlargement end on 1 May 2011, which means that all these deliberations and policies are merely postponing the inevitable, whatever that may be.

Race to the bottom? National adjustments of social policies

Following Community rules, having work is the entry ticket to benefits. This means that countries which have restricted access to their labour markets obviously experience less of a pressure during the transitional period to adjust their social policies in order to prevent or minimize social raids. Vice versa, countries that impose fewer restrictions on labour mobility may perceive a greater and earlier need to adjust social policies in order not to appear attractive compared to other countries. Because of the principle of non-discrimination of EU citizens, national adjustments are likely to affect nationals as well as non-nationals and are therefore the most fundamental type of change brought about by EU integration and enlargements. Can we therefore find evidence of downward pressure in social policy, signs of a race to the bottom, within those EU 15 member states that are not imposing harsh restrictions on labour mobility? If so, this may signal the emergence of a new policy dynamic in social policy in Europe that may intensify in tandem with the expiry of transitional periods and future enlargements of the EU.

The concern over social raids seems to revolve mainly around three key issues on mobility and social policy; namely the possibility of exporting certain benefits, of attracting certain groups for shorter periods of time, and of risking more or less permanent support for new groups. The possibility of exporting social benefits has the attention of national politicians even when they recognize that the financial burden may be limited. For example, a study by the Danish Ministry of Employment on the take-up of sickness, maternity and unemployment benefits by people residing abroad concluded that the scope is insignificant and mainly consists of commuters, the vast majority being Danes living in the south of Sweden (Beskæftigelsesministeriet, 2003b). Nevertheless, in light of enlargement, a broad coalition of political parties decided to impose a stricter monitoring of persons abroad on

Danish sickness benefits and to stipulate that a minimum of 10 weeks of work is required before a person and his family relatives may qualify for social benefits outside the scope of regulation 1408/71 such as social assistance and educational grants as well as access to child care and education (Beskæftigelsesministeriet, 2003b). And in order to prevent take up of child care leave by foreigners abroad, especially relatives to migrant workers in Denmark, it was also decided to close access to child care leave for persons failing to apply for it before the 1 April 2004. In Norway there is discussion of similar changes to its care allowance (*Dagbladet*, 2004a).

Some countries with universal schemes also fear becoming a magnet for certain groups. This concerns persons with a great need for particular benefits who may be attracted by comprehensive and good-quality benefits. For example, the Finns expect many HIV-infected Estonians will get a job in Finland mainly to access health treatment. Put more generally, the implicit generational contract underlying universal schemes is under pressure. Following this contract a person may benefit at one point in time from universal benefits in the expectation that the person later pays this back through taxes and social-security contributions. So far such concerns have not resulted in national adjustments on a wider scale.

Other schemes said to be universal include national old-age pension schemes in the Scandinavian countries and the Netherlands. Responding to fears of social tourism and raids, all those countries made eligibility and entitlement to their pension dependent on years of residence or contributions just before they joined the EU. These countries have thus modified the universality of their pensions in order to mitigate fears of having to permanently support vast numbers of elderly people from other EEA countries. The Dutch AOW from 1957 has a 50-year period of insurance as a condition for a full pension, i.e. a reduction of 2 percent in the pension for each year after 1957 for which no contributions have been paid. A similar mechanism was intro-

duced in Denmark in 1972 when a full pension became dependent on 40 years of residence between the ages of 15 and 65 years. The UK already had such a mechanism in place when entering the EU, by requiring 44 years of paid contributions between the ages of 16 and 65 for entitlement to the full basic pension. Both Finland and Sweden copied the Danish rule of 40 years for earning the right to a full basic old-age pension. Those 40 years have to have been spent between the ages of 25 and 65 in Sweden, and between 15 and 65 in Finland. All five countries reduce full (basic) pensions proportionally with periods of non-residence or non-contribution. The Scandinavian countries also demand three years of residence to serve as a threshold to become eligible for the national old-age pension, whereas the UK demands 11 years. This shows that schemes with no link between contributions and rights are often perceived as especially exposed to mobility, and that such perceptions may spill over into policy changes which potentially affect national residents as well.

Selective schemes typified by social insurance are not, however, invulnerable to mobility. Whereas fully universal schemes allocated only on the basis of residence and need are seen as vulnerable to consumption by migrants and less to exportability, the opposite applies for fully selective schemes. As eligibility is determined by contributions, such schemes are not immediately open for consumption, but may be exported. Indeed, fully universal or selective schemes are rare and Community rules add some important nuances to this picture. For example, Regulation 1408/71 allows the accumulation of contribution and work periods to qualify for selective benefits, thus rendering national requirements less effective, albeit important possibilities remain on, for instance, demanding a certain work period immediately prior to take-up of unemployment benefits. The majority of those EU 15 member states where social insurance dominates have imposed transitional periods. It thus remains to be seen if and how they will

adjust their social insurance schemes in light of enlargement.

Misuse of social assistance and other general benefits has been a concern in all five countries that did not initially want to impose restrictions on labour mobility. As described above, the Dutch and Danes responded by, respectively, applying work quotas and making residence permits dependent on work during a transitional period. Various Danish authorities have in this connection been requested to impose stricter control with residence permits and tax and social security payments, measures that are also considered in Sweden. Ireland and the UK are less restrictive in granting access to their labour markets, but they change their benefit regimes. For example, Prime Minister Tony Blair told Parliament in February 2004 that it was important to recognize that there is a potential risk of people from new member states abusing welfare, and that 'we have to make sure that any potential basis for the exploitation of any loopholes in rules is closed off' (*Hansard*, 2004b). This led the UK to impose a two-year work requirement, possibly longer, before migrant workers from the CEEC 8 get access to a range of British social-security benefits and public services, including child benefits, social housing and health care. Moreover, the UK obliges such workers to register in a new worker registration scheme that will monitor labour market developments and, in case of imbalances, help the British justify a re-imposition of restrictions on free movement (*Hansard*, 2004a; *UKonline*, 2004).

The Irish reaction came swiftly. At the exact same time as the UK announced its measure, Taoiseach Bertie Ahern stated that the Irish 'will put in place measures to prevent the abuse of the social welfare system' (Ahern, 2004). The day after that the Minister for Social and Family Affairs said she was 'concerned that Ireland would remain the only country that had not put in place protections for its welfare system' and that she would propose 'changes to the social welfare code no less robust than those in Britain' (Coughlan, 2004).

In sum, national adjustments have been made in social policy with explicit reference to mobility issues, including Eastern EU enlargement. Overall, however, these changes are marginal in nature. The UK and Irish changes only apply for a transitional period, and the abolition of exportability of certain benefits for nationals can hardly be judged a change of the blueprint for the national welfare state. If politicians in member states had instead lowered benefit levels in order not to be magnets for welfare migration this could ultimately have led to a 'poorhouse of Europe' (Sinn, 2002: 104). As yet, there is little evidence in support of such a draconian version of a race to the bottom.

Conclusions

Underlying the race to the bottom thesis is the assumption that EU member states with more generous and accessible social policy benefit serve as magnets to attract less privileged strata from other member states. Welfare magnets work as a pull factor for migration or have a decisive impact on the relocation-decision of migrants. We found no empirical support for this related to previous enlargement rounds of the EU. Nor do migration projections on the current enlargement support the thesis that EU 15 member states will become magnets for citizens from the acceding countries.

Nevertheless our study demonstrates that EU 15 member states have engaged in strategic interactions. EU 15 member states have: decided on policy measures when others have done the same; justified policy measures with reference to policy stances of other member states; and sought inspiration abroad. So far, strategic interaction in the EU is mostly occupied with regulating migrant workers' access to the labour market and restricting their eligibility to benefits, including that of family members. Whereas transitional measures were originally intended to minimize imbalances on national labour markets, the study finds they

are also used to react to perceptions of social raids. We also find a trend, even at this early stage of enlargement, towards countries with the least restrictions on labour-market access being the most active in adjusting their social policies. If this tendency is reinforced and expanded to include benefit levels we may witness a start to a race to the bottom.

How can such a race to the bottom be avoided? In principal this can be solved through coordination or harmonization. The former involves an introduction of a matching grant, i.e. that a country that encounters extra costs due to migration receives a compensatory subsidy, either from the sending country or via the EU. The latter consists in harmonizing social policies across countries. This could be done by imposing a floor through EU regulation, for example through minimum directives. Neither option has much chance of becoming a political reality due to expected strong resistance among the majority, if not all, EU 25 member states. As shown, EU 15 member states have demonstrated little interest in pushing the integration of social policy in this direction. And the new member states are probably unenthusiastic about projects that may be detrimental to their competitive edge by imposing new labour costs. Hence, the trend towards a widening rather than a deepening of EU social policy is likely to be reinforced by enlargement.

For this reason it may seem that strategic interaction could become increasingly important in tandem with further deepening of EU integration and enlargements of the EU. Paradoxically, the rulings of the ECJ – that most likely aimed at securing social protection of EU citizens and a European-wide labour market – are perhaps the main engine fuelling strategic interaction; this may in the future lead to a race to the bottom with possible insufficient coverage of social protection for both migrant and non-migrant citizens. By adopting a very broad concept of work and who qualifies for social protection and other welfare benefits, the Court has strengthened the case for fears of social raids, and thus put

in place rhetorical bombs under the national welfare systems.

With regard to enlargement, strategic interaction may intensify when transitional periods are exhausted. When member states lose the possibility to restrict labour movements and apply other special measures, they may feel compelled to adjust their national systems as some have already done even prior to 1 May 2004. Thus it may be that we will witness a resurgence of strategic interaction in social policy in Europe in the years to come as countries prepare themselves to deal with the nexus of mobility and social protection after the end of the maximum transitional period in 2011 for CEEC 8; and similarly again, most likely, in 2014 for the case of Bulgaria and Romania.

What speaks against an increased race to the bottom? A primer would be that migration does not materialize. As shown, it is very likely that only a few citizens will move from new to old member states, just as previous enlargement rounds did not spark migration. History may repeat itself. Rather it looks as though the biggest challenge facing all welfare states is ageing populations, and that this may result in competition for people who can work. Strategic interaction among states in social policy may thus either disappear or become a 'race to the top'. Good social policy may increasingly enter on the political agenda across the EU as a competitive factor in the attempts of countries to attract workers, and, probably more important, to enhance their employment and fertility performance.

But perhaps the biggest barrier for a race to the bottom may be institutional resilience and the vested interest that welfare-state institutions and programmes cater to. Indeed, even if welfare migration should occur on a massive scale, against expectations, the costs involved would be marginal compared to the overall national social-policy budgets. Contrasted with the stickiness of existing institutions and the widespread electoral appeal of social policy programmes, this makes dramatic retrenchments highly unlikely.

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Notes

- 1 After many years of negotiations the EU 15 member states finally decided in December 2003 on revisions to Regulation 1408/71, mainly by formally including pensioners, students, and others. Without doubt it was of major importance to conclude negotiations before the accession of 10 more member states, and thus potentially having to find new compromises.
- 2 Every national of a member state has the right to work in another member state (Article 39 of the Treaty). It took 10 years from agreeing to removing legal obstacles in social security to labour mobility before the six founding member states could agree measures to ensure the free movement of workers. First, Regulation 15/61 on vacancies allowed member states to give priority to nationals within a certain period, after which a national of another member state could take up the job. Second, in 1964 the priority of nationals was abolished with Regulation 38/64, but still free movement was restricted to vacancies announced by employment services, i.e. there was no right to go and look for work in another country. Moreover, a safeguard clause allowed member states to suspend free movement of workers in a particular region or profession in case of disturbances of the labour market. Only in 1968 did Regulation 1612/68 introduce the free movement of workers, but a safeguard clause remained in force until 1991.

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