

The local governance of European social citizenship

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Abstract

This thesis is a study of EU migrant citizens' substantive social rights. Much research has concerned itself with the expansion of freedom of movement and cross-border social rights in the EU. However, most of this research has analysed only formal rights, overlooking substantive rights. In the multilevel setting that is the EU, social rights are being adjudicated at a supra-national level, but realised at the national and sub-national level. Numerous different regulations, actors and practices thus shape the substantive social rights of EU migrant citizens, making their rights especially prone to distortion in the process of practical implementation. Examining how formal rights translate into substantive ones is important to understand how and where the lines of exclusion and inclusion of European social citizenship are drawn.

Specifically, the thesis looks at how formal social rights translate into substantive rights with a focus on the local level. This is where any pressures from internal EU-migration on social provision are felt, where gaps in the social protection of EU migrant citizens make themselves evident, and where many social rights are exercised. The central research question of the thesis is thus: how are EU migrant citizens' social rights governed at the local level?

The thesis adopts a qualitative and explorative method. More specifically, it examines barriers that EU migrant citizens face when trying to access social benefits and services. The study also takes a comparative approach, and contrasts localities across two member states that can be seen as critical cases: Germany and Sweden. In two cities in each country (Berlin and Hamburg, Gothenburg and Stockholm), interviews were conducted with local public administrators, welfare providers and advocacy organisations. The interviews were later related to relevant policy documents in a thematic analysis guided by the overarching research question.

The main contribution of the thesis lies in identifying certain direct and indirect factors that shape EU migrant citizens' access to social benefits and services – and thus their substantive social rights. Specifically, the thesis argues that (1) certain structures of welfare systems (which become evident through a bottom-up study of supra-national social rights), and (2) the entrepreneurship of local actors, are crucial to understanding how formal rights of EU migrant citizens translate into substantive ones.

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Chapter 1

Introduction

How can the social protection of those who migrate across national borders be ensured in a world where welfare provision – and also the identities that underpin solidarity – continues to be largely determined by nation states? State-provided social protection, it is often professed, depends on two forms of ‘closure’: spatial closure – i.e. control of entry into the territory that demarcates the redistributive space – and membership closure – i.e. selective inclusion in the community of solidarity (Ferrera, 2005; Walzer 1999; Freeman, 1986). In the European Union, we find a unique attempt at mitigating these barriers to the social protection of migrating individuals. Based primarily on the goal of achieving a common market, the EU has gone quite some way in ensuring social rights for individuals who move across national borders within the Union. It has done so through an intricate system of social security coordination, non-discrimination principles, and the institutionalisation of a supra-national EU citizenship. While the EU system also places limitations to both territorial entry and scope of social inclusion, it operates at a level above the nation state, and thus above boundaries typically understood to set the limits to solidarity and public welfare provision (Streek, 2017; Ferrera, 2005; Offe, 2003; Miller 1995).

Yet this brings with it considerable difficulties. Although European member states have voluntarily joined the Union, and thus agreed to the basic principles of freedom of movement and non-discrimination, the personal (who) and material (what social benefits) scope of these principles have been extended over time through the Court of

Justice of the European Union's (CJEU) interpretation of the EU treaties (Pennings, 2012). Member states have been reluctant to this CJEU-driven 'opening' of their 'bounded sharing spaces' (Ferrera, 2005), and have in various ways sought to limit access to their social benefits – for example by altering the entitlement criteria for certain benefits (Kvist, 2004: 313-313).

In fact, member states' contestation of their 'loss of sovereignty' (Leibfried and Pierson, 1995) in the realm of social affairs has increased in the past decade. The reason for this would seem to be two-fold: a combination of the CJEU's generous interpretation of the rights of EU migrant citizens¹ on the one hand, and a significant expansion of the Union to include thirteen new member states since 2004, on the other. Most of the new member states have significantly less developed economies and offer their citizens' less favourable labour market opportunities and living conditions than the older member states. With the Eastern expansion, intra-EU migration – which for or a long time remained very modest – has accelerated: with the first Eastern enlargement in 2004, for instance, it increased by almost fifty per cent in the following six years (Recchi, 2015: 55). This increase in migration was made up predominantly by citizens originating from the new member states. The anxieties and antagonisms arising from these developments were probably most starkly expressed in the United Kingdom. The country is one of the old member states that has seen the largest and sharpest increase in numbers of EU migrant citizens from other member states (Ruhs, 2015). The issue of freedom of movement and access to social benefits became

¹ In this thesis, I use the term 'EU migrant citizen' to refer to citizens of EU member states who have moved from a previous member state of residence (it need not be their country of nationality) with the intent to reside and/or work in another member state (i.e. tourists are not included). I thus do not take posted workers, or frontier workers into account.

increasingly contentious with the accession of Romania and Bulgaria, and culminated in the months prior to the Brexit referendum. But even beyond the UK worries about ‘benefit tourism’ and concerns about ‘poverty migration’ from new member states have become widespread in the EU (Andor, 2014).

These tendencies reflect that although the entitlement to welfare has been expanded at supra-national level in the EU, the provision of welfare – or the realisation of social rights – remains tied to member state territories. Put differently, there is no European welfare state: contrary to what happens at the domestic level, the social component of EU citizenship rests on regulation, not on allocation (Ferrera, 2017). Many observers worry that such hasty opening of entrenched spaces of solidarity may lead to an overall reduction of social provision. In a Union where free movement allows EU citizens of other member states to freely enter and settle in other ‘welfare communities’ (Martinsen and Vollaard, 2014), member states – preoccupied with the idea of ‘welfare migration’ and ‘benefit tourism’ – may for example alter the generosity of social benefits and rules for access to them in a downward and exclusive fashion in order not to appear as the most generous member state, leading to a ‘race to the bottom’ (Kvist, 2004). Others are critical about the fiscal implications of the current set-up, calling into question whether it is really financially plausible to combine freedom of movement with full access to generous social benefits (Ruhs, 2015; c.f. Martinsen and Rotger, 2017). What these sceptical perspectives share in common, is the view that the EU’s focus on the rights of the individual disregards the necessity of a limited redistributive community for any social rights to be substantiated. EU law – from this perspective – may be ‘human’, but not ‘social’ (Menéndez, 2009).

The research I have alluded to up until this point focuses on the formal rights of EU migrant citizens, as they are defined at the EU level, but pays little or no attention to

how formal rights are negotiated in the process of national implementation. However, the possibility, and indeed likelihood, of a discrepancy between formal and substantive rights is very real with respect to all forms of rights. In addition, social rights are perhaps especially sensitive to this discrepancy, for they are ‘positive rights’ and depend heavily on the fiscal capacities of the state (Sjöberg, 1999; Klausen, 1995). In the multilevel setting that is the EU, social rights are being adjudicated at a supra-national level, but realised at the – often reluctant – national and sub-national level. This means that numerous different regulations, actors and practices shape the rights of EU migrant citizens (Carmel, 2013), making their rights especially prone to distortion in the process of practical implementation. For this reason, it is crucial to examine not only formal but also *substantive* rights.

Exploring how formal social rights translate into substantive ones is important not only to nuance those accounts that debate the impact on welfare states, but also to assess what concrete implications supra-national social rights have for EU migrant citizens. As the dominant focus of social policy oriented researchers has been the impact of EU integration, free movement, and EU migrant citizens’ welfare entitlements on member states’ welfare states, EU migrant citizens’ social rights and European social citizenship as such have remained under-explored. Likewise, we find ample research examining EU citizenship and associated rights from a purely legal perspective (to name a few; Kostakopoulou, 2014; Kochenov, 2013a; Pennings, 2012; Wind, 2009), overlooking their substantive implications. Whereas some have heralded the institutionalisation of rights above the national level as the emergence of ‘post-national’ citizenship (Soysal, 1994), rights that exist only ‘on paper’ make little difference to the individual. As Diane Sainsbury notes, research with a focus on migrants’ social rights have generally stopped short of analysing formal, legally

defined, rights, even though formal entitlement does not necessarily translate into equal access to social benefits and services for all (2012: 4).

A growing body of literature examines the implementation of EU law in the social field (e.g. Vollaard and Martinsen, 2014; Martinsen and Vollaard, 2014; Cerna, 2013; Martinsen, 2005). This literature can be said to examine how member states shape the social rights of EU migrant citizens, at least in an indirect sense. How, for example, do member states' courts and welfare administrations interpret legal ambiguities inherent in the EU law that regulates EU migrant citizens' access to social rights (Blauberger and Schmidt, 2014)? Or how do national administrations control the legality of individuals' residence in the context of free movement and absence of border controls (Hendlmaier and Blauberger, 2017)? This thesis contributes to this literature, but puts the emphasis differently. That is, while the prime focus of the just-mentioned body of research is EU member states' welfare systems, and how domestic actors respond to, and negotiate the nature of, the EU-induced opening of national welfare systems, this thesis aligns more with sociological scholarship on rights and citizenship that focuses on questions of inclusion and exclusion (Shutes, 2016; Faist, 2014; Anderson, 2012; Somers and Roberts, 2008; Morris, 2006, 2002). My concern with how formal social rights translate into substantive ones is motivated by my interest in how boundaries of social citizenship are drawn² – how EU migrant citizens are included and excluded – rather than the impact thereof on national welfare states.

² As Lydia Morris (2002:4) writes: 'The most fascinating aspect of migration is ... its impact on the substance of and criteria for membership, the rights that attach to inclusion and the mechanisms that lead to exclusion.'

One way of studying substantive social rights, and their scope of inclusion, is to contrast formal entitlements with received benefits (Sainsbury and Morrisen, 2012). Some recent literature does so specifically with EU migrant citizens in mind (Bruzelius et al, 2017; Bridgen and Meyer, 2017). However, assessing differences in formal and substantive rights does itself not necessarily tell us much about the origins of such differences. What we need to do to better understand this is consider also the *process* where rights are put into practice and substantiated. For example, what barriers do EU migrant citizens face in exercising their formal social rights (i.e. in accessing social benefits and services)? Understanding how EU migrant citizens' formal rights translate into substantive ones also necessarily goes beyond the study of how specific EU directives are implemented. As researchers with a focus on migrants' rights have shown, we can only understand substantive rights if we consider also attendant policies, practices and actors that jointly regulate formal and substantive social rights (Shutes, 2016; Carmel, 2013; Morris, 2002). This thesis contributes to this research in a particular way – by looking specifically at the local level of member states.

The lowest denominator of a multilevel Union: social rights at the local level

Whilst empirical studies offer no proof of benefit tourism, and in fact suggest that at the aggregate – national – level, immigration from other EU countries tends to benefit the receiving countries (Martinsen and Rotger, 2017; Dustmann and Frattini, 2014; Ruist, 2014), it cannot be denied that freedom of movement can have implications at the local level (EY, 2014; Andor, 2014). On the one hand, the arrival of EU migrant citizens may for example decrease the availability of scarce resources such as jobs and various social services (hospital beds, emergency care, (social) housing, school places,

etc.) (EY, 2014). The ‘negative externalities’ of freedom of movement (Ferrera, 2017), as it were, are in other words felt locally. On the other hand, local communities will also be those who face dilemmas arising from the fact that many of those who migrate actually do not have any entitlement to social security or social services in the member state of destination³ – only when being workers or having achieved permanent residence are EU migrant citizens actually entitled to the same social rights as nationals in the destination member state. Combined with the large disparities in income and unemployment benefits to support job-seekers who look for employment in other member states (Bruzelius et al, 2017), this has led to a growing number of destitute EU migrant citizens across European cities (FESANTA, 2012). In other words, freedom of movement in a territory of devolved welfare responsibilities places concrete pressure on the level below the national level of member states.

Most comparative welfare state research looking at the impact of European integration is, as discussed above, concerned with the (national) welfare state. In line with general ‘methodological nationalism’ that sees the world through the lens of national boundaries, a welfare state lens tends to imply a neglect of the sub-national levels of welfare states, which are a crucial part of, yet distinct from, the national welfare state. Meanwhile, research examining the impact on citizenship of processes of globalisation and political rescaling has tended to look at the level above the state, tracing the emergence of ‘post-national’ or even ‘global’ citizenship, whilst overlooking the sub-national level (Shaw, 2007; Soysal 1994; c.f. Hepburn, 2011).

³ I will use the terms ‘member state of destination’ to refer to the country that a EU citizen relocates to.

This thesis argues that we cannot understand the realisation, nor the implications, of supra-national citizenship and social rights without attention to the sub-national level. This is so for numerous reasons. First, many social services and some social benefits that cater to core social rights – e.g. housing, health care, education and last resorts of social support – are mostly provided and often also defined at this level. Second, it is also at this level that EU migrant citizens exercise their social rights – it is locally that they apply for benefits, or try to access social services. Understanding how formal social entitlements translate into substantive ones can thus be suitably examined at this level. Moreover, an assessment of rights in practice at the local level may well point to factors tied not only to the local level, but also to national and European frameworks with bearings on substantive social rights. Third, local actors’ – and in particular local governments’ – responses to any local pressures arising from the arrival of EU migrant citizens may well shape EU migrant citizens’ substantive social rights, either by restricting them or seeking to enhance social cohesion. As pointed out earlier, Europeanisation is not only a top-down driven affair. Integration in the social area, and EU migrant citizens’ rights specifically, depend on how member states implement EU directives and respond to the consequences – perceived or real (Martinsen, 2005) – of EU citizens’ free movement and associated rights.

In short, taking as a starting point that substantive rights are the outcome of multiple factors – of attendant, overlapping and at times contradicting policies and practices (Carmel, 2013) –, this thesis asks *how EU migrant citizens’ substantive social rights are governed at the local level.*

Why should we care?

There are a number of reasons why it is relevant to understand how EU citizens' formal rights translate into substantive ones. First, EU citizenship has been defined almost exclusively in terms of rights (Kochenov, 2013b); it is a status that has come to equal the rights and non-discrimination imperatives tied to freedom of movement. And if rights are constitutive of European citizenship, then it is important to better understand whether there are systematic discrepancies in formal and substantive social rights, and if so what these discrepancies are shaped by. Large discrepancies can be viewed as problematic from a citizenship perspective, in so far as equality of rights is typically understood as central to the notion of citizenship (Maas, 2013; Marshall, 1950).

Second, as already mentioned, there exists only limited research on EU migrant citizens' social rights per se. European migrant citizens⁴ have been studied relatively little within the broad universe of research on migrants (Recchi, 2015: 81). Yet intra-EU migrant citizens are especially interesting in that they occupy the increasingly blurred boundary area between international and internal migration (ibid.). EU citizenship is an institutional reality today, but it operates as an 'add-on' to long-standing national citizenship structures and boundaries. Freedom of movement analogously occurs both across national citizenship boundaries, and within a European citizenship space. Assessing the social rights of this category of migrants is therefore particularly interesting as it allows us to understand how the 'ins' and 'outs' of social membership are established in such a unique setting.

⁴ Or 'mobile EU citizens' as they are also often called.

Thirdly, and following on the last point, while some have assessed *European social citizenship* on the basis of legally defined social rights (Giubboni, 2014; Faist, 2001), accounts of European social citizenship with an orientation towards substantive rights are rare. If we take social citizenship to arise not only from formal rights, but also from receiving substantive social rights – after all, it is substantial, not formal rights alone, that promote social cohesion – then an assessment of how local levels shape the substantive rights of EU citizens can advance our understanding of social citizenship in the European context.

Finally, given all of this, an assessment of how formal rights translate into substantive is vital to understand how the vision of a ‘Social Europe’ can be realised. This research has been conducted during a time of significant political challenges to European integration as such. This poses serious challenges both to what has been achieved in terms of migrant citizens’ cross-border rights, and any future progress thereof. Yet, constraints to integration in the social realm and the creation of a European social citizenship are not only political, but arise also from institutional incompatibilities (Hall, 2017; Bruzelius et al. 2017; Johnston and Regan, 2016; Scharpf, 2002). Even in a situation with the best intention and political compromise, it may thus be hard to realise supra-national rights. Examining rights in practice can help reveal potential fundamental clashes inhibiting European social citizenship, and help inform how they might best be addressed.

A qualitative and comparative approach

Since, as I argue in chapter 2, the factors that condition the translation of formal to substantive rights can only be understood in the specific context in which formal rights are realised, I adopt a qualitative and explorative method to examine how EU migrant

citizens' substantive rights are governed at the local level. In so doing, the overarching research question is further broken down to the following two questions: (1) *What regulations and practices shape EU migrant citizens' ability to exercise social rights?* (2) *What actors are involved in these, and how do these actors relate to each other?*

More specifically, I examined the *barriers* that EU migrant citizens face when trying to access social benefits and services. This allowed me to learn both about the policies and practices that are relevant to access to social rights, and about who the actors driving and shaping these processes are. It also permitted me to study how access is facilitated – not only exclusionary regulations and practices are part of the governance of European citizens' social rights, also inclusionary ones are.

The study takes a comparative approach. I compared localities across two member states that may be viewed as critical cases: Germany and Sweden. These two countries have (a) strong implementation capacities, (b) a significant immigration of EU migrant citizens and autonomous local governments. In two cities in each country (Gothenburg, Stockholm, Berlin and Hamburg) – that belong to those who have received most EU migrant citizens in each country –, I conducted interviews with local public administrators, welfare providers and advocacy organisations (e.g. migrant support organisations). The interviews were later related to relevant policy documents in a thematic analysis guided by my overarching research questions.

In line with the explorative approach, I conducted the research with few pre-defined expectations, so as to allow concepts and themes to emerge in the research process rather than applying a fixed and predefined theory to a set of cases. My theoretical framework thus evolved in the course of the data collection through continuous engagement with existing theory and empirical research.

Key arguments

The thesis argues that (1) certain structures of welfare systems (which become evident through a bottom-up study of supra-national social rights), and (2) the entrepreneurship of local actors, are crucial to understanding how formal rights of EU migrant citizens translate into substantive ones. The main contribution of the thesis thus lies in identifying certain direct and indirect factors that shape EU migrant citizens' access to social benefits and services – and consequently their substantive social rights. These arguments are supported in the three core chapters of the thesis:

The first empirical chapter (chapter four) reveals how member states' ways of administering residence shapes substantive rights, which is reflective of how welfare states are organised according to territorial borders. Against the background of previous research's concern with EU migrant citizens' right to reside (legal residence), but neglect of the issue of habitual residence, this chapter examines how EU migrant citizens can prove habitual residence for the purpose of social rights access. It demonstrates how difficult this can be in practice due to the way in which states regulate habitual residence, and specifically points to how important it is to have – but hard to obtain – a residence registration in both Germany and Sweden. Ultimately, the two member states' regulation of habitual residence functions both as a direct and indirect condition for substantive social rights. That is to say that being recognised as a habitually resident, and specifically to be registered as resident, has bearings on several factors – e.g. the ability to apply for benefits and access services, as well as finding work and securing housing – that shape access to social rights (and not only residence based ones), but also the ability to exercise the right to freedom of movement as such.

The second core chapter (chapter five) demonstrates the importance both of local actors (non for-profit voluntary organisations' (NPVOs) bottom-up facilitation of rights) and welfare state structures (the composition of service providers), for what support support to exercise rights that is available to EU migrant citizens at the local level. Looking first at what barriers EU migrant citizens face as they try to exercise rights, and second at how these are addressed by local NPVOs, I demonstrate the latter's role as crucial facilitators for access to social rights. Turning to how these organisations and their provision of various means of support for EU migrant citizens is governed, I show that their ability to support migrant citizens is conditioned by their position in the welfare state, the domestic legal system and supra-national sources of funding. The stark difference in the position of NPVOs as welfare providers in Germany and Sweden has important implications for EU migrant citizens' rights. Because of the significant role NPVOs play in guarding rights and facilitating access to substantive social rights, the German welfare state – in which NPVOs are an integral part and the key providers of social services – provides additional venues of social inclusion. In Sweden, the same organisations have similar ambitions, but much less resources to provide support than their German counterparts. In addition, the German NPVOs operate in a context where social rights are juridified, and therefore claimable in courts. This offers additional opportunities to defend migrant citizens' social rights that are not available to Swedish NPVOs, as Sweden has only weak legally defined social rights.

The last empirical chapter (chapter six), emphasises the importance of local autonomy and local policy initiatives for how rights are substantiated. The chapter is predicated, first, on the idea that EU migrant citizens may at the same time be viewed – both legally and in theory – as immigrants and as migrants; and second, on the hypothesis that different forms of support to integrate in the destination member state may facilitate

EU migrant citizens' access to social rights, in that such support makes especially labour market access easier. Focusing specifically on how those EU migrant citizens that raise social policy challenges for local governments are recognised in terms of status (i.e. as migrants or immigrants), the chapter shows that there are salient differences in the way EU migrant citizens are viewed across the studied cities and countries (by which I mean the official standpoint conveyed in policy documents and interviews), and that this corresponds with different levels of integration support being provided for them at the local level (by which I mean formal – i.e. financed by the state or local government, and not exclusively civil society initiatives – and in-kind forms of integration support). The observed variations, I suggest, are connected to differences in how immigrant integration is governed in each country, and the room for manoeuvre local actors enjoy in choosing to target EU migrant citizens with integration measures. Moreover, looking specifically at Berlin – which stands out from the other cities in its comparatively very inclusive approach – I demonstrate that the most ambitious integration efforts are ultimately driven by local policy-entrepreneurs.

Outline of the thesis

Setting the stage for the substantive empirical chapters that present the just-outlined arguments, the thesis starts out with a chapter that situates the study of EU citizens' social rights and European social citizenship in a comparative and historical context (chapter two). The chapter clarifies the thesis' most central concepts – social rights and social citizenship – and goes on to show what the abstract concepts of social rights and social citizenship mean in the three specific contexts the study focuses on, namely the European context at large and the two member states the thesis examines – Germany and Sweden. More particularly, the chapter compares European social citizenship to

other forms of social citizenship at different points in time and at different spatial levels. The comparison brings to light the continued significance of the local territorial border in demarcating social citizenship across time and space, and its persisting relevance in current Europe.

The subsequent chapter (chapter three) sets out the research design and motivates the qualitative and comparative approach. It also defends the case selection (member states, localities and social policy areas) and provides additional contextual information regarding each country case. It discusses the logic of the interview sample, and the strategy by way of which document sources were collected and the thematic analysis was conducted. The chapter also addresses the limitations of the study.

Chapters four-six present the aforementioned core arguments, drawing on an extensive analysis of the empirical evidence marshalled for the thesis. The final chapter (chapter seven), then, summarises the thesis' findings, and links them to the historical chapter (chapter two) so as to reflect on the thesis's more general findings concerning European social citizenship. Specifically, the final chapter argues that European social citizenship is built on distinct (national) traditions of social citizenship that are underpinned by particular notions of the welfare state, which have bearings on where the lines of inclusion and exclusion are drawn in distinct sub-units of the Union – despite a shared supra-national framework of rights. The chapter concludes by looking ahead at how the problems arising from free movement in a citizenship space with devolved welfare responsibilities might be addressed.

Chapter 2

Social rights and social citizenship in the European context

This chapter introduces and defines the central themes and concepts of this thesis and motivates its specific focus. It provides a conceptual framework that is necessary both for designing the empirical study and for situating the case studies and analysis in a broader theoretical and comparative context.

The chapter is divided into two parts. In the first part, I clarify the thesis's most central concepts – social rights and social citizenship. This will eventually also provide the foundation for the subsequent methods chapter. The second part expands on the theoretical and contextual background of the study. I here show what the abstract concepts of social rights and social citizenship mean in the three specific contexts the study focuses on: the European, and the two member state cases – Germany and Sweden. More precisely, the second part examines European social citizenship in relation to other forms of social citizenship at different points in time and at different spatial levels. I thereby clarify the boundaries of European social citizenship today, as well as place it in a historical and evolutionary context – with specific attention paid to my country cases. The comparison moreover motivates the thesis's focus on the local level by demonstrating its continued significance as a territorial border demarcating social citizenship across time and space, and its relevance in current Europe.

PART I. Social rights and social citizenship

A sociological approach to rights

What are rights? In classical natural rights theories, ‘rights’ are often understood to derive from a notional state of nature, thus being pre-political and having an ‘anti-political placelessness’ (Somers and Roberts, 2008: 387). As such, the notion of rights does not sit easily with empirically driven social science that generally shies away from normative questions (Somers and Roberts, 2008: 386-387; Morris, 2006; Turner, 1993).⁵ In place of rights, social science – and especially sociology – has often turned to the concept of *citizenship* (Turner, 1993:176), which is a social institution that lends itself more readily to empirical and positivistic research than rights do. Nevertheless, through the consolidation of human rights doctrines in the later 20th century and the expansion of international rights conventions, the concept of ‘rights’ has made it onto the social, political and intellectual agenda, forcing also reluctant social scientists to engage with the concept (Somers and Roberts, 2008; Morris, 2006, 2002). In connection with this, a growing literature on ‘sociology of rights’ has emerged over the past decade (ibid; also cf. Carmel, 2013; Soysal, 2012; Turner 1993), from which I draw heavily in my approach to social rights in this thesis.

A first difficulty for the empirical study of rights is how to define them. Somers and Roberts (2008: 388; c.f. Carmel, 2013; Soysal, 2012), suggest that rights ‘exist at multiple registers’: (1) that of normative moral aspirations (what rights ought there be),

⁵ Classical social science has ‘ridiculed the inherently value-laden (Weber), illusory (Marx) and philosophically speculative (Durkheim) nature of rights as moral entities’ (Somers and Roberts, 2008: 386).

(2) that of codification and doctrine (what ‘oughts’ have been laid down in law), and (3) that of the mechanisms and institutions of enforcement (how are codified rights realised). Understanding how these dimensions combine and interact is central to understanding the rights held and obtained by any one individual (Carmel, 2013). In this thesis, I will primarily focus on the latter two ‘registers’: (2) codified rights and (3) how rights are achieved.⁶ In particular, my emphasis is on the question of achievement. As Morris (2006: 241) argues, the study of rights has often been caught between the search for non-empirical, philosophical origins of rights, on the one hand, and legal positivist perspectives where rights are merely ‘entitlements recognised in law,’ on the other. This overlooks how rights are constituted in and through practice, and how rights may be understood as developing and ‘processual’, rather than firmly grounded on philosophical foundations⁷ – a view that reflects Durkheim’s understanding of social facts as things, with rights not inherent in persons but bestowed on them by society (ibid.: 3, 243). The study of rights must accordingly entail an emphasis on the context within which rights are constituted:

This ... places considerable significance on the study of the social arrangements surrounding rights, the way in which they function in relation to social structures and institutions, the way that rights are accrued in particular areas by particular social groups and the contexts in which they are implemented and given meaning. (Morris, 2006: 243)

⁶ It must be noted that, although I do not focus on the normative register of rights, it is an integral part to rights and a more or less explicit facet to any study of rights. It may also matter in the realisation of rights, as will be hinted at in chapter five – where we see how desirability hierarchies reflect in substantive rights. However, a core focus on the normative aspect would have required a more solid examination of the discursive justification of rights, which is not where the emphasis of this thesis lies.

⁷ There is an ‘in practice’ aspect also to legal positivism, as legal positivists tend to understand legal norms as developing in a processual fashion (e.g. Kelsen, 2013). However, they focus only on the processes of norm creation in legislatures and courts but neglect the concrete realisations, or implementation if you will, of legal rights.

In line with this, my concern is less with the normative validity or grounds for specific rights claims as with how they are institutionalised and realised. Specifically, I want to focus on the final stage of achieving rights, namely the *gap between legal formalisation of rights and their achievement in practice*. Rights are often said to be ‘enshrined in law’, even though policy-in-practice – i.e. the implementation and practice of law – may undermine the formal ascription of rights, for example due to lack of funding, poor implementation capacity, or discrimination (Carmel, 2013: 242), but also through the way in which certain rights interact with other institutional frameworks, hampering the rights of some and amplifying the rights of others (Morris, 2002).

Having set out this brief and general view of rights and how we can study them, I discuss in the following the particularities of *social* rights.

Social rights

Social rights are a type of rights where the clash between empirically oriented social science and normatively driven philosophy that I have alluded to above is perhaps most tangible. In classic (liberal) theory of rights, rights are equated with civil, legal and property rights – the ‘freedom from’ interference of others, as it were. Socioeconomic rights, in contrast, are equated with a ‘freedom to’ exercise those rights. Because the realisation of ‘freedoms to’ demands the material provision of certain goods, the notion of social rights raises fundamental challenges in view of the supposed individualism of rights and the autonomy of rights-bearers (Somers and Roberts, 2008: 386-387). In contrast to civic and political rights, which are indivisible and non-transferrable rights tied to individuals, social rights depend on the fiscal capacities of the state (Sjöberg, 1999; Klausen, 1995). Moreover, social rights are not only claims against the state, but also against other tax-payers, as they are ultimately redistributive rights (Klausen,

1995)⁸. As such, if civil and political rights have their basis in individual freedoms, then social rights would seem to centre around notions of collective equality (Dwyer, 2000). Alternatively, social rights could be grounded in the human worth of the individual, rather than collective equality – but also in this case their realisation relies on a collective. This raises questions as to whether we, in practice, can speak of social *rights* – an individualised claim to certain material resources – at all.

Such dilemmas have not stopped empirically oriented scholars with an interest in the welfare state from using the term social rights. Welfare states are often defined as providing certain goods and services to its citizens ‘as of right’ (Goodin, 1986: 232). Most famously, T.H. Marshall envisioned social rights in the context of citizenship. To date, welfare research routinely refers to Marshall’s account of social rights and citizenship, despite the fact that he provided only a very imprecise definition of social rights (Powell, 2002: 229).⁹ By and large, social rights in his account, and the way it is usually used in social policy research, refer to different forms of social protection provided by the state. Concretely, this means that scholars examining the welfare state typically measure social rights in terms of social provisions embedded in national legislation, which entail some form of in-cash or in-kind social benefit for individuals. This is the main point of reference for classical comparative welfare state accounts (e.g. Esping-Andersen, 1990).

It makes some sense to think of legally defined social provisions as social rights, as these are concrete, material embodiments of social rights: e.g. health care provision

⁸ Some however argue that *all* forms of rights depend on state capacity (Holmes and Sunstein, 1999).

⁹ Marshall defined social rights to range ‘from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in the society’. (1950: 11).

may secure a right to health; social assistance may be a means to safeguard a modicum of human dignity; and the regulation of rental markets or provision of public housing can be a way to ensure a right to housing. However, from a strictly legal perspective, such social provisions will often be *legal* only in so far as it concerns entitlements formulated by the legislator and found in law; whether they are rights in the strict legal sense of the word is rarely taken note of in comparative work on the welfare state.¹⁰ From a legal perspective, the degree to which social entitlements have the characteristic of a right in a strict legal sense depends on whether they are made enforceable or justiciable (Stendahl and Swedrup, 2016; King, 2012), which depends on forms of redress mechanisms being in place. As we will see in the cases studied in this thesis, encompassing welfare states such as Sweden have rarely provided social benefits and services *as a matter of right*.

The limited concern with the actual rights character of social provisions in welfare state research is not surprising.¹¹ After all, much of this research has a sociological bent and is interested in outcomes, in particular welfare states' (or social rights') capacity to ameliorate inequalities generated by the capitalist market economy and its concomitant role in structuring societies. This is precisely why T.H. Marshall has been a key reference point. Marshall recognised that social rights (however imprecisely defined) were central for social inclusion. In his view, different forms of social protection (social rights) guaranteed by the (welfare) state would prevent social and economic exclusions

¹⁰ While there was a strive for equality in outcome in specific welfare states in the post-war era, social policy or welfare states did not emerge to provide rights or as vehicles of justice (as opposed to human rights) and are based on multiple motivations.

¹¹ Nonetheless, the lack of critical definition is at times quite remarkable. Typically, one finds in social policy literature that refers to social rights and citizenship a brief reference to Marshall before moving on to measure or explain social provisions and their outcomes (Stephens, 2010). Any critical discussion of what makes a social provision a right, or how these actually relate to citizenship, is rarely offered.

that civil and political rights, on their own, simply could not. Not only that, he recognised that political rights and civil rights are only meaningful together with social rights, and that social inequalities will outpace formal legal equalities without them (also see Somers, 2008). He referred to this as *social citizenship*, which he defined more precisely as full membership in the community. Social citizenship, in Marshall's view, was something arising from social provisions.

One way of looking at all of this is to say that the notion of social *rights* in welfare state research is generally used with a weak sense of what rights are (although it is clear that there should be some sort of guarantee to social support, making it distinct from traditional charity and discretionary poverty measures). Despite this, I will use 'social rights' to refer to entitlements to social provisions, as I believe it suits the sort of sociologically informed approach asserted above. The reason is that if we take social rights to ultimately be meant to achieve 'freedom from want' (Roosevelt, 1941) – then the material embodiment of social rights must be taken into account. It does not suffice to have formally defined rights, there must also be substantive rights: if there is no material provision to back up formal claims to social support, then the intention of any formally defined social rights will not be achieved. In fact, freedom of want may be achieved (possibly not for each individual, but for the many) without social provisions being rights in a legalistic sense (i.e. individual claims supported by redress mechanisms).¹² Take again the example of Sweden, which during the heydays of its welfare state managed to achieve high levels of social inclusion without a strong rights basis for welfare. Similarly, excessive legalism, can lead to an emphasis on formal

¹² As Svedberg and Trädgårdh (2013: 248) notes, a system where politicians and experts have the ultimate power may, at the aggregate level, well be superior in terms of outcomes and economic rationality, but at the necessary cost of reducing the power of and justice for the individual.

(legal) entitlements rather than the delivery of, or access to, services and material well-being (Grugel and Piper, 2009 and 2007). Thus, even if it is often questionable whether we can understand social policies to constitute rights in the legal sense of the word, we can think of them as *means* of realising social rights and social inclusion. In the remainder of the thesis, I will use the term social rights in this sense – as referring to *entitlements to social provisions* (irrespective of their degree of legal ‘rightness’).

Having said this, I do not suggest that it is irrelevant whether social provisions are rights in the word’s true legal sense. It has for example been demonstrated that a constitutionalisation of social rights can support (judicial) enforcement of economic and social rights (Liebenberg, 2010). Similarly, strong collective rights in social democratic welfare states, have been pointed out to come at the expense of rights of individuals, and in particular those who do not fit into the envisioned social democratic project (Trädgårdh and Svedberg, 2013). Although not my main concern, I will thus also pay attention to the ‘rightness’ of rights in this thesis.

However, also with the less demanding definition of social rights used here, we must distinguish between *formal* and *substantive* rights. This is to say that even where there are entitlements to social provisions laid down in law (irrespective of the degree to which they are claimable rights), these do not automatically translate into the same actual access and receipt of benefits and services for all entitled (Sainsbury, 2012: 4). For example, the level of a specific social benefits may depend on contributions, meaning that the individuals’ relationship to the labour market impacts on the level of the received benefit. Similarly, social provisions are often heavily infused with discretion (Goodin, 1986), which is an inevitable part of social rights; their nature as positive rights make them by default constrained by limited resources (think for example of housing) and demand administration which typically entails some form of

discretion (Lipsky, 1983). Formal and substantive rights in other words do not necessarily overlap. This is important for the quest to study how social rights are achieved. It points to the necessity to look not only at formal rights, and their institutionalisation and enactment, but also at how these translate into substantive social rights, if we seek to understand how rights are realised. This requires taking not only the social provisions and policies themselves into account, but also the institutional and political context within which the latter are embedded. For example, as accessing social benefits and services imply fulfilling certain eligibility criteria, one way of examining how formal rights translate into substantive is to explore how such criteria can be fulfilled in practice. Therefore, I will distinguish between *formal social rights as legal entitlement to social provisions*, and *substantive social rights as access to social provisions*. In contrast to for example Diane Sainsbury (2012) who speaks of formal versus substantive social rights in her important contribution to research on the social rights of migrants, I am not primarily interested in comparing formally defined and received rights, but rather *the process* whereby formal rights translate into substantive ones and *the factors that condition access*.

Social citizenship

The last general concept in need of clarification is *social citizenship*. Just as with social rights, it is often not clear what is meant by social citizenship when it is used in social policy research (and elsewhere). It is also often used interchangeably with social rights and the notion of ‘social rights of citizens’. To my understanding, two main ways of conceiving of social citizenship can be distinguished. First, there is the Marshallian view of social citizenship, as a form of membership that arises from the provision of social rights, which has already been explained. This is a membership that is

distinguished from citizenship in its national form, although the two were very closely intertwined in Marshall's account (Crowley, 1998). A second perspective is one that sees social citizenship as equivalent to the formal social rights of (national) citizens. This despite that there exists hardly any social benefits or services that are granted simply on the grounds of citizenship – almost all social rights are categorical.¹³ Universal benefits however imply that all citizens are included as potential beneficiaries of social policy, and it is in this sense that the concepts of 'universal' social rights or 'universal inclusion' are understood to correspond to citizens' rights and social citizenship (Anttonen et al, 2012: 4).

In this thesis, I will use the Marshallian notion of social citizenship. It is, I believe, important to conceive of social citizenship as distinct from national. It is clear that neither formal, nor substantive social rights tally with national citizenship, something which has been well established for example in studies of gender and social citizenship (Lewis, 2002; Orloff, 1993; Bergqvist, 1990; Hernes 1987). Conceiving of social citizenship as what arises from social rights provides a more accurate picture of who benefits from social rights, and how the provision thereof draws alternative boundaries of inclusion and exclusion than the national-border default perspective.¹⁴

At the same time, Marshall's implicit assumption of a connection between national and social citizenship (Crowley, 1998) is important.¹⁵ For even in times where the emergence of post-national citizenship has been declared (Soysal, 1994) and nation

¹³ The sole exception would be unconditional basic income provided to all citizens.

¹⁴ We can note here that Marshall's tacit assumption in fact was that social rights would be provided within the nation state context (Crowley, 1998), where a collective and a redistributive space was already broadly defined. However, the concept of social citizenship nonetheless lends itself to broader interpretations (notably Soysal, 1994).

¹⁵ Marshall never considered non-citizens' social rights.

states are transforming, citizenship remains an exclusionary device and ‘societies’ still operate as *national territories* (Brubaker, 1992; c.f. Morris, 2002: 4). (National) citizenship, undoubtedly continue to play a role in structuring individuals’ ‘prospects for well-being, security and freedom’ (Shachar 2009: 8). For one thing, the individual’s right to mobility is closely connected to their nationality. Mobility rights differ depending on what category of migrant a person qualifies as, which is directly or indirectly (e.g. through implications for one’s economic resources or opportunities to education) tied to nationality (Shachar, 2009). This matters to social rights as the substantive provision thereof is highly territorialised (Cornelissen, 1996) – being considered as connected in one way or another to that territory is a pre-condition for most social rights (Shutes, 2016; Carmel and Paul, 2013; Sainsbury, 2012; Morris, 2006). Moreover, immigrants’ right to reside can also be a direct criterion for welfare entitlement. Nationality may thus be crucial for the ability to enter a specific (welfare) territory and to qualify for territorially bound benefits (thus operating as an indirect conditional criterion for welfare entitlement). In other words, although I understand social citizenship to be an outcome of having social rights, and not social rights tied to the formal status of citizenship, citizenship (nationality) is an important analytical category in the context of studying trans-national migration and one that will be important to this study.

Having defined these key concepts, let us move onto the second part of the chapter and consider these concepts in more concrete terms. Although the main concern of this thesis is substantive social rights, we need a better understanding of the formal features of social right in the contexts within which the study is carried out before we can assess how they are substantiated.

PART II. The permanence of the local level: social citizenship now and then

Contrasting social citizenship(s)

To outline the formal features of EU citizens' social rights, or the formal boundaries of social citizenship, I contrast in the following the features of today's EU social citizenship to earlier forms of social citizenship in Europe, with specific attention to my two country cases. The historical contrast is helpful in that it provides points of comparison, which strengthens our ability to point to distinctive features of European social citizenship.

Two things should be noted in this respect. First, one could argue that a better way of distilling the formal features of EU social citizenship, and bringing out its distinctiveness, would be to contrast it with other forms of multi-level social citizenship (Maas, 2017a; 2017b), i.e. those in federal states such as the US or Switzerland. It is certainly relevant to ask what is specific about a *supra-national* multilevel citizenship (Bauböck, 2007) in contrast to other forms of multilevel citizenships, and I will briefly touch on this later in the chapter. However, of main importance here is not whether European social citizenship is *sui generis* or not, but to understand it in the context of Europe and specifically in relation to the selected member state cases. For this, the historical comparison is more apt in that it helps us assess what the implications of the evolution of a European social citizenship are for these specific contexts, as well as the ways in which formal EU social citizenship may be substantively shaped in each.

The latter point brings me to the second thing to note regarding the choice of a historical comparison, namely that such a perspective implies contrasting social citizenship

within certain geographical areas at different points in time – which is to examine the evolution towards what we see today. An alternative way of contrasting EU social citizenship and at the same time situate it in relation to my cases would have been to compare it in its present form with other, current, *levels* of social citizenship: for example, the national level. Indeed, as social citizenship is most typically understood and studied in the context of the boundaries of the nation state, there is a strong inclination to compare EU citizenship more generally with national citizenship (Bauböck, 2015). However, national social citizenship (as well as the levels below the national) is a constitutive element of EU social citizenship, as I will describe later on, for this reason (current) forms of (European) national social citizenship cannot serve as an external standard of comparison. Rather, we must study EU social citizenship as a constellation of multiple levels of social citizenship (c.f. Bauböck, 2015). The historical examination will demonstrate how social citizenship in the European context has evolved from single to multiple levels, and the attendant change in other characteristics of social citizenship.

How then can we contrast social citizenship(s) over time? First, in line with the focus of the thesis, my main interest in contrasting forms of social citizenship is their lines of inclusion and exclusion.¹⁶ Second, in line with my above definition of social rights and social citizenship, I trace the *formal* demarcations of social citizenship through attention to the *boundaries* and *borders* of social policies. Recall that I argued that social policies (that imply some form of individual benefit or service) constitute the

¹⁶ An alternative focus would have been the substantive content of social policies. For example, how social rights have been increasingly tied to an ‘activation’ logic and how social citizenship has thus changed in terms of objectives and outcomes (For a useful overview of this see Evers and Guillemard (2013)). There is of course a natural overlap between this and my focus on boundaries and borders, and I will inevitably also touch on the content of social citizenship.

embodiment of social rights and can thus be assessed as social rights (despite their often lacking legal right status). By tracing the main trajectories of the ins and outs of social policies, we can appreciate the broad demarcations of formal social citizenship. By *boundaries*, I refer to who is entitled to social policies. Boundaries thus correspond to the population entitled to a social policy. In practice, this translates into *principles of entitlement*. Such principles can include for example citizenship, residence, work and need (Sainsbury, 2012: 12; Clasen and Clegg, 2007).¹⁷ *Borders* in turn demarcate the space in which social policy is enacted. Such borders are constituted by the *organisational structures* of social policies, which are more clearly tied to territory (and thus borders) than what entitlement principles are. Although social rights are tied to the individual, social policy is ultimately tied to a specific geographical space (Klausen, 1995). This spatial dimension is important for finance (who has financial responsibility?) and administration (where and how are services provided?). By organisation I refer, more precisely, to legal authority (i.e. policy making), implementation responsibility, and financial responsibility. Each of these have two dimensions, the actors who manage the task (e.g. national or local public authorities, non-state actors) and the spatial level at which they are situated (e.g. the local level or national level).

Furthermore, in line with my above discussion about what social rights are and how they relate to citizenship, I will pay specific attention to how social rights entitlement relates to the formal status of citizenship, as well as the degree to which social rights

¹⁷ I exclude conditionalities such that apply in addition to these more general categories – notably ‘conditions of conduct’ (Clasen and Clegg, 2007), involving for example the obligation of benefits claimants to engage in work-related activities as a condition for access or as a condition for their ongoing entitlement.

have actually been legal rights at different points in time. Finally, as intra-migration is at the heart of this thesis, I will pay specific attention to the relationship between boundaries and borders of welfare and internal migration.

The following comparison is structured around three dominant phases of social citizenship, which can roughly be distinguished based on the distinction between borders and boundaries of social citizenship. Specifically, according to the border – the organisational – dimension, we can classify the following phases: i) early days of welfare provision; ii) (national) welfare states; and iii) social European Union. The first refers to the pre-modern forms of welfare provision, the second to the 20th century welfare state, and the third to the latest period of European integration and the evolution of European citizenship. I do not suggest that these are objective or mutually exclusive periods¹⁸ – indeed, each of the subsequent periods are overlapping – but to propose that they represent distinct dominant trajectories with regards to the borders, but also to a certain degree the boundaries, of social citizenship. Table 1 below summarises the key features of each period. Finally, it needs to be emphasised that the main trajectories described here pertain to the European context – and especially Germany and Sweden – and does not consider for example the US or non-western welfare states.

¹⁸ As with all periodisation, these are interpretations of history, distinctions meant to indicate something new or different (Nullmeier and Kaufmann, 2010).

Table 1: Phases of social citizenship

	Borders (territorial borders of organisations)	Boundaries (predominant entitlement principles)
Early days of welfare provision	1 level	Need, residence, (local) 'citizenship'
(National) welfare states	2-3 levels	Work, residence, need
Social European Union	3-4 levels	National entitlement principles + legal residence, work, residence

Early social citizenship: stemming mobility of the undeserving poor

The earliest forms of welfare provision in Western Europe centred on the institution of the Church (Hecló, 1976: 47, also f.n. 22). According to Christian doctrine, poverty could be considered a virtue and begging thus an accepted means of livelihood. With the growing strength of states and their focus on social order in the early 16th century, the role of the Church and the view of the poor began to change (Stolleis, 2013: 33; Marsh, 1980 (quoted in Kuhnle and Sander, (2010))). The rapid growth in freer markets, wage labour and population growth also rendered Church charity increasingly inadequate to care for growing numbers of poor. With these developments the view of the poor shifted, poverty could now be considered a disgrace and as signalling an unwillingness to work (Hecló, 1976: 48; Stolleis, 2013).

As in other countries (Anderson, 2013; Feldman, 2003), early forms (16th-17th century) of state organised poverty relief in such diverse countries as Germany and Sweden placed emphasis on suppressing widespread begging, criminalising vagrancy, and controlling the mobility of the poor (the vagabonds) (Stolleis, 2013; Hecló, 1976). In both countries, poor relief measures sought to distinguish between those unable to work (the deserving) and the able-bodied (the undeserving). Through this distinction, poverty relief laws sought at the same time to relieve the deserving poor and prohibit

the mobility of the underserving (Stolleis, 2013: 34; Heclo, 1976: 49). In addition to drawing boundaries between deserving and non-deserving poor, these poverty measures drew boundaries between local and non-local poor. Generally, only *local residents* could claim assistance from the local parish, commune or city. Although the definition of residency changed over time, it clearly remained a basic principle of entitlement throughout these first centuries of public welfare provision (Stolleis, 2013: 38; Heclo, 1976: 58-62). All in all, there was very little change between the 16th and 19th century in poverty relief policies in either country.

Reflecting the restriction of entitlement to local residents, the borders of early forms of welfare were drawn according to the local level – the parish, commune, village or city – where poverty relief was largely organised. At first, the Church provided a system of geographical units; the local parish cared for ‘God’s poor’ throughout the medieval period, and part of the tithe (often grain) was distributed to the parish poor by a parish official. As modern states began to develop, state authorities sought to harmonise poverty relief across its territory and set up funds to support communities fulfilling this task in the course of the 17th-19th century. Local variation was not in the modern state’s interest, as it sought to maintain order within its territory. Yet local entities, which often followed the same territorial borders as the parishes, remained responsible for implementation, and without defined standards for level or type of aid, poverty relief remained highly discretionary and residual (Rimlinger, 1971; Heclo, 1976).

In Sweden, poor relief was formally developed by the national monarchy from the 16th century reformation onwards. When attempts to prohibit begging in the 17th century failed, a system of begging permits was instead instituted. Soon thereafter, all state-governors (*landshövding*) were instructed not to issue further begging passes, but to ‘support their own poor until they die’ (Heclo, 1976: 50). Around the same time, in the

18th century, parishes' duty to provide alms-houses (*fattigstugor*) was laid down in *national* law. However, in practice, policy implementation was heavily dependent on dispersed local elites – the gentry and provincial groups with the administrative resources to implement poor relief (ibid.). Implementation remained an issue also as national and sub-national governments grew more and more institutionalised; in the 1850's the Swedish national government faced much opposition for its changes in vagrancy and migration regulations and the national government had to take measures against extreme (restrictive) local interpretations of existing regulations (ibid: 58).

The equivalent time period (16th to 19th) for the territory that we today know as Germany is one in which numerous independent states¹⁹, which formed various unions and confederations. From around the 16th century when states started to provide poor relief, such measures were the affair of each individual state. Different German states thus operated different schemes, defining their own boundaries of poverty relief; whilst in some states the 'home community' (basically the place of birth) would be responsible for poor relief, in others a certain duration of residence, which could vary between two and five years, was necessary before a person would be entitled to poor relief from the community she resided in (Stolleis, 2013; Hennock, 2007). With unification, first partly under Prussia, then under the North German Confederation and then under the German Empire (1871), the individual states remained responsible for organising poor relief, and provision and funding remained a communal task (Stolleis, 2013: 39). However, unification meant increasing harmonisation of laws and the emerging field of social law became a matter of the supra-state level (Kaufmann,

¹⁹ Although these strictly speaking consisted of a variety of duchesses, kingdoms etc. I will, for the sake of simplicity refer to them here as 'Germanic independent states'. For an impression of the immensely complicated make up of territorial entities at this time, see MacGregor 2014.

2013:174). Prussian Law for the first time recognised a general obligation to care for the poor as a state task in the late 18th century (Stolleis, 2013: 36), an obligation that was transposed into succeeding jurisdictions, and by the mid 19th century that ‘public support that must be granted in cases of need’ (ibid: 39)²⁰. However, no stipulation of the nature and level of aid, nor any legal claim to poor relief, existed (ibid: 38-9).²¹

With German unification, internal freedom of movement was also established, implying a simultaneous shielding against *foreign* poor and the establishment of internal freedom of movement (Brubaker, 1992: 63). As municipalities were made responsible to provide for the poor, whilst maintaining the authority to determine the conditions under which they did so, municipalities engaged in various forms of practices aimed at limiting the entry of ‘outside’ poor, as well as denying local membership for the already present poor (Hennock, 2007: 36; Brubaker, 1992: 64). Due to such practices and because of continued differences in states’ poor relief systems, mobile people could easily become completely disentitled to poor relief, e.g. if they did not settle for the minimum duration to acquire the right to poor relief in the municipality of destination, whilst having lost the right in the municipality of origin (Hennock, 2007: 24). With the onset of industrialisation and a need for more workers in the cities, internal freedom of movement was in the interest of the state, but was hampered by local practices of exclusion. To limit ‘homelessness’ – the legal condition of those who lacked a home municipality, where the right to reside and entitlement to

²⁰ Preußisches Gesetz über die Verpflichtung zur Armenpflege vom 31. Dezember 1842”, PrGS 1843, pp. 8, }33.

²¹ As a Prussian law stated: “A poor person can never assert a claim to support against a Charitable Union through legal avenues, but only with the administrative authorities, whose task it is not to grant claims that exceed the necessities.” (“Preußisches Gesetz über die Verpflichtung zur Armenpflege vom 31. Dezember 1842”, PrGS1843, pp. 8, }33.; quoted from Stolleis 2013: 39).

poverty support was guaranteed – the state thus increasingly sought to interfere with, and alter the boundaries of local membership (Brubaker, 1992: 64) and accordingly also the rules for having the right to reside and access to poor relief (Stolleis, 2013; Hennock, 2007: 35).

A prime objective of poor laws up until the mid 19th century was to criminalise and limit migration of the poor (the vagrants), virtually making migration and welfare policies one and the same. Those who did not fall into the category of deserving poor could be deported across local borders (Stolleis, 2013; Hennock, 2007; see also Feldman, 2003), which made these borders especially salient. In German territories, border officers were put in place and signs warned vagrants of every kind not to enter the territory of local communities (Stolleis, 2013: 34). Local poor relief thus created internal migrants in otherwise more or less integrated geographical areas. The internal vagabond, rather than the foreign immigrant as would later be the case in national welfare states, was considered a threat to internal order (Feldman, 2003). Starting out as several German states, the evolution of social citizenship in Germany differs from Sweden in that Sweden was a unitary state much earlier (16th century). The further the internal German borders were dissolved and a uniform legal sphere with freedom of movement emerged, the more the previous deportation of foreign poor across territorial borders ceased (Stolleis, 2013: 39). Nevertheless, local residence remained crucial for any poor relief entitlement. Only with the emergence of new social policies at national level to address poverty and other social risks and streamlined local practices across national territories, did the preoccupation with (poor) internal migrants change, as Brubaker (1992: 66) notes:

By divorcing the right to residence and welfare from communal citizenship, and sharply limiting communal rights of exclusion and expulsion, the state reduced communal citizenship to insignificance.

Social citizenship in the national welfare state: external borders and internal variation

Centuries of petty change in poor relief policies came to an end with the emergence of social insurances in the 19th century (Kuhnle and Sanders, 2010). In the late 19th and early 20th century, social insurances were developed to protect workers in the case of sickness, accident, invalidity and old age. These policies were a radical break with poor relief benefits granted on discretionary basis. Citizens (initially confined mainly to citizen industrial workers) were now compulsorily insured and made individually entitled to social benefits. Alongside these policies, new non-contributory programmes of general social assistance and health care systems were created. The new programs of social assistance differed from traditional public charity (poor relief) to the extent that they were more extensively based on clearly defined individual entitlements, rather than haphazard bureaucratic discretion (Ferrera, 2005: 74).

An important parallel development was the nationalisation of citizenship. National citizenship created a *fil rouge* as different rights and obligations were bestowed on citizens of the state (Ferrera, 2005). Indeed, '[f]ew, if any, modern institutions are as emblematic of rights as citizenship' (Sassen, 2006: 277). T. H. Marshall (1990: 12) described the evolution of modern (national) citizenship as a process of both fusion and separation. The geographical fusion brought a dismantling of local privileges and immunities, the harmonisation of rights and obligations throughout the national territory, and the establishment of the equal status of citizenship within borders. The separation in turn entailed the creation of new sources of nationwide authority and

jurisdiction and new institutions for the implementation of the new jurisdiction at a decentralised level. Correspondingly, as national (unitary and federal) states evolved into welfare states, public welfare responsibilities in part moved from the local to the national/federal level. Much of the legal authority to define policies and entitlements was henceforth located at national level, whilst municipalities have often retained the responsibility to deliver social services and distribute certain benefits.²²

This is not to say that the importance of the local level with regards to welfare provision diminished, but rather that their independence did. In fact, a strong continuation can be observed since medieval times in terms of local responsibility for local residents, and corresponding confines of entitlement. Certainly, sub-national levels play a very significant role in many welfare states (Sellers and Lidström, 2007), and are held to be growing in importance for certain public policy regulation and delivery (c.f. Johansson and Panican, 2016: 4). This is often overlooked in research on social policy, with its overwhelming focus on welfare *states* or *regimes* and macro-level trajectories. As a consequence of this methodological nationalism of comparative social policy scholarship, much research overlooks internal spatial aspects of, and variations in, welfare states (Sellers and Lidström, 2007; Powell and Boyne, 2001). National internal variation may be the result both of differences in local governments' implementation of nationally defined policies, or reflect the autonomy of local authorities to shape policies (Powell and Boyne, 2001:186). Moreover, locally administered policies such as social assistance and social services, are often available only to *local* residents, rather

²² However, especially in federal welfare states, we find that some legal authority remains at the local level, especially with respect to social assistance (Obinger et al, 2005: 25).

than just any *national* resident. Some even use the concept of ‘*local* social citizenship’ (Powell and Boyne, 2001).

Nonetheless, despite this emphasis on continuing internal variation, the national context is highly significant. The emergence of national welfare states generated distinct types of national welfare systems with implications for social citizenship within national boundaries (and across local), as the case of Germany and Sweden will illustrate in the following section. To understand these differences, it is important to bear in mind that Germany is a federal state and Sweden a unitary one.

Borders and boundaries

Germany

In the 19th century, Germany became the first country to introduce public insurance against social risks for workers (Kaufmann, 2013: 177-179, 195). Some of the basic principles and forms of organisation of these early social insurances have survived and continue to leave their mark on German social policy till the present day, prominently in guise of the principle of insurance (Leisering, 2001: 164). This is reflected in comparative research, where Germany is usually portrayed as the archetypical conservative or continental welfare state (Esping-Andersen, 1990). Accordingly, the hallmark feature is the country’s emphasis on social insurances, which in Germany has the specific meaning of a pay-as-you-go system financed by contributions of the employers and the employees, and run by semi-autonomous non-state bodies administered by employers, employees and the state, whilst benefits and contributions are still determined by the federal legislator (Leisering, 2001: 164). The centrality of

the worker and social insurance systems has also meant a continuous²³ dominance of cash transfers, and little emphasis on and investment into social services (Evers et al, 2011; Sainsbury, 2012: 55). Thus, work has, and continues to be, the core principle delineating the boundaries of social protection inclusion.

However, it would be incorrect to view the German welfare state as one that solely protects workers. It has become more universalist than what is generally acknowledged. The previously fragmented system (in terms of benefits, funding and institutional structure) has over time, and increasingly, given way to a form of quasi-universalism (Bode, 2013; Leisering, 2001). A distinction can be made between *social benefits* and *social insurances*, where entitlement to the former is largely based on residence and the latter on work (Absenger and Blank, 2015: 358). For residents in Germany, child benefits²⁴ and a substantial range of selective benefits²⁵ are available (Leisering, 2001: 173). Thus, the German social security system as a whole is more fittingly described as a work *and* residence based system (Absenger et al, 2015). Moreover, nationality plays no role in the determination of social entitlements under these two general rules (ibid).

The term ‘social state’ (*Sozialstaat*), which is typically used instead of ‘welfare state’ (*Wohlfahrtsstaat*) in German, distinguishes a social policy that respects the freedom of the individual and the market as a general principle (the ‘social state’), and a system of

²³ From a comparative perspective, Germany’s welfare state does still today not put a high emphasis on service provision. In particular child care and elderly care have until most recently been perceived as a prime duty of the family (Evers et al, 2011).

²⁴ Which is the one truly universal benefit in Germany (Leisering, 2001).

²⁵ Minimum benefits such as retirement provision, the reimbursement of healthcare expenses, a basic bundle of long-term care services, income support in case of unemployment, child allowances (plus options for subsidised parental leave), as well as a wide range of social support services in case of evidenced need (Bode, 2013: 203-4) and housing benefits and social housing (Absenger et al. 2015).

state provision and state control (the ‘welfare state’) (Leisering, 2001: 173). This distinction is reflected in the way the German welfare state is organised. The corporatist structure, with a variegated web of semi-autonomous actors, groups and institutions, has been typical of German social policy since its beginning.²⁶ A social policy that mediates between state and society has thus become a defining characteristic of welfare provision in Germany (Kaufmann, 2013:176; Zacher, 2013).

Nonetheless, the federal level has the decisive legal power to define social security provision in Germany, and states (*Länder*) and municipalities (*Gemeinden*) are by and large mainly responsible for policy implementation (Evers et al, 2011) – making these three levels the key (organisational) borders of welfare. The allocation of revenues to German local government is largely centralised; while on average thirty per cent of the revenues of municipalities come from their own taxes, most of these ‘local taxes’ are generated through a revenue sharing system that is determined by federal legislation (Wollmann, 2004: 651).

Furthermore, with respect to the borders, or the organisations, of the German welfare state, we find a bifurcation between what in German is referred to as ‘social security’ and ‘social welfare’ (Evers et al, 2011). While the federal level has been mainly responsible for social security, regional and local governments deal with social welfare, i.e. social assistance and social services like education, housing, elder and child care. Social welfare is produced by a broad range of actors, of which the majority, the so called ‘voluntary welfare providers’, are neither purely governmental (such as a

²⁶ The key elements of this corporatism are; the five branches of social insurance, the social professions (e.g. medical doctors), social partners, systems of co-ordination, negotiation and bargaining between corporate actors and the the voluntary welfare organisations (Leisering, 2001).

national health service) nor entirely independent of government (such as occupational pensions and private insurance). These actors are ‘intermediate’ – between state and individual (Leisering, 2001) – and have been granted a privileged status as providers of welfare services through the ‘subsidiarity principle’, which means that small units shall have priority over larger units, especially over the state, whenever appropriate (Anheier and Seibel, 2001). These actors enjoy some autonomy, but are significantly constrained in their scope for action as they act under public law defined at federal and state level, and with the support of public finance (Wilensky, 2002: 254-260). Whilst these semi-autonomous actors deliver most German social welfare, local municipal authorities have considerable functions in the area of social services as they coordinate and subsidise services (Kaufmann, 2013: 207). The municipalities are also responsible for distributing and partly financing social assistance (ibid; Leisering, 2001)²⁷.

Sweden

In contrast to Germany, the introduction and early reforms of social insurances in Sweden were not prompted by social unrest amongst the working class.²⁸ The starting point was instead the pressing need to reform the poor relief system (Lundberg and Åmark, 2010: 159), which oriented the social and state actors towards all-inclusive and uniform coverage (Ferrera, 2005: 63). These features have come to characterise the Swedish welfare state, which is commonly described as ‘universal’ – meaning that all citizens, or inhabitants, are potential beneficiaries of social protection (Attunen et al, 2012). Universalism has on the one hand been the basis for many public insurance

²⁷ While the municipalities pay for the costs of housing of the long term unemployed, the cash assistance is paid by the federal state. Local job-centres are co-founded and co-administered by municipal assistance departments and staff from the labour market administration’s local offices.

²⁸ Industrialisation happened comparatively late in Sweden and took off only after 1890.

schemes like the old-age pension²⁹, child benefits and healthcare. Universal principles have also underpinned the wide provision of public social services available to the entire population, especially health care, education, employment services and child care. The Swedish welfare state has thus, together with the other Scandinavian welfare states, been considered a hallmark of social citizenship (Klausen, 1995).

With the focus on its undeniably universalistic features, it is often overlooked that citizenship has always been of limited relevance for welfare entitlement, and that work and need are significant principles also in Sweden. Aside from universal benefits, the obligatory social security insurance tied to levels of contribution, and additional means-tested welfare benefits plus special efforts aimed at particular marginalised groups can be seen as key characteristics of the post-war Swedish welfare state (Rothstein, 1994). Indeed, many of the universal social insurances that protect against income-loss have been earnings-related, i.e. flat-rate benefits have had an additional ‘top-up’ part. In addition, the encompassing Swedish social insurance system is paradoxically paralleled with strictly controlled and needs-tested poor relief (Lundberg and Åmark, 2010: 169; Lödemel, 1997).

Moreover, despite the literature’s emphasis on citizenship and universalism, universal policies in Sweden are primarily tied to residence and not to citizenship (Kildahl and Kuhnle, 2005: 14). The core entitlement principle for most social insurance benefits has been, and continues to be, national residence. Entitlement to social services is in turn based on *local* residence, as is social assistance. The latter includes means-testing

²⁹ The 1913 old-age and disability insurance was the first social policy (in the world) that encompassed all inhabitants in the country. The principle was however not really achieved until the 1946 reform that introduced a flat-rate universal pension (Sainsbury 2012:83), as it was means-tested up until then (Kildahl and Kuhnle, 2005: 19).

in addition to local residence. We can thus describe also the Swedish system as one based both on residence and work.

Despite a merged notion of society and state (Berggren and Trädgårdh, 2012), and although Sweden is often seen as a text-book example of a centralised (welfare) state, decentralisation is a core feature of the Swedish welfare state (Hall, 2016).³⁰ Local self-government has always held considerable importance in the Swedish polity, and Swedish local governments are some of the most autonomous in international comparisons (Hesse and Sharpe, 1991). In contrast to German municipalities, Swedish local governments are not supervised by an intermediate level. Whilst the social insurance system is centrally administered and unified through the Social Insurance Agency (*Försäkringskassan*) and the Pension Agency (*Pensionsmyndigheten*), the delivery of social services and social assistance is the responsibility of local authorities (Hall, 2016: 307). The national government sets the ‘country-norm’ for level of social assistance and local authorities welfare responsibilities.

Nevertheless, local governments are not only responsible for the implementation but also, largely, for the finance of services as well as social assistance. The Swedish municipalities are entitled to levy income taxes on individuals – which is partly where their strong autonomy derives from (Wollman, 2004: 647) – and charge the citizens for various services. As a consequence, local authorities have a fair amount of latitude in deciding what services they should offer and how, although the provision of many

³⁰ Comparative welfare state studies have tended to focus on national governments and politics to explain and describe welfare states, and centralised decisions and resources have typically been assumed a key aspect of both the emergence and development of Social Democratic welfare states (Esping-Andersen, 1985; Hecló, 1974; Huber and Stephens, 2001). Others have argued that decentralisation preceded and was an essential prerequisite for the comprehensive Swedish welfare state (Seller and Lidström, 2007).

personal services (e.g. schools and different forms of care) are legally required (Nordfeldt and Segenstam-Larsson, 2011).³¹ Whereas public actors used to be the dominating type of welfare provider (Rothstein, 1994), this has changed in the past 20 years towards many more private-public providers (Hall, 2016: 308).

Social 'rights'?

In Germany, a strong *legal* right to social support exists. This is reflective of one of the core values of the social state in Germany, namely to protect the individual's freedom. To understand this, one must first note that Germany is a 'constitutional democracy' (Dworkin, 1996: 15-26), where judicial review is a constitutive element of what it means to be a democracy. Courts accordingly have a significant role in shaping politics in Germany.

That the country is a 'social federal republic' is enshrined in its constitution (article 20(1)).³² The importance of the 'social state principle' (*Sozialstaatsprinzip*) is evident in that it is protected by an 'eternity clause' (*Ewigkeitsklausel*) (article 79(3)), which essentially means that it cannot be amended by constitutional procedure – only revolution can change it (King, 2014). The German social state principle binds the judiciary, the executive, as well as the legislative branch. However, although the principle defines social policy as an obligation of the state, it leaves the way open for political power and for the legislature to decide the means by which it is going to fulfil this obligation (Katrougalos, 1995: 290). In other words, there exists no list of exact

³¹ With the geographically uneven growth of private welfare providers, it has even been argued that there exists, not one Swedish welfare state, but 290 Swedish welfare municipalities (Lindbom, 2013).

³² The German constitution (article 20(1)) sets out that the German federation is a 'social federal republic'. This article is again repeated in in article 23(1) in respect of Germany's involvement with the European Union, and in article 28(1) in respect of the obligations of the Bundesländer.

rights (precise types of benefits, amounts thereof, or the like) that individuals should have.

Nonetheless, the Constitutional Court (*Bundesverfassungsgericht*) has sought to determine the abstract meaning of the social state principle, relating it to the (also) constitutionalised values of human dignity, social justice and equality (*ibid.*). The human dignity clause (1(1)) – which declares human dignity to be inviolable and that ‘to respect and protect it shall be the duty of every state authority’³³ – is of specific importance. Accordingly, German jurisprudence has for example derived *a constitutional right to minimum social subsistence (Existenzminimum)* from the social state clause and the protection of human dignity clause (Katrougalos, 1995: 290). With this extensive legal foundation for social support for the individual, German courts have ‘attained maximum importance for the reality of the social’ (Zacher, 2013: 92). Administrative judges are charged, through a so-called general clause, to protect the citizens against any violation of the law by the administration (*ibid.*).

The Swedish view of social rights, as conveyed in Swedish basic law, stands in stark contrast to the German. What is characteristic about social rights in Sweden is that they have primarily taken the form of ‘collective social rights’ – rights that in a strictly juridical sense (individual, claimable, enforceable in a court of law) are not rights at all (Svedberg and Trädgårdh, 2012: 229; Katrougalos, 1995: 293-295). In Swedish basic law, social rights are expressed as “goals for the common” (*det allmänna*), which is to say social aims (such as ‘the individual’s personal, economic and cultural welfare’) that

³³ ‘Die Würde des Menschen ist unantastbar. Sie zu achten und zu schützen ist Verpflichtung aller staatlichen Gewalt.’ [The dignity of man is inviolable. To respect and protect it shall be the duty of all public authority.]

the state and elected representatives should strive to achieve.³⁴ These goals are not directed at individuals and as a consequence also not claimable (Lind, 2009: 40). Put differently, from a constitutional perspective, social rights are in Sweden considered part of politics and hence court control has been avoided.³⁵

This lack of constitutionalised rights in Sweden reflects a legal tradition where judicial restraint is emphasised, and where parliamentary sovereignty is the guiding constitutional value – a so-called ‘majoritarian democracy’ (Dworkin, 1996; Ginsburg, 2003). Because courts and judges are not accountable to the people (Freeman, 1990: 332ff; Dworkin, 1996: 21ff) and courts are thus ‘counter-majoritarian’ – they place the protection of rights and civil liberties by the courts above ‘the will of the people’ (Wind et al., 2009: 72).

As was highlighted in the first part of the chapter, formal rights may not always lead to the outcomes that are often envisioned as being the purpose of social rights. Although the Swedish welfare state has been understood to be one defined by social citizenship both in terms of normative underpinnings (Kildahl and Kuhnle, 2005; Klausen, 1995) and outcomes (Esping-Andersen, 1990), it has a comparatively weak foundation for a legal, individual right to social protection. In contrast, the German welfare – which is perhaps less associated with notions of social citizenship and social rights – has placed

³⁴ ‘Den enskildes personliga, ekonomiska och kulturella välfärd ska vara grundläggande mål för den offentliga verksamheten. Särskilt ska det allmänna trygga rätten till arbete, bostad och utbildning samt verka för social omsorg och trygghet och för goda förutsättningar för hälsa.’ [The individual’s personal, economic and cultural welfare shall be fundamental goals for the public institutions/the state. The common should, in particular, ensure the right to work, housing and education and work for social care and security and for good conditions for health.] (Kungörelse (1974:152) om beslutad ny regeringsform.)

³⁵ Sweden has, despite numerous evaluations and changes of the fundamental law in the Instrument of Government (*Regeringsformen*), refrained from tying social rights to the individual and making them claimable (Lind, 2009: 23-27).

less emphasis on universalism and made individual rights a strong principle for the provision of welfare.

(Internal) migration and welfare inclusion

The illustrated local variation within welfare states, together with the in-significance of citizenship as an entitlement principle, shows that national social citizenship has never been completely inclusive of, or equal for, all national citizens. The distinction between nationals and non-nationals has nonetheless been of significance to welfare inclusion. Thick citizenship – a high level of obligation on the part of states toward citizens – comes with an increased incentive to police access to the public good (Klausen, 1995). Thus the increase in social rights for ‘insiders’ over the 20th century meant an analogous process of restricting access to (national) membership and (social) rights (Ferrera, 2005). Correspondingly, salience shifted from the local to the national border. With the shift of fiscal and institutional systems of welfare from the local to the national level, and a mainstreaming of the policies that remained local responsibilities, the immigrant rather than the internal migrant became the salient type of migrant in the context of policing welfare entitlement (Feldman, 2003).

This is not to suggest that *internal* migration ceased, as especially rural-urban migration has continued in the course of the 20th and 21st century. However, in contrast to the earlier period, internal migration has occurred within an *institutionally integrated* space. Which is to say that although local levels have retained many responsibilities for local residents, mobility of national citizens within national borders has implied mobility within the same institutional structure, with more even local provision and were a national social safety net to fall back onto has mostly existed.

Germany, it must be acknowledged, is a somewhat unique case in this context due to its post-war separation into an east and west part. The German reunification spurred significant internal migration from the former east to the former west (Glorius, 2010). German westwards migration continues till today, and has been held to constitute a source of human capital loss (or ‘brain drain’) for the former east regions (ibid). As we shall see, this resembles the type of internal migration occurring in the EU (Sinn, 2000). Differently from the EU, however, the German federal state had, at the time of reunification, more legislative power to (try to) achieve an evening out of disparities between the regions, and to impose social policy standards across the federal state. As part of the unification process, the West German welfare regulation was extended to the former East. Moreover, Germany has an extensive territorial redistribution mechanism embedded in its constitution.³⁶

European social citizenship: multileveled, nested and complex

With the process of European integration, the borders of social citizenship have shifted towards the supra-national level, as the EU has gained authority to define the boundaries of entitlement. As part of achieving an internal market with free movement of workers, the Union has sought to ensure free movers’ social protection. This has been achieved through the combination of rules prohibiting discrimination based on nationality and a system for coordinating social security schemes between member states. In addition, a European citizenship has been superimposed on national

³⁶ *Gleichwertige Lebensverhältnisse*, Art 72.

citizenship, which has been critical to expanding the boundaries of European social citizenship from workers to EU citizens.

We can understand the implications of European integration for the evolution of social citizenship in terms of an added layer of borders and boundaries. This corresponds with the general discussion of European integration as a multilevel structure and form of governance (Hooghe and Marks, 2001). European citizenship has added another layer of membership that has brought additional benefits to the nationals of EU member states, with implications also for social rights. This layering of social citizenship is well-captured in Tomas Faist's (2001: 46) notion of a 'nested' European social citizenship:

... membership of the EU has multiple sites and there is an interactive system of politics, policies and social rights between sub-state, inter-state and supra-state levels ... an extraordinarily intricate network of overlapping authorities and attendant social rights, in which Member States play a central but by no means exclusive role.

In the following I discuss first the shifts in borders (organisation of social policies) that has occurred with European integration and second the changes in boundaries (entitlement principles). I focus specifically on what I term *EU migrant citizens*, these are citizens of EU member states who have moved from a previous member state of residence (it need not be their country of nationality) with the intent to reside and/or work in another member state (i.e. tourists are not included). I thus do not take posted workers, or frontier workers into account.

Shifted borders

EU (migrant) citizens' social rights are not derived from a pan-European welfare state. The EU has no competence to redistribute between income groups or risk categories

(Jacqueson 2013: 374). And according to the principle of subsidiarity (Craig and de Búrca, 2016: 95), the EU shall only act if a proposed aim can be more adequately achieved by the Union than by the member states (Art. 5(3) TEU). The social rights that EU migrant citizens have according to EU law instead derive from their right to freedom of movement, the principle of non-discrimination (based on nationality) and the coordination of social systems.

Despite limited legal capacities to create supra-national welfare schemes, the EU has nonetheless – based on its role to protect the Union’s fundamental freedoms – ensured, and over time expanded, the rights of internally migrating EU citizens. In line with the EU’s primary focus on market making, free movement of goods, services, capital and workers has been core to the European cooperation since its inception (Hantrais, 2007). Over time, the right to freedom of movement has extended from workers to citizens. This is important, as free movement is part and parcel of EU citizens’ social rights; ‘without the movement of EU citizens [across national jurisdictions], there is nothing actually to trigger EU law rights’ (Foster, 2011, p. 350).

Ensuring that workers do not lose their social protection rights when they move across national borders has been understood as integral to encouraging free movement of labour (Hantrais, 2007). Therefore, the EU has continuously sought to ensure the implementation of *the principle of equal treatment* of mobile and migrant workers and the *coordination of national social security systems* (Bruzelius et al, *forthcoming*; Pennings, 2015).³⁷ EU migrant citizens’ formal social rights are thus defined (at the EU level) according to the coordination of social security among member states, rather than

³⁷ Directive 2004/38 regulates freedom of movement. Regulations 1612/68 (now 491/2011) and 1408/71 (now 883/2004) specify the co-ordination of social protection between national welfare systems.

a harmonisation of national social systems (Pennings, 2015: 6).³⁸ This means that substantive social rights are still defined and delivered by the respective member states – this is where the content of social policies and the entitlement principles connected to accessing such provision is determined – and that EU migrant citizens’ substantive social rights depend on the member state they reside or work in. Moreover, because of the coordination of benefits, EU migrant citizens’ social right in the country of destination can consist both of benefits exported from the country of origin and benefits accessed in the country of destination (Bruzelius et al, 2017). The focus in this thesis is however on access to rights in the member state of destination.

Nevertheless, whichever conditions member states apply to social entitlements must be compatible with the EU law – in particular with the basic principle of equal treatment and non-discrimination of EU migrant citizen. These rules, combined with EU citizens’ right to freedom of movement, means that the number of potential beneficiaries of social policies has greatly extended and that national welfare states have been ‘opened’ (Ferrera, 2005). Accordingly, member states can no longer restrict access to social benefits to their own citizens, nor restrict consumption of benefits to their own territory (Ferrera, 2005; Leibfried and Pierson, 1995). European integration has thus eroded the sovereignty (the legal authority) and autonomy (*de facto* regulatory capacity) of European member states in the area of social policy (Leibfried and Pierson, 1995).

There are however limits to this ‘opening’. On the one hand, the European social security coordination does not extend to all social security benefit schemes³⁹ – it most

³⁸ For a detailed overview of the regulation itself, see Pennings (2015).

³⁹ The material scope of social security coordination encompasses: sickness and maternity benefits; invalidity benefits; old-age benefits; survivors’ benefits; benefits in respect of accidents at work and occupational diseases; death grants; unemployment benefits; and family benefits.

importantly continues to exclude social assistance.⁴⁰ Moreover, while all EU citizens have the right to free movement, legal residence is limited to three months if you are not a worker or otherwise have insufficient funds, after which conditions for residence apply (as I will describe below).

Shifts in legislative authority are crucial to understand the evolution of European social citizenship. The Court of Justice of the European Union's (CJEU) is tasked with interpreting EU law and ensuring its equal application across all member states. Through case law, the Court has continuously specified EU migrant citizens' social rights (Wind, 2009). The CJEU has interpreted the fundamental freedoms extensively (Jacquesson, *forthcoming*), very often to the opposition of member states – something which reflects a stark tension between individual rights, and social institutions built around principles of solidarity (recall the discussion on individual versus collective rights in the beginning of this chapter).

Through the EU legal framework, the legal status of EU citizens' social rights has been strengthened. With the four fundamental freedoms (free movement of capital, goods, services and labour) laid down in the EU Treaties, the individual EU citizen has been given *individual rights* (Lind, 2009). Because the social rights that EU migrant citizens may have as free movers are derived from these fundamental freedoms, they are clearly enshrined in law. Moreover, the EU offers not only rights, but an institutional framework through which these rights can be protected. Indeed, the primary way in

⁴⁰ The introduction and further development of non-contributory benefits in many European welfare states over time blurred the boundaries between social security and social assistance, leading to the introduction of non-exportable 'special non-contributory social security benefits' into the EU legal framework (Cousins, 2007). The Dano (C-333/13) and Alimanovic (C-67/14) cases constitute recent landmark rulings clarifying the conditions under which such benefits may be accessible.

which EU migrant citizens' social rights – i.e. the personal and material scope, and application, of the social security coordination – has evolved and deepened is through rulings on individual cases brought forward to the CJEU (e.g. Eigmüller, 2013; Wind et al, 2009). Hence, irrespective of the degree to which social rights are indeed rights in national legislation, the EU offers a venue through which denied access to such provision can be claimed through courts at the supra-national level.

Returning to the notions of borders and boundaries, we see that the most significant shift brought by the described layering of social citizenship with respect to *borders* of welfare – the way in which social provision is organised – has occurred with respect to where the legal power to determine the personal scope of entitlements is located. In the early days of public welfare provision, local authorities most often set their own standards for provision and rules for entitlement. With national welfare states, most of the legislative power to decide the scope of entitlement was transferred to the national/federal level. The EU has added an additional layer of authorities (most notably the Court of Justice of the European Union) – ones which are empowered to change national rules of entitlement.

At the same time, other borders remain largely intact; the way welfare is financed and provided have remained largely unaltered,⁴¹ as member states continue to define the substance of, and to deliver, social rights. In the poor-law days, the local parish or commune granted and financed poverty relief. In traditional welfare states, not only delivery, but also (at least in part) finance continued to be an obligation of the local

⁴¹ It must be noted that the EU has impacted on some member states ability to pursue social policies through various means, which applies specifically for member state that are part of the currency union (de la Porte and Heins, 2016).

community. National authorities and actors have in turn been responsible for mainstreaming local practice, for the organisation of social insurances and to determine what social policies that should be provided. These distributions of responsibilities have not changed with the EU. Hence, whilst an EU citizen's formal right to non-discrimination with respect to certain social rights is established at the EU level, their substantive social rights rely entirely on, and are conditioned by, national welfare states and their specific social policies.

Additional boundaries

Whilst the EU has expanded the number of potential beneficiaries through demanding that entitlement principles for social rights access are compatible with EU non-discrimination law, member states continue to define the conditions (e.g. residence, work, need) under which individuals can access different social benefits and services. Hence, the EU regulations add a layer of conditions onto the national ones. Most important here are the conditions under which EU citizens have the right to reside in another member state, as this is the main factor distinguishing EU migrant citizens from nationals in any one member state.

European citizens have no social rights tied directly to their European citizenship status,⁴² what they do have as a direct consequence of their supra-national citizenship is the right to move freely across member state borders, and the right to reside and to take up work in any member state they wish. These two rights are in turn linked to the social rights that EU citizens' may have. This is similar to earlier phases of social citizenship, where citizenship also was of very limited importance as an direct

⁴² Unless we consider the freedom of movement to be a social right (Bruzelius and Seeleib-Kaiser, 2017).

entitlement principle – even universal benefits have been tied to residence rather than citizenship. Nonetheless, regardless of whether entitlements have been tied primarily to residency, need or work, national citizenship has often functioned as a precondition to qualify for one of the entitlement categories, or at least provided the possibility to do so. Which is to say that national citizens have had unconditional access the national territory, and the right to work and reside. This is the main dividing line between EU migrant citizens and national (non-migrant) citizens in any one member state: EU citizens’ right to residence during the first five years in another member state, and hence the possibility of accessing social rights in the member state of destination, is conditional.⁴³ National citizens’ right to reside in the country of nationality meanwhile remains unconditioned. To benefit from the social rights that they may hold as EU citizens, EU citizens must move and settle (Bruzelius et al, 2017), and precisely these actions are constrained. This moreover highlights that although EU citizens move within a ‘citizenship space’ (the EU), their social rights must essentially be understood similarly to (im)migrants’ rights – as was discussed in the first part of this chapter.

The right to residence in another member state is conditioned on labour market status and economic resources. All EU citizens have the unconditional right to move within the Union without condition for three months. Workers have the right to stay beyond the initial three months, whilst economically inactive EU migrant citizens⁴⁴ must have comprehensive sickness insurance and sufficient resources for themselves and their family members, to fulfil the requirements for *legal residence*. The prime objective to

⁴³ Although the right of all to move freely for a certain period of time privileges them relative to all other groups of migrants (Ruhs, 2015).

⁴⁴ Economically inactive include: jobseekers, students, retired persons, and accompanying family members (European Commission, 2014).

these limitations of residence is to avoid that migrant citizens become ‘an unreasonable burden on the host member state’s social assistance system’ (Art. 14(1), 2004/38/EC).⁴⁵ What is more, if an EU citizen can be deemed to have become an unreasonable burden on the social assistance system of the host member state, they can in principle be expelled (Art. 16, 2004/38/EC), although they would have the right to immediate re-entry based on the principle of freedom of movement. The laws that underpin European social citizenship thus have, just like the old poor laws did, built-in measures to stem the mobility of the poor: extending free movement to *all* EU citizens, has been achieved through a balancing between a ‘logics of opening’, whereby everyone has a right to move and enter for a certain time, and ‘logic of closure’, in that the right is terminated if one becomes dependent on social assistance (Martinsen and Vollaard, 2014: 685; c.f. Ferrera, 2005).

Many critics have accordingly argued that the right to freedom of movement and residence is not granted according to individual European citizens’ status, but rather ‘in their capacity as factors of production’ (Weiler, 1998: 13). As such, EU citizenship has been understood to constitute a status built around an exclusive ideal of the citizen as a paid worker (e.g. Ackers and Dwyers, 2002; Weiler, 1998). This is similar to the significance that work as held in national welfare states, in which social citizenship has been deemed something enjoyed only by workers (Turner, 2001; Bergqvist, 1990; Hernes, 1987). In contrast to national citizens, however, labour market status

⁴⁵ The concept of ‘unreasonable burden’ continues to lack a clear definition. Any assessment needs to consider not only the personal situation (e.g. if need for benefits is temporary), but also whether the system is potentially threatened, which would require taking the total number of (potential) claimants into account (Pennings, 2015: 75; also see Minderhoud, 2015).

conditions not only access to welfare, but also the right to reside for EU migrant citizens.

An additional layer of boundaries has been added not only through the rules for legal residence, but through the social coordination system. The complex conditions under which an EU migrant citizen is entitled to social benefits in the country of destination does not correspond squarely to when legal residence is satisfied. Based on the principle of non-discrimination, employed or self-employed persons are subject to the legislation of the state where economic activity is pursued. Accordingly, EU migrant citizens who classify as workers have the same social rights as nationals from the first day of their employment in another member state. If these workers lose their job within the first five years of residence, they retain workers' status for at least six months and may during this time be entitled to unemployment benefits (depending on the qualification periods in the country of destination) and other types of support. After the six-month period, they are again considered jobseekers. Jobseekers may be entitled to benefits meant to support job-seekers for the limited duration of time during which one can be considered a job-seeker. In contrast, the legislation of the country of residence applies when a person is not economically active, is economically active in two or more member states, or where a worker has several employers (Art. 13, Regulation 883/2004). Accordingly, non-active EU citizens who are considered *habitually resident* (as having their 'centre of interest')⁴⁶ in the destination member state, may access certain forms of social security (e.g. child benefits) in the new country depending on their status (e.g. student or pensioner) (Bruzelius et al, 2017).

⁴⁶ See Case C-90/97 *Swaddling* [1999] ECR I-1075, paragraph 29.

During the first five years of residency, EU migrant citizen's social rights are in other words starkly stratified by economic category. However, after five years of (lawful) residence member states *must* grant EU migrant citizens the same access to social benefits as nationals. This is a significant development that should not be understated, as permanent residents enjoy full social protection rights, including the right to social assistance.

In that *work* and *residence* are core principles for the application of the social security regulations, we can note a continuation since previous phases of social citizenship. First, work continues to be condition for full inclusion, just as in national welfare states. Second, residence has been important throughout history – perhaps unsurprisingly given its close connection to the territoriality of welfare schemes (Cornelissen, 1996). Throughout the centuries of poor laws, poor relief applicants should be resident in the locality in which they applied. This principle of local residence lived on in national welfare states – local residence has been crucial to qualify for social services and social assistance. National residence has also been pertinent to qualifying for residence based social insurances. With the EU, residence has by no means lost its relevance. On the contrary, for EU citizens, residence is part and parcel of social rights and both legal and habitual residence dictates to what and where an EU citizen should be entitled (c.f. Davies, 2005).

A significant difference, relative to previous phases, in the boundaries of social citizenship under the EU regulative framework is in contrast the role of the principle of *need*. During the poor law days, the (deserving) poor were the only recipients of social provisions. In welfare states, needs-based social assistance as mostly continued to be provided as a form of last resort. In the context of European social citizenship, need primarily has a *disentitlement function* and is core to limiting the right to reside

and to entitlements in the country of destination. Firstly, because EU social security coordination does not extend to all social security benefit schemes, and it continues to exclude social assistance, which is a benefit tied explicitly to need. And secondly, as EU migrant citizens who are economically inactive and lack ‘sufficient resources’ (Minderhoud, 2015) are more or less pre-empted from being recognised as legal residents. And dependency on social assistance (before having acquired permanent residence) may cost them their right to reside.

This comparative overview shows us that although physical borders (passport controls) have been largely removed for intra-EU migration,⁴⁷ administrative borders remain in terms of how social rights are funded and organised. At the same time, formal entitlements have, in parts, been decoupled from integrated redistributive spaces. The particular way in which boundaries and borders combine in the case of European social citizenship thus has, I contend, specific implications for the local-level focus of this thesis; it places renewed emphasis on internal migration, local borders and local welfare provision. I will discuss this in the following, penultimate section.

A thousand petty fortresses?

Given the multilevel structure of European social citizenship, we can only properly understand social citizenship in its most recent configuration with attention to the vast variations across (and within) member states. The EU has expanded considerably over time – the six pioneering states have grown to the current twenty-eight member states. This has not only meant a significant growth in the territorial size and population of the

⁴⁷ The UK, Ireland, Bulgaria and Romania are not part of the Schengen area. Also, in the wake of the 2015/16 ‘migration crisis’ in Europe, internal borders have in parts been reintroduced and in some instance extended for numerous limited time periods.

Union, but also a tremendous increase in the diversity of welfare institutions and levels of socio-economic development (Bruzelius et al, 2017; Hemerijck 2013: 290; Höpner and Schäfer, 2012; Scharpf, 2002).⁴⁸ To borrow the language of Marshall (1950: 12), the EU has thus far, brought a process of separation with the establishment of new supra-national sources of authority, but has only brought a partial process of geographical fusion in that it has not harmonised rights throughout the territory.

Freedom of movement within this type of social citizenship space has made internal migration salient in ways resembling the early days of public welfare provision. During the poor law days, stifling internal migration was one of the core aims of public social provision. As local communities constituted the main territorial border of welfare provision, determining in what locality (rather than what territorial state) a citizen was resident, was crucial. With national welfare states, the question of local and legal residence lost some of its salience. On the one hand, because national borders and attendant border controls made it possible to assume that national citizens and residents were legally residing in the country. And on the other, because mobility of national citizens within national borders meant mobility within the same institutional structure, where local provision (even if still limited to local residents) was mainstreamed and a national social safety net to fall back onto mostly existed (thus making local social assistance support less significant). With European social citizenship, a much greater difference in substantive rights exists between internal movers than when citizens moved within national (welfare) states (Bruzelius et al, *forthcoming*).

⁴⁸ A parallel can in fact be made to Germany, where a large and well-functioning economy was expanded to include a poor and underdeveloped economy (Sinn, 2000).

Due to large disparities in economic opportunities, internal migration has primarily occurred from Eastern to Western Europe – from the poorer member state to the richer (which also happens to coincide with the new and old) (Recchi, 2015). Free movement more generally, and access to social benefits specifically, has correspondingly been highly contested and politicised in many of the Western member states, where assertions of ‘welfare migration’ and ‘benefit tourism’ have been common – irrespective of the empirical evidence (Martinsen and Rotger, 2017; Spreckelsen and Seeleib-Kaiser, 2016; Dustmann and Frattini, 2014; Ruist, 2014). Accordingly, many member states have sought to limit EU migrant citizens’ access to social benefits in various ways (Kvist 2004). For example, as *legal* residence has become ‘a line of demarcation for entry into social Europe’ (Martinsen and Vollaard, 2014: 684), member states have used this venue to try to restrict access to social benefits (ibid, Veschuereen, 2017; Handelmaier and Blauburger, 2017; Ferrra, 2005: 136-8).

We see here a commonality with any multilevel citizenship structure: achieving an equal status – which is one of the core values of citizenship – is not always compatible with retaining local particularity and autonomy. Hence central authorities in democratic systems will work to lower internal borders and boundaries, while local authorities will often work to retain them, creating potential conflicts (Maas, 2017b). A difference in the EU compared to other federal states is, however, the complete absence of federal level substantive social protection policies.^{49,50} In light of how internal (national) migration lost its salience only with the evolution of national social protection schemes,

⁴⁹ For a comparison of federal welfare states, see Obinger et al. 2005.

⁵⁰ Although the EU structural funds are substantive funds being used for social purposes (which also have a redistributive component to them) (Allen, 2010), they do not imply any individual entitlement.

it is unlikely that internal migration will cease to be a source of controversy, unless schemes for social protection evolve at the EU level.

The current realities of free movement and social protection has made the local level salient in two ways. First, many residence-based rights are services provided by local communities, which generally struggle with insufficient resources. New local residents mean more pressure on publically provided goods, and heightened competition for these limited resources. Hence, it is in local communities that intra-EU mobility has the most immediate implications (Ferrera, 2017; European Commission/European Committee of the Regions, 2014). Second, local communities will be the first to face the issue of those EU migrant citizens who end up in precarity. With the institutional and socio-economic differences across the Union, combined with the limited access to social support in the country of destination, some EU citizens who use their freedom of movement end up in need of social support (Feantsa, 2012). First, these citizens' financial resources are unlikely to last long in the destination member states because of large differences between member states in prices and wages. Second, whatever exportable benefit they might have earned in their country of origin will be of very low value in the country of destination – precisely because of the substantive differences in social policies and levels of economic development across member states (Bruzelius et al., 2017). Thirdly, due to the limited conditions under which EU migrant citizens have access to social support in the destination member state, most migrant citizens in need of social support (during their first five years of residence in another member state) will not have recourse to the destination member state's social safety net. These citizens ultimately become a challenge for local communities of destination.

This reinforced significance and salience of local borders and belonging remind us of dynamics similar to those in the days prior to national welfare states when local bodies

had the ultimate responsibility to care for their own, and thus made efforts to keep others out and limit their own responsibility. Deepened European integration and the way (formal) European social citizenship is currently assembled thus, paradoxically, imply also a reinforcement of local borders. In the words of Walzer (1983: 39):

To tear down the walls of the state is not... to create a world without walls, but rather to create a thousand petty fortresses.

Conclusion: governance of rights at the local level

Echoing the emphasis on how rights must be understood in the specific context in which they are realised (Morris, 2002; Somers and Roberts, 2008), this chapter's outline of the formal demarcations of European social citizenship should have made clear that EU migrant citizens' substantive social rights can only be comprehended with attention to the complex multilevel system of regulation that constitute these rights (Carmel, 2013). As we have seen, rights regulation (i.e. the complex of institutions, policies and practices that shape rights) in the EU is produced by EU policies, 'jointly and concurrently' with member states' policies and institutions (ibid: 239). This complex of regulations and practices that shape the way in which EU migrant citizens' formal social rights translate into substantive ones will be the focus of this thesis – I will refer to this as 'governance of rights'.

Moreover, in light of the the above discussion of current formal demarcations of European social citizenship, my specific spatial focus in exploring governance of rights will be the local level. Not only would the local level appear to have regained salience with the creation of a supra-national social citizenship in Europe – this level is also crucial to understanding how supra-national social rights are substantiated. Many social services and some social benefits that cater to core social rights are provided and often

also defined at this level. This is also the level at which EU migrant citizens exercise their social rights. What is more, local actors' responses to any local pressures arising from the arrival of EU migrant citizens may well shape EU migrant citizens' substantive social rights.

The overarching research question for this thesis is therefore: *How are EU migrant citizens' substantive social rights governed at the local level?*

Chapter 3

Studying EU migrant citizens' social rights

An explorative, qualitative and comparative approach

In the previous chapter I argued that rights are constituted in multiple ways – normatively, legally and at the level of implementation – and that comprehending rights requires attention to each of these ‘registers’ (Somers and Roberts, 2008: 388; c.f. Carmel, 2013). My specific interest in this thesis is on how social rights are realised. More specifically, I am interested in substantive social rights of EU migrant citizens, which I understand to be their access to social provisions.

As discussed in the last chapter, the realisation of formal social rights is heavily dependent on the context in which they are accomplished. This is so, as the way formal rights translate into substantive ones can only be understood with attention to attendant regulations, institutions and practices that have bearings on the realisation of formal rights (Carmel, 2013). I refer to these overlapping regulations and practices as the ‘governance of rights’. Governance denotes a pluri-centric mode of regulation, with multifaceted interactions between public, semi-public and private actors and dispersed power (Fenger and Bekkers, 2007; Rhodes, 1997: 53). This can be contrasted with ‘government’, which implies a hierarchical mode of societal control, whereby the state is the main agent of collective power (Daly 2003: 115). Accordingly, power resides with the state and regulatory processes are uni-centric (Kersbergen and Waarden, 2004:

151).⁵¹ Attention to ‘governance of rights’ thus recognises the need to consider how specific contexts shape the way in which formal social rights translate into substantive ones (Carmel, 2013; Morris, 2002).

Due to the local levels’ salience for the demarcation of welfare inclusion, I have in addition chosen to focus on governance of rights specifically at this level. I defined the overarching research question of the thesis as: *How are EU migrant citizens’ substantive social rights governed at the local level?* This research question can be broken down into two slightly more precise – but still broad – research questions: (1) *What regulations and practices shape EU migrant citizens’ ability to exercise social rights?* (2) *What actors are involved in these, and how do these actors relate to each other?*

To answer these research questions, I take an explorative and qualitative approach. An explorative research design is one that allows for flexibility; one that leaves scope for theory-building throughout the research (Gerring, 2006: 39-41; George and Bennett, 2005: 111-112), and one in which iteration between findings and theory is at the centre of the research process (Lewis, 2003: 47-49). With this methodological approach, the thesis is mainly theory-building; its conclusions are indications of what may be interesting relationship for further research, rather than assertions of causal relationships.

How then, in line with this explorative approach, can we examine the local governance of rights – i.e. the attendant regulations and practices (i.e. the patterns of governance)

⁵¹ A possible alternative term would have been ‘in practice’. However, I find this too broad and indicating more of a focus on the micro-level of lived experiences than what this thesis will provide.

that shape EU migrant citizens' access to benefits and services at the local level? I propose an investigation of *barriers* that EU migrant citizens face when trying to access social benefits and services. This way, we can learn about both the policies and practices relevant to access to social rights, and who the actors pertinent to these processes are. Moreover, by looking at barriers we may also be able to observe ways in which these are overcome; not only exclusionary regulations and practices are part of the governance of European citizens' social rights, also inclusionary ones are – I shall refer to inclusionary factors as *facilitators* or *facilitation of rights*.

This requires qualitative, in-depth, research. For this reason, I have relied firstly on interviews, and secondly on document analysis, for data collection. In line with the explorative approach, I conducted my interviews with few pre-defined expectations, to allow concepts and themes to emerge through the research process rather than applying a fixed and predefined theory. This has, for example, meant that my theoretical framework evolved in the course of the data collection through continuous engagement with existing theory and empirical research (the iterative process). The last point is important, and it should be made clear that none of the above is to say that I started from a complete blank or used a grounded-theory approach. The research rather emerged from close conversation with literature on EU citizens' legal social rights and on welfare states and the EU. Other examples of implications of the flexible research design, is that it has somewhat altered initial data collection and interview sampling choices throughout the research, as my precise focus has changed slightly in the iterative engagement with emerging empirical findings (Robson, 2011: 133).

Moreover, I take a *comparative* approach. Comparison aids exploration and theory building in that it 'sharpens our power of description, and plays a central role in concept-formation by bringing into focus suggestive similarities and contrasts among

cases' (Collier, 1993: 105). More specifically, I use a comparative case study design, which can contribute to the inductive discovery of new hypotheses and enhances the solidity of the research findings (Pole and Lampard, 2002; Bechhofer and Paterson, 2000; Bryman, 2001; Collier 1993).

On a final note, before proceeding to the details of the study, I want to highlight that in exploring, and seeking to provide an account of, local governance of EU citizens' social rights, this thesis will be a largely descriptive endeavour – it concerns a 'what' question (Gerring, 2012). To pursue a descriptive study is surely to go against the grain of current social, and especially political, science where causal analysis would be the more fashionable option (ibid: 729-733). However, it is my firm belief that we generally need more accounts of *what* it is we are trying to explain, not least to support a discussion of what ought to be instead.

EU citizens' social rights at the local level

A crucial question is how we can study EU migrant citizens' substantive rights specifically. Not only EU citizens' will experience discrepancy between their formal and substantive social rights. Such inconsistency is the rule rather than the exception when we are speaking of positive rights (Goodin, 1986), as they are fraught with limited resources and discrimination in the entitlement testing process. In addition, EU citizens' have rights under the European non-discrimination principle (i.e. they must be treated as nationals), and the social benefits and services that EU migrant citizens may receive are the same as for others residing in the same member states. One might thus ask if there is reason to believe that barriers faced by EU migrant citizens are any different from those that *anyone* trying to access these services or benefits is faced with. I accept, and take as a starting point, that there will always be discrepancies and

discrimination involved in the exercise of social rights, the challenge for the present study is to try to identify practices that have bearings specifically on EU migrant citizens and their substantive social rights – in particular in contrast to nationals of the destination member state.

Another question is how social rights that are multi-level phenomena can be assessed by looking only at one of the constituent levels. By choosing to focus explicitly on the local level – by which I refer to the municipal level, which is made up by the district and council level – I do not suggest that the local can be detached from the national or European level. Quite the opposite, local actors are bound by policies that are made at national and supranational levels. Rather, this research is about how supra-local policies are shaped at the local level. My attention to the local level is thus not exclusive, but precisely an emphasis.

Case selection(s)

As already mentioned, this research is set up as a case study. This implies the intensive study of a few cases where the purpose is, at least in part, to shed light on a larger class of cases (Gerring, 2007: 20). The comparative case study is conducive to theory-building and helps structure the inductive process: first, one can look for within-case patterns and this way allow for unique patterns in each case to emerge before seeking to generalise these across cases. In a second stage, one can then search for cross-case patterns (Eisenhardt, 1989).

A ‘case’ denotes a spatially delimited phenomenon and comprises the phenomenon the study seeks to understand (Gerring, 2007: 19). My cases consist of member states: I want to understand how the local level in different member states – that is,

municipalities embedded in distinct institutional structures – shape EU migrant citizens’ substantive social rights. Accordingly, the municipalities that I have selected represent instances of the local level in each member state case.

The member state cases have been chosen according to a ‘critical case’ logic, whilst the localities where selected with comparability in mind. The term critical case is typically used in causality-oriented research. In this context, a critical case assumes two varieties: least-likely and most-likely. The least-likely case is one that is very unlikely to validate the predictions of a model or a hypothesis, whilst the most-likely case is one where validation is very likely (Gerring, 2007: 115). In research driven by the ambition to understand rather than explain, critical cases are those that demonstrate a phenomenon or position ‘dramatically’ or are pivotal in some way: the logic being that these cases will be ‘critical’ to any understanding offered by the research (Patton, 2002). As I will explain in detail below, I use the notion of critical cases to imply cases that are crucial to study how rights defined at the EU level translate into substantive social rights at the local level.

Moreover, for the sake of feasibility, I singled out municipal districts in each city on which I focused in the data collection. For the same reason, I also narrowed the research to specific ‘areas’ of social rights, by which I mean certain social policies. In the following, I will explain how I selected each case, and each aspect of these.

Member state selection

Germany and Sweden can be regarded as critical cases for a study that seeks to understand how rights defined at the EU level translate into substantive social rights at the local level due to their: (1) implementation capacity; (2) general relationship to the

EU and general attitudes to EU immigration; (3) experience of EU immigration; (4) and autonomy of local governments.

Implementation capacity and EU-attitudes

Both countries have a high quality public administration (World Bank, 2014). They also score among the top ten least corrupt countries in the world according to Transparency International's corruption index (Transparency International, 2015). It is reasonable to expect that these factors have bearings on the way in which formal rights translate into substantive ones: a high quality public administration combined with low corruption can be expected to make the implementation of law (both national and EU) comparatively efficient, making the discrepancy between EU law and national and local practice less extensive than may be the case in places where implementation capacities are weaker.

In addition, both countries can be viewed as 'pro-EU'. First in light of their general relationship to the EU. Germany was one of the founding members of the Union and remains at the centre of European politics. Only recently has a Euro-sceptic party been founded in Germany (*Alternative für Deutschland*), but its political influence remains limited. Sweden joined the EU only in 1995, but remains outside the Euro area. Today the overall political establishment is pro-EU, with the exception of the far-right populist party Sweden Democrats (*Sverigedemokraterna*). Both countries can moreover be seen as comparatively pro-EU in so far as they score above average in popular positive feelings toward immigrants from the EU (table 2). This can be contrasted for example with the UK (table 2), which could have been another country in which this study could have taken place given its experience of large numbers of EU migrant citizens (Ruhs, 2015). These comparatively positive views of EU migrant citizens may well shape how

EU (im)migration is addressed and make facilitation of rights access more likely (and attempts to limit access less likely).

Table 2: Feelings towards immigrants from the EU (2015)

	Total Positive	Total Negative
<i>Germany</i>	59	33
<i>Sweden</i>	79	18
<i>UK</i>	48	46
<i>EU 28 average</i>	51	40

QA10.1 Please tell me whether each of the following statements evokes a positive or negative feeling for you: Immigration of people from other EU Member States

Source: Standard Eurobarometer 8, Spring 2015.

The comparatively strong implementation capacity and positive attitudes towards EU migrant citizens make Germany and Sweden ‘most likely’ cases: we would expect the translation of formal rights into substantive ones to work better in Germany and Sweden than in many other EU member states. Put differently, if the formal, EU defined, rights translate poorly into substantive rights in these member states, then it is unlikely to work well in other member states.

Numbers of EU migrants and local government autonomy

The two countries are also critical cases in the sense of being pivotal cases to understand how rights defined at the EU level translate into substantive social rights at the local level: (1) because they are member states that have received comparatively much immigration from other EU member states, and (2) because their local governments enjoy strong autonomy.

It is obviously important that there actually are some EU migrant citizens in the member states selected for study – in fact, many of the new member states host hardly

any EU migrant citizens (Bruzelius et al, 2015b: 9). Most internal-EU migrants move within or to the old member states, to which Germany and Sweden belong (Recchi, 2015). Also, if we look at numbers of EU migrant citizens as a percentage of total population, Germany and Sweden are slightly above average amongst the old EU member states (Ruhs, 2015: 12). In 2013, EU citizens (excluding the reporting country) made up 3.7 per cent of the total population in Germany and 3 per cent of the population in Sweden (Bruzelius et al., 2015).

We should however not only take stocks into account, but also consider how these numbers changed in the recent years, as the magnitude of change is likely to be relevant to the political context. The level of change can be expected to have bearings on the political perception of EU immigration. The percentage change between 2004 and 2013 in the number of EU citizens was 14.76 per cent in Germany, and 28.64 per cent in Sweden (Ruhs, 2015: 12). In both countries, the increase is largely accounted for by the increase in citizens from the 2004 and 2007 accession countries (Bruzelius et al., 2015). It is relevant to consider arrivals from new member states specifically, as these – as I described in the previous chapter – come from an economically and institutionally rather different context. New arrivals are also the migrant citizens most likely to face difficulties in the member state of destination, as they try to establish themselves in the new member state.

Moreover, we should note that the majority of EU migrant citizens that move from east to west are of working age. Persons aged under 35 represent 70 per cent of the working-age citizens (between 15 and 64 years old) who have moved to the EU15 from the new member states of 2004, and 62 per cent of migrants from Romania and Bulgaria (Recchi, 2015: 56). Just 34 per cent of the labour force of the receiving countries is in

the same age range (European Commission 2011a: 265). These numbers are similar also for Germany and Sweden specifically (Bruzelius et al. 2014: 12).

Table 3: EU25 citizens in Germany and Sweden (excluding reporting country)

	2004		2013		% Change
	thousands	% pop	thousands	% pop	
Germany	2.332	2.83%	2.676	3.26%	14.76%
Sweden	207	1.38	266	2.79%	28.64%

Source: Eurostat (migr_pop1ctz, accessed in March 2015)

Table 4: EU8 citizens in Germany and Sweden (excluding reporting country)

	2004		2013		% Change
	thousands	% pop	thousands	% pop	
Germany	480.7	0.6 %	849.0	1.0%	77 %
Sweden	21.1	0.2%	70.7	0.7%	234%

Source: Eurostat (migr_pop1ctz, accessed in March 2015)

Next, with a focus on how substantive rights are shaped at the local level, the composition of local government is a crucial dimension to the selection of member states. Comparative analyses have placed German and Swedish local governments in the group of politically and functionally strongest local government systems in Europe (Hesse and Sharpe, 1991; see also Benz and Zimmer, 2010; 161; Seller and Lidström 2007). This implies that local governments have strong politico-administrative and fiscal capacities, and that their autonomy is constitutionally protected⁵² (Sellers and Lidström, 2007: 617). In this respect, Germany and Sweden are critical cases: with significant degrees of autonomy, local levels in each country can be assumed to influence the realisation of supra-national rights.

⁵² Sweden: *Regeringsformen* (1974:52) kap 14. Germany: *Grundgesetz*, Art. 28.

There are nonetheless some important differences. Contrary to Swedish local governments, German ones are supervised by a state (*Land*) level, which reflects that Sweden is a unitary, but greatly decentralised state, whilst Germany is a federal one.⁵³ What is more, whilst Swedish municipalities' autonomy to a large extent derives from their power to levy their own taxes (Wollman, 2004: 647), German local independence is in general limited by their reliance on federal funds (Conrad and Langenbacher, 2013: 322; Wollmann, 2004: 651). To make the German cities more comparable to the Swedish in terms of local autonomy – and to 'control' for the intermediary level in Germany – I have therefore selected city-states (*Stadtstaaten*) where city and federal level coincide and where the political and to some degree also the financial autonomy is more comparable to that of a Swedish municipality. At the same time, this means that Berlin and Hamburg – due to being states in a federal structure – have a level of legislative autonomy that Swedish municipalities do not.

Contextual variation: the welfare state

Whilst the two countries compare with respect to the factors that make them critical cases, they vary as regards their welfare state. This is important for contextual reasons: recall that the realisation of rights must be understood in the specific context in which they are implemented and exercised. To point to the following differences in each country case's welfare state is thus to highlight potentially relevant – in the light of the previous chapter and the discussion of what social rights are – contextual factors. To begin with, Sweden is a residence-based and Germany a contribution-based welfare

⁵³ Although there exists a second sub-national level in Sweden – the county councils (*landsting*) – there is no hierarchical relationship between these and the local governments/municipalities (*kommuner*).

state (Huber and Stephens, 2001; Esping-Andersen, 1990).⁵⁴ The policy areas that I focused on in my data collection (which will be clarified below) are not social insurances, which is where the residence/contribution distinction is most relevant. For this reason, I do not anticipate differences in access to social rights based on this variation in the country cases' welfare states. Nonetheless, these distinct regime characteristics may shape the institutional framework of social rights more generally, and thus the achievement also of social rights that are not social insurance rights.

Two additional dissimilarities between the German and Swedish welfare state are worth noting as regards my concern with substantive social rights, both of which were discussed at more length in the previous chapter. First, the two countries differ in the degree to which social rights are indeed legal, claimable, rights: in Germany, an individual claim to social assistance derives from the German constitution, whilst social provisions generally have a weak rights-character in Sweden. Second, there are substantial differences in how each welfare state is organised. In Germany, welfare provision to a much larger extent than in Sweden involves non-state, civil society actors. The German state typically finances such organisations, which according to the principle of subsidiarity have priority over the state as welfare providers. Whilst the residence/contribution distinction is often highlighted in the context of the inclusiveness of welfare states and migration (Martinsen and Rotger, 2017; Ruhs, 2015; Banting, 2000), the implication of how welfare provision is organised has to my

⁵⁴ To contrast with another member state, we can again mention the UK which is a largely resident based welfare state. However, based on spending per capita, Sweden and other member states with welfare systems largely built on the principle of universalism, are more generous than Britain (Bruzelius et al, 2015b: 4-5). Overall spending on welfare is also lower in Britain than in Germany and Sweden (and a number of other rich EU member states) (Eurostat: dataset: *spr_rec_sumt* [accessed September 2016]). Germany and Sweden are, at least in terms of welfare spending, more comprehensive welfare states than the British one, and thus also more comparable.

knowledge rarely been considered with respect to (im)migrants' social rights. This despite that organisation, as I argued in the previous chapter, constitutes one aspect of how social rights are demarcated.

City and district selection

For each country, I have selected two localities – two city municipalities. The reason for looking at *two* cities/municipalities in each country is to be able to spot any patterns in local governance. With only a single locality for each country, it would be more difficult to judge whether observed factors are unique to the single municipality or if they can be observed across the country. Two cities can in contrast indicate some degree of internal consistency (or inconsistency) in each country case, and repetition suggests that the identified factors are not spurious. The municipalities and municipal districts have been selected to create conditions for comparability.

The municipalities have been chosen as they are major cities in each country, and because they – as a consequence of being major cities offering employment opportunities – are major destinations in each country for EU migrant citizens. I thus understand these municipalities to be instances of the same phenomena – the local level in each country. Stockholm is Sweden's largest city (Stockholm city region: 2 277 850 inhabitants, Stockholm municipality: 939 200 – in 2017) and Gothenburg the second largest city (Gothenburg city region: 1 001 000 inhabitants; Gothenburg municipality: 558 600 – in 2017).⁵⁵ Correspondingly, Berlin is Germany's biggest city (3 520 000 inhabitants in 2015) and Hamburg the second biggest (1 787 400 inhabitants in 2015).⁵⁶

⁵⁵ Statistics Sweden, SCB.

⁵⁶ Federal Statistical Office of Germany.

In terms of EU migrant citizen populations, it must first be noted that many of those whom are of specific interest to my research – newly arrived and not yet settled EU migrant citizens – will often not be detectable in official migrations statistics. In Sweden, a person is only registered as an immigrant if the person's intention is to stay for at least one year. This means that those coming to seek work or working for shorter periods are not included in the population statistics (Gerdes and Wadensjö, 2016: 127). This issue applies also to German statistical data, although the issue is here further complicated by the existence of two relevant statistical sources on non-Germans living in Germany. Data from the Central Register of Foreign Nationals (*Ausländerzentralregister*, AZR) cover those who stay in Germany for longer than three months, and are based on information from various sources (Destatis, 2016: 4). In contrast, data from local Population Registries (*Einwohnerregister*) are based on local residence registrations and cover also those who have lived in the country for less than three months. At the same time, because people rarely de-register when they leave the country, the population registry tends to overestimate the number of people residing in Germany (Demos, 2008). The register data also do not cover those who have not registered. As is evident in table 5 there are large discrepancies between the two sources. The federal German statistical agency relies on the AZR, whilst the German states report population numbers based on the Population Registry. As the Swedish population data very likely also offer only a very conservative estimate – given the reliance on residence registrations that demand one year of residence – I take German federal statistics to be those most comparable to the Swedish data. I therefore rely primarily on data from German federal statistics, but also take into account regional statistics (indicated in brackets in table 5).

Aside from the problem of who is covered in statistical data, there are additional difficulties with availability of data. Whilst local level registration data is easily accessible from the German Federal Statistics Office, Statistics Sweden (the official statistics agency) charges large sums to provide info on local level registrations for reasons of confidentiality.⁵⁷ The Swedish statistical agency was kind enough to provide me with data on resident EU citizens for Stockholm municipality for a single year (2014), but I do not have local level data for Gothenburg. However, given that Gothenburg is the second largest Swedish city, and cities – with their comparatively greater job opportunities – tend to be migrant (both internal migrants and immigrants) magnets, we can expect that Gothenburg is one of the main destinations for EU migrant citizens arriving in Sweden.

In Germany, Berlin and Hamburg are amongst the German municipalities that have seen the largest increases of EU citizens in recent years (BMI and BMAS, 2014: 24). Indeed, immigration from new EU member states is largely concentrated in a few communities (IAB, 2015: 3), and Berlin and Hamburg are some of those with the largest populations of EU citizens from new member states (Hanganu et al, 2014: 37).

⁵⁷ Population statistics are available for the municipal level by country of birth. This measure is sometimes used in other research (e.g. Zelano et al, 2014). This is unfortunately not a very useful measure, in particular because Sweden has a large long-term resident Finish minority (making up close to 25 % of all those born in an EU country in 2014).

Table 5: EU migrant citizen population¹ per city in 2014.

	EU citizens (excluding German/Swedish citizens)		Old EU member states (EU 15)		CEE Member States ⁵⁸		Bulgarian and Romanian citizens	
	Absolute nbrs	% pop. ²	Absolute nbrs	% of pop.	Absolute nbrs	% of pop.	Absolute nbrs	% of pop.
<i>Berlin*</i>	141 498 (234 941)	4.1	75 630	2.2	55 551	1.6	11 602 (35 088)	0.3
<i>Hamburg*</i>	90 468 (102 135)	5.1	47 633	2.6	27 606	1.5	9 484 (13 580)	0.5
<i>Gothenburg</i>	-	-	-	-	-	-	-	-
<i>Stockholm</i>	42 378	4.6	29 321	3.2	12 592	1.4	2 275	0.02

Source: Germany: Federal Statistical Office (Destatis), 2014; Hamburg/Statistik Nord, 2014 and Statistik Berlin-Brandenburg, 2014. Sweden: Swedish Statistics Agency [SCB].

* Number without brackets: data from the AZR. Number in brackets: data from the Population Registries

1. Registered EU persons with (non-German/Swedish) EU nationality.
2. For Stockholm – the population referred to is that in Stockholm municipality, rather than the greater Stockholm region.

Regardless of the exact number of EU migrant citizens in each city, these cities are the biggest cities in each country and as such key cities of immigration (Collyer, 2015; Shiller and Caglar, 2010). Finally, with respect to levels of EU migration, we should note that the data presented here are from 2013-2014. The research was designed in late 2014/early 2015 and hence these were the most recent data available to inform the design. Most data collection was also carried out in late 2015-early 2016. Since then,

⁵⁸ CEE refers to Central Eastern European member states, and includes Estonia, Latvia, Lithuania, Czech Republic, Slovakia, Hungary, Poland, Romania, Bulgaria, Slovenia, Croatia.

there have been significant increases in numbers of EU migrant citizens, especially to Germany from Bulgaria and Romania (Destatis, 2016).

Municipal districts

Finally, municipal *districts* were selected according to where the highest proportion of (non-national) EU citizens are found in each city. For Berlin and Hamburg, I could identify these using statistics from local statistical authorities (Hamburg/Statistik Nord, 2014; Statistik Berlin-Brandenburg, 2014). In Berlin, I focused on Neukölln and Mitte, and in Hamburg I focused on Willhelmsburg and Altona. For Sweden, I identified them through initial interviews, as statistical data was not available. In Stockholm, I focused on City and Norrmalm/Östermalm, in Gothenburg on Centrum. However, in pursuing the research it was not always possible to follow the district selection (in either country), and at times – e.g. when I could not establish contact with the preferred respondent – I had to broaden my scope and seek contact with the equivalent respondent from another district.

Social policy areas

When designing the study, I focused on a couple of social provisions closely tied to the local level – benefits that are distributed (and thus accessed) and/or funded locally, and services that are provided and/or funded locally. This is to say that these policy areas guided my selection of certain categories of interviewees (public administrators and welfare providers), and that I prompted interviewees about barriers specifically tied to these social policy areas.

Before outlining the policy areas, I want to stress that, in line with the explorative approach of this research design, the precise focus of the research evolved along with the data collection. The focus on specific social policies has obviously shaped the

findings and the focus of the final chapters. However, in conducting the research, it soon turned out that the most relevant and more intriguing processes were not tied to specific policies – even though the policy focuses provided venues for examining issues of broader resonance in detail. For example, the ability to establish habitual residence – which chapter four is about – turned out to be a barrier affecting multiple rights. Therefore, the reader should not be surprised to find that the chapters do not have a clear focus on, nor are organised according to, the policy areas described next.

Specifically, I focused on housing, employment services and social assistance. The motivation for doing so was that these are particularly important for newly arrived EU citizens, and of specific relevance to younger persons. As mentioned earlier, EU migrant citizens tend to be young, hence social rights such as pensions or long-term care are of much less relevance.

When EU citizens arrive in a new country, one of their fundamental needs is of course housing. It has been shown that the availability of decent and affordable housing constitutes a social problem for a significant proportion of EU migrant citizens in several countries (Mostowska, 2015; Bruzelius et al, 2015a). By housing as a social policy area, I refer to social housing, housing benefits as well as access to shelter for homeless.

The right to work – as an employee or self-employed person – in another member state is a core right of EU citizens.⁵⁹ Taking up or seeking employment is also the main reason for mobility within Europe (ICF/GHJ, 2013: 13).⁶⁰ Finding employment is

⁵⁹ Regulation No 492/2011, para. 2 and 4.

⁶⁰ For example, in a British study from 2013, 67 per cent of EU migrant citizens stated that their main reason for coming to Britain was for work (compared with 22 per cent for formal study and 8 per cent

furthermore crucial to retain the right to reside beyond six months (the time which job-seekers residence is limited to in most countries), and being a worker is key for qualifying for equal (to nationals) access to social benefits in the destination member state. And again, because EU migrant citizens tend to be of working age, work, be it employment or self-employment, is crucial to them. I therefore look at EU citizens' ability to use employment services and additional sources of support to find employment. My interest is in access to the labour market, as it is crucial for social rights access, and not in the rights attached to employment itself: i.e. employment conditions, minimum standards, labour market regulation etc.

Finally, social assistance is an important benefit in that it is excluded from the coordination framework and is closely connected to the right to reside. As I explained in in the previous chapter, applying for social assistance before having accrued permanent residence as an EU migrant citizen, can put the migrant citizens' right to reside into question. At the same time, it is a benefit that exists to support those in need and to prevent people from falling into severe destitution, and one that could in principle be important to support EU migrant citizens before they fulfil the criteria for other (contribution-based or non-contributory) benefits. Here it should be noted that social assistance and support to finding employment are linked in Germany; when you receive social assistance (Hartz IV), you also receive support to find employment.

to join/accompany a family member). Of those who came to work, around 60 per cent had a definite job and 40 per cent were looking for work (HM Government, 2014: 33)

Data

Timeframe

The main part of the data collection was carried out in 2015-2016. This timing is motivated with the period between 2007 and today being critical years for research into EU migrant citizens' substantive social rights. First, in these years intra-EU migration increased. Until the early 2000s intra-European mobility remained rather low and issues relating to EU citizenship and social rights were limited to a very small minority of the EU population. The share of intra-EU migration has, however, doubled as a result of the accession of the CEE member states in 2004 and 2007, the severe economic crisis, and the ensuing high youth unemployment in Southern Europe (Barslund and Busse, 2014; European Commission, 2014; ICF/GHK, 2013: 20). Second, the latest accession countries – Bulgaria and Romania – have further increased the diversity of member states' welfare institutions and socio-economic systems (Bruzelius et al, 2016; Höpfner and Schäfer, 2012; Scharpf, 2002), which – as I argued in the previous chapter – is significant for substantive social rights of EU migrant citizens, and the implication thereof for local authorities.

Interviews

My main sources of data have been interviews. This raised, to begin with, the question of who the best respondents might be, in order to assess local governance of rights. An obvious group would be EU migrant citizens themselves, the challenges that they experience as they move and seek to exercise their rights could tell us about factors hampering or facilitating access to substantive social rights.⁶¹ However, my concern is

⁶¹ Recent research concerns itself specifically with the experience of the migrant (Ehata and Seeleib-Kaiser, 2016; Shutes and Walker, 2017), and how the EU social security coordination is constituted in

not to map the precise universe of barriers⁶², but rather to uncover more common issues that affect many migrant citizens. Also, I am interested in governance of rights, and the institutions and actors surrounding the EU migrant citizens. For these reasons, I have opted for *interviewing public administrators, welfare providers and advocates* (migrant support organisations).

It is true that also interviews with migrants themselves could reveal common barriers and critical institutional factors. However, information about prevalent barriers can be gained also from intermediaries such as migrant support organisations who possess an understanding of common problems and how they apply to various groups of migrants. It is likely that they also have a more comprehensive knowledge of institutional frameworks, regulations, etc., with bearings on substantive rights. Similarly, welfare providers can clarify any difficulties arising with respect to EU migrant citizens' claim to social rights, and explain relevant organisational practices. In short, it is likely that public administrators, welfare providers and advocates have a more 'holistic' understanding of the barriers that newcomers encounter, than the individual migrant citizens themselves. Finally, while interviews with migrants could possibly have served to triangulate findings obtained through my other interviews regarding barriers and forms of facilitation, this would not only have entailed a very large number of interviews but would also have introduced significant language barriers. Instead, by using information provided by different categories of interviewees – with different

lived cross-border lives. Also see the ongoing research project 'TRANSWEL', part of Welfare State Futures –NORFACE.

⁶² Also, what constitutes a barrier is something that ultimately depends on each individual.

perspectives and biases – as well as available policy documents, a fairly nuanced picture of main barriers should have been achieved.

My interviewees therefore included public administrators⁶³, welfare providers and *advocates*. These include both *governmental* and *non-governmental* actors, and are actors involved in the organisation and delivery of the social policies of interest, or in addressing existing barriers to rights. Specific actors may at the same time be classified as belonging to more than one type of stakeholder. Especially welfare providers and advocates, and local government and welfare providers overlap.

The governmental actors include *public administrators*. Relevant public administrators may be located at both the municipal district and council level. The next group, *welfare providers*, deliver welfare and can be both governmental and non-governmental actors. *Advocates*, in turn, are stakeholders which do not necessarily (although they could) have any formal responsibilities for the delivery of social rights, but which are involved in the enforcement or facilitation of rights. These can for example be migrant-interest groups.⁶⁴

To select respondents, I used non-probability sampling (or ‘purposive’⁶⁵) sampling (Patton, 2002). The point of this selection strategy is not to generate a statistically representative sample, but one which represents certain characteristics which enable

⁶³ Politicians could also have been defined as a relevant local government actor with significant influence over the governance of rights. However, I have excluded politicians on the grounds that even if they do have knowledge of barriers or other important aspects relating to the governance of rights, such information can also be acquired through interviews with other actors.

⁶⁴ Due to my use of purposive sampling, combined with snowball sampling, I have also conducted a number of interviews with additional actors at the national level, and from pan-local organisations.

⁶⁵ Some maintain that ‘criterion based’ is a more appropriate term than ‘purposive’ because all sampling is purposive (LeCompte and Preissle, 1993). Purposive is nevertheless the term most commonly used in the literature (Ritchie and Lewis, 2003: 78).

detailed exploration and understanding of my research questions. The logic and strength of purposeful sampling lies in selecting *information-rich cases* (ibid: 169). I used positional criteria (Tansey, 2007: 19-20) and snowball (or chain) sampling (Patton, 1990) to select the precise individuals to contact for interviews. More precisely, I identified my first respondents based on their occupational position, and based on these interviews I could identify further relevant interviewees. In addition, as the research evolved, I added a couple of new respondents and carried out a number of follow-up interviews with already interviewed candidates. In some cases, I have interviewed two persons from the same organisation, the reason for this being that they possessed distinct expert knowledge.

The interviews were semi-structured. I used the same standard topic guide for all interviews and added questions depending on the respondent's specific expertise. I also tried to find out as much as possible about the interviewee's work with EU migrant citizens before the interview and added or tweaked questions accordingly. The semi-structured design left scope for non-predefined follow-up question, allowing me to explore interesting responses. The standard/basic topic guide is attached in appendix 1.

In a few cases I was unable to get an interview in person, but was either able to ask a shorter set of questions over the phone or send selected question as a questionnaire (based on the standard template for interviews) by email. I also used phone (and in some cases Skype) interviews for follow-up interviews, and where I was able to establish contact only after having completed the fieldwork in the specific city. Questionnaires by email were in turn mainly used when the respondent was a person with specific knowledge of a specific detail (for which info was not available elsewhere), and where the main purpose was to understand this in more detail. In a few cases, however, it was a matter of compromise – a few of those I contacted based on

my selection criteria for full interviews were reluctant to meet, but were willing to reply to a set of questions – e.g. the Jobcenter in Berlin. In total, 43 interviews were conducted across the two countries (excluding follow-up interviews) – as listed in appendix 2.⁶⁶ In appendix 3 is also provided a list clarifying in-text references to each interview.

Documents

In addition to interviews I used documents as data sources. I included local and national policy documents and reports; internal documents and reports from interviewed stakeholders, and newspaper articles (which are used primarily for illustrating various issues and events).

Policy documents and reports were identified through interviews (where interviewees have alluded to public policy documents and reports), through the reading of the latter material (which reference other documents), or through topical searches in e.g. local government and national data bases. Internal documentation from stakeholders were

⁶⁶ Readers might think that the final sample of interviews could give rise to biased conclusions. It exhibits a couple of critical limitations: 1) the single interview from a German jobcentre and 2) and the single interview with local government representatives in Hamburg. Because of the first issue, my understanding of the Jobcenter is primarily based on interviews with NPVOs and document sources. This has implications for my conclusions regarding barriers to exercising rights, as discussed especially in chapter five, but also chapter four. A better understanding of the Jobcentres' perspectives would likely have provided more nuance and a better understanding of certain problems. At the same time, I used the interviews primarily in order to gather information about factors shaping access to rights – in this respect it can be noted that for the Swedish case, the information I gathered through interviews with the Employment Agency (which would be equivalent to the German Jobcenter) was confirmed in interviews with Swedish NPVOs.

Second, one might worry that the lack of interviews with the Hamburg city government has implications for chapter six in particular, as this chapter considers how certain groups of EU migrant citizens are perceived and addressed by local governments. While I was able to interview key public administrators both at senate and district level in Berlin, I have not been able to interview their counterparts in Hamburg. Therefore, my knowledge of whether the Hamburg local government views certain groups of EU migrant citizens as immigrants or migrants is very limited and based on the understanding of interviewees from Hamburg based NPVOs. Nonetheless, the absence of integration support targeting low-qualified EU migrant citizens, or any general integration framework, can be established without having recourse to such interviews, and it confirms a clear difference between Berlin and Hamburg which also motivates the more intensive engagement with Berlin.

accessed either through their webpages or were given to me during the interviews. Newspaper articles were identified through topical searches in online newspaper archives for phenomena observed or described by interviewees.

Data analysis

I analysed my collected data using thematic analysis (Guest et al., 2012). The point being to inductively⁶⁷ identify themes and their substantive content, as well as different dimensions of the themes (Ritchie et al, 2003: 237). Before I describe how I conducted the analysis more precisely, it is important to note that I am using the interviews, and my material at large, for the purpose of *describing governance*, not to describe or understand human experience. Of course, interviewees convey their subjective and biased perception of the phenomena I am interested in. However, the aim is not to demonstrate how the interviewees perceive local governance of social rights, but mainly to use their accounts to describe governance of rights. And when I, in chapter six, speak of ‘perceptions’ by local governments – I refer to official standpoints that are evident also in policy documents, rather than individual local bureaucrat’s personal perceptions.

The processes of collecting, analysing and making sense of qualitative data is inherently iterative. That is, it does not proceed in a linear fashion (which probably no social science research does). Although I here describe the analytical process of my

⁶⁷ A clear separation between inductive and deductive is not possible. My reading of the collected data, and the themes I developed out of this, are of course tainted by my familiarity with, and preference for, certain academic literatures and theories.

work in a fairly clear sequence, these steps were in reality overlapping and in constant conversation.

The starting point for analysing my interview data was my analytical objective – my research question (‘How are EU migrant citizens’ substantive social rights governed at the local level?’). I read through my first round (which I later complemented) of completed and transcribed interviews with this in mind and noted themes relating to the research question. Specifically, I looked for patterns, or repetition, in the material (Ryan and Bernard, 2003). The themes that I finally selected are repetitions that correspond with the analytical objective.

Parallel to re-reading my collected materials and identifying themes, I also revisited existing research to consider how my inductive themes correspond with theoretical ideas. Through this iterative conversation, I developed the content of the comparative chapter (chapter two). This chapter has helped me select, out of the inductively identified themes, the specific themes of my empirical chapters.

Having outlined the main themes, I identified codes. Codes embody a greater level of abstraction than themes, and a single theme can generate multiple codes (Guest et al, 2012: ch. 3). The emphasis of the thematic analysis, the way I have conducted it, is on the way in which meaningful codes are combined to generate thematic representations (ibid). Although I had identified the key themes prior to the codes, the coding itself helped refine and modify the already identified themes. To be more concrete about this process: let me use the first chapter – that on residence – to clarify how the data analysis proceeded. I started the chapter from the observation of ‘residence as (pre)condition to social rights entitlement’ being a key theme in my data. In a first step, I then distinguished codes based on the conceptual chapter pertaining to residence and

substantive social rights for EU citizens (for example: ‘entitlement with/without established residence’; ‘establishing residence’). I then read through my transcribed interviews anew, to familiarise myself with them from the point of view of the residence theme per se. Through this read-through I also identified a couple of additional codes and sub-codes (e.g. sub codes for ‘establishing residence’: i) housing, ii) registration etc.). Subsequently, I used the defined themes to code the interviews in Nvivo. Using Nivivo essentially helped me organise the material more effectively. In addition, I used document material (i.e. not interviews) to clarify and expand on issues identified in the interviews.

I clarify the specific research questions and methods for each chapter in the respective chapter.

Limitations

As is always the case with research that engages few cases, the generalisability of the conclusions drawn from the study will be necessarily limited. But although the results of the study will not be generalisable in the strict sense of being statistically representative, there will be room for more general assumptions. In so far as the matters engaged with are phenomena not confined to Germany or Sweden, the implications may hold also for other EU member states.

Similarly, the small number of cases may have implications for the internal consistency of the study. I use the four cities as instances of the local level in two member states, and accordingly make inferences from these particular cities for each country case. Although there is reason to believe that many of the factors that I ultimately identify as shaping social rights apply across localities in each country – because they pertain to

structures that apply across local levels in each country case –, it is of course difficult to predict whether the conclusions hold true across *all* municipalities, or whether a different sample of cities would have altered my conclusions.

Nevertheless, if we think of validity beyond statistical representativeness, validity in qualitative research is arguably best measured as ‘face validity’. That is, we must rely on our own judgment and that of other researchers, based on the information available – to decide whether or not what we do and have done, and the findings we present, are valid (Guest et al., 2012). In qualitative research, the *transparency* of the research process is therefore critical to making a convincing case for the validity of one’s findings and interpretations (Miles and Huberman, 1994, p. 278). That is, rigour can be achieved by being reflexive and transparent about one’s approach (Moravscik 2012; Schwartz-Shea and Yanow 2012, esp. ch 6). Although explicit documentation and description of procedures does not guarantee validity, it does provide information for others (as well as the researcher/data analysts themselves) to make informed assessments regarding the credibility of the research findings and interpretations. I hope that the explanation provided in this chapter, and in the methods parts of chapter four, five and six – the chapters that build on the collected data – clarifies how the research was conducted, and illuminates the research process behind it.

Chapter 4

Residence-based conditionality: habitual residence in practice

Chapter two, which situated this study in a historical and comparative context, highlighted the significance of residence for social rights' entitlement across time and space. Residence is a welfare entitlement principle associated with universalism and inclusiveness. In particular, it has been deemed the most inclusive welfare entitlement basis with respect to immigrants' social rights (Sainsbury, 2012). At the same time, residence is by definition exclusive: it is closely connected to territorial boundaries and relies on the ability to distinguish between residents and non-residents.

For EU migrant citizens, residence matters not only in that the *right to reside* in another member state is core to having social rights in that member state, but also as *habitual residence* is an important principle determining eligibility. The latter refers to where one has one's usual residence, which is an eligibility criteria governing access to social schemes tied to residence and an important principle in the EU social security coordination framework. Previous research has been much concerned with the first form of residence – EU migrant citizens' right to reside (Heindlmaier and Blauburger, 2017; Ruhs, 2015; Martinsen and Vollaard, 2014; Ferrera 2014, 2005), but have given less attention to habitual residence. My research however revealed that being (officially) recognised as (habitually) resident is a major barrier for EU migrant citizens access to social rights in both countries. In this chapter, I examine this in detail.

Specifically, I argue that we can distinguish, in how member states determine the habitual residence of an individual, between legal definitions of residence and formal,

or administrative, aspects thereof. Through a comparison of EU level definitions of residence and national definitions plus formal aspects of residence, I demonstrate how national notions of residence and the means used to implement these in both Germany and Sweden have significant consequences for EU migrant citizens' substantive social rights. In particular, I demonstrate how administrative aspects of how residence is determined – namely residence registrations – are used well beyond evaluating individuals' entitlement to specific benefits, impacting for example on EU migrant citizens' ability to find employment and to qualify for the status of worker (under which they are fully entitled to social rights in the destination member states). This way, I argue that habitual residence is both a *direct* and *indirect* form of conditionality shaping EU migrant citizens' access to social rights.

Free movement, social rights and types of residence

As the provision of social rights is highly territorialized (Cornelissen, 1996), migrants' access to social benefits and services is fundamentally shaped by the immigration policy of nation states and their welfare systems (Sainsbury, 2012). A precondition to (all) migrants' social rights is thus their right to enter and reside in a specific (welfare) state. The welfare schemes of different countries in turn determine what benefits are available and who is entitled to them under what conditions. The latter is to say that social benefits are linked to specific entitlement criteria, e.g. categorical conditions (e.g. for pensioners or children), means-testing, periods of contribution, or conditions of conduct (Clasen and Clegg, 2007). For migrants, the right to reside acts as an additional, two-pronged, conditionality for welfare access; it conditions the ability to enter the territory and to qualify for territorially bound benefits, and may also be a direct condition for social entitlements.

With respect to the right to enter and reside, the right of all EU citizens to enter another member state and take up residence there is unique in contrast to other groups of migrants (Ruhs, 2015). Once EU citizens enter a member state other than that where they hold national citizenship, they may qualify for the EU non-discrimination principle and accordingly be entitled to social benefit in the country of destination. A great deal of importance has thus rightly been granted to legal residence as a way of regulating EU migrant citizens' access to social benefits, and expanding or contracting social Europe, at the EU- (Ferrera, 2005) and member state level (Heindlmaier and Blauburger, 2017; Shutes, 2016; Ferrera, 2014; Martinsen and Vollaard, 2014).

However, with a focus on legal residence one easily overlooks the wider application of residence as a criterion for welfare access, and its implications for EU migrants' social rights. As discussed earlier, not only entry into welfare states, but also the specifics of different welfare schemes shape migrants' rights. *Being resident*, or habitual residence, is an important principle in connection with welfare entitlement both at the member state level and EU regulation conditioning EU citizens' social rights. Equal treatment with nationals of a certain member state under the principles of non-discrimination and residence requires not only physical presence (exit and entry), but also habitual residence (or settlement). The focus of this chapter is consequently on habitual residence.

Determining place of residence

Being resident is distinct from legal residence (or the right to reside).⁶⁸ Whilst legal residence refers to control of territorial borders, being resident is a concept that has an

⁶⁸ Although an assessment of being resident may also involve the assessment of legal residence (Stendahl, 2016: 235)

administrative function. Typically, it is used in order to determine the rights (e.g. entitlement to publically funded goods) and obligations (e.g. tax duties) between the individual and public authorities (Davies, 2005). As such, not only national, but also local residence matters to determining residence; most public services are delivered and funded locally and hence restricted to local (tax-paying) residents. Equally, being resident in the country can imply, for example, access to residence-based social insurance schemes that are territorially confined to the state, and obligations to pay national taxes. In any one territory, multiple definitions of residence can co-exist, for the purpose of different areas of application.

Importantly, being resident is not akin to physical presence, nor does citizenship or nationality confer residence. Rather, residence is a legal concept that derives its meaning from stipulations of the law, court judgements, and other legal sources. A resident is accordingly a person recognised as resident by state authorities (Beckman, 2012: 21). Physically present persons may thus fail to achieve the legal status of residence if authorities refuse to grant it to them. Irregular immigrants are for example physically present but rarely considered residents (ibid). Conversely, a person who is not physically present can be a resident, since one often maintains the status of being resident for some time after leaving the country. Nonetheless, that person must at some point have been physically present, as residence is established by reference either to past time of physical presence, or by reference to the intention of remaining present in the future (Stendahl, 2016; 236; Beckman, 2012: 22).

In establishing whether a person satisfies these conditions, a number of things may be taken into consideration, including for example the duration of the stay, the intention to stay ‘indefinitely’ and an assessment of the place of principal interest. Aside from *legal definitions* of residence, there can be ‘some *formal aspect* of residence, an

element of *registration* that functions as one aspect (or the sole determinant) of resident status' (Stendahl, 2016: 235, authors' italics). As residence is not only significant for the purpose of benefit entitlements, but also for determining rights and obligations more broadly, there is a general need for states to be able to distinguish between residents and non-residents. This requisite typically implies distinct administrative tools and practices; think for example of identity cards, passports and ID numbers used to distinguish the status of individuals (Torpey, 2000).

Different countries may employ different definitions of residence for the purpose of social rights entitlement, these must however be compatible with EU law and, in particular, with the basic principle of equal treatment and non-discrimination of EU migrant citizens. EU law itself contains definitions of habitual residence for the purpose of applying the EU social security regulation. But whilst both the EU and the member states devise legal definitions of residence, only the latter need concrete ways of implementing these definitions (i.e. the formal, or administrative, aspects of determining residence). We are here reminded of research that emphasises how member states' implementation of EU law shapes the boundaries of social Europe and EU migrant citizens' social rights. Which is to say that the precise way in which various conditions for eligibility are administrated may create de facto discriminatory effects, despite the formal ambition of equal treatment (Martinsen, 2011: 947). Accordingly, 'inner' administrative boundaries may create new boundaries in the face of shifting 'outer' boundaries of welfare (Martinsen and Vollaard, 2014; see also Blauburger and Schmidt, 2014) for the purpose of welfare access, as they are the ones who provide social benefits and services. It has for example been highlighted how registration certificates that confirm the right to reside can be used to govern EU citizens' mobility and benefit access (Heindlmaier and Blauburger, 2017). How administrative aspects of

habitual residence shapes the social rights of free movers has however not received explicit comparative attention.

We might expect differences in how member states determine residence depending on their welfare systems and the degree to which these are based on residence. Welfare states characterised by residence have been said to be the altogether most inclusive welfare states when it comes to granting migrants social rights (Sainsbury, 2012). It has also been suggested that such welfare states face more challenges from free movement than other welfare states because EU citizens can access benefits before they have contributed (Erhag, 2016; Martinsen and Rotger, 2016; Ruhs, 2015) – which may generate incentives to apply stricter definitions of residence for member states characterised by residence-based social schemes.

Building on these observations, I explore in this chapter *how habitual residence is defined and implemented in Germany and Sweden and what implications this has for EU migrant citizens' social rights*.

Methods

I base the analysis in the remainder of the chapter on the distinction between *legal definitions* and *formal/administrative* aspects of residence. Although my focus is on the administrative aspects of residence, this cannot be examined without attention also to the legal definitions of residence that they convey.

In order to understand how national definitions and formalities of residence shape EU migrant citizens' social rights, we must consider how residence is defined both at the EU and member state level, as EU migrant citizens' rights to access social provisions in the member state ultimately stem from the supra-national level. I thus start with a

section that examines how the EU defines residence, and recollect in what contexts it is relevant to EU migrant citizens' social rights.

Following the EU section, I look at Sweden and Germany respectively, and explore first, national definitions of residence and formal aspects thereof. Here, I demonstrate how important national definitions of residence are tied to specific administrative (formal) aspects, namely residence registrations. I then consider the implications of these definitions and administrative aspects for EU migrant citizens' social rights. More specifically, I first consider where (habitual) residence registrations are needed: for access to what social rights, and for other matters that have bearings on being eligible as an EU citizen (e.g. finding employment and qualifying as a worker). Second, I explore EU migrant citizens' ability to fulfil requirements for being considered resident (and registered). In light of the findings from the said two sections, I discuss how administrative aspects of residence, embodied as residence registrations, makes habitual residence both a *direct* and *indirect* form of conditionality for EU migrant citizens.

The research is based on my interviews and the close study of policy documents, legal sources and secondary literature. The latter three forms of data informed the details of legal definitions of residence and the official rules on administrative aspects of residence. Primarily interviews (especially with migrant support organisations) but to a certain extent also secondary literature and policy reports, informed the implications of different residence definitions and administrative practices on EU migrant citizens' social rights.

Residence at the EU level

At the EU level, we find that residence is an essential concept in the application of a variety of EU Treaty provisions and a diverse set of EU legislative provisions (Wouters, 2010). In particular, it is critical to the EU social security coordination regulation (regulation (EC)883/2004/EC), which is what – in combination with the freedom of movement directive (2004/38/EC) – regulates EU migrant citizens’ social rights at the EU level. Whilst employed or self-employed persons are subject to the legislation of the state where the economic activity is being pursued, the legislation of the country of residence applies when a person is not economically active or is economically active in two or more member states or where a worker has several employers (Art. 13, Regulation 883/2004/EC). One of the most important purposes of regulation 883/2004/EC is to avoid the negative conflicts of law that would arise if the person concerned were not able to comply with the residence requirement in any of the member states, which would mean that the person would not be subject to any state’s social security legislation (Verschuere, 2017: 73). Residence also plays a major role as a rule to determine applicable legislation in the case of a number of potentially overlapping benefits, such as child benefits.⁶⁹

Given the importance of the concept of residence, it is remarkable that a definition of residence is entirely absent in the Treaties and only very rarely given at the level of EU legislation (Wouters, 2010: 3-8). Regulation No 883/2004 contains an extremely brief one: ‘residence means habitual residence’ (Art 1. (j)). Through the Court of Justice of the European Union (CJEU) case law concerning social security coordination, more

⁶⁹ The whole range of benefits for which residence is relevant, see Regulation (EC) 883/2004 (Article 17,23,58,65,67,68,70).

specific descriptions of habitual residence have been defined (c.f. Wouters, 2010). As of today, it is defined as ‘the State in which the persons concerned habitually reside and where the habitual centre of their interests is to be found.’ And, '[i]n that context, account should be taken in particular of the employed person's family situation; the reasons which have led him to move; the length and continuity of his residence; the fact (where this is the case) that he is in stable employment; and his intention as it appears from all the circumstances.’⁷⁰ The concept of habitual residence thus includes a subjective intention to make a given member state one’s centre of interest.

The CJEU has made clear that duration is not to be a determining factor for the assessment of habitual residence, but that other factors must also be taken into account.⁷¹ This understanding of the term residence has a Union-wide meaning and as such applies across all benefits for the purposes of applying the regulations that govern social security coordination. Additional conditions might stem from national legislation that requires residence in line with a national definition thereof. Such definitions must however conform with EU law and the principles of equal treatment and non-discrimination of EU migrant citizens (European Commission, 2013: 42).

Based on the prohibition of discrimination on grounds of nationality (Art. 18 TFEU), the Court of Justice of the European Union (CJEU) has over time defined the scope of EU migrant citizens’ cross-border entitlements (Pennings, 2015). Initially, many rulings concerned residence requirements for access to public benefits in national law. In multiple cases, the Court concluded that a residence requirement – which kept EU

⁷⁰ Case C-90/97 Swaddling [1999] ECR I-1075, paragraph 29. For a list of the criteria that can be included in determining residence of a person see Directive 987/2009, art. 11.

⁷¹ Case C- 255/13 I v Health Service Executive

migrant citizens classifying as workers from fulfilling the criteria for social rights access – amounted to prohibited discrimination, often in the form of ‘indirect’ discrimination (c.f. Wouters, 2010: 11-13). Nevertheless, despite the initial rather uncompromising line, the CJEU’s stance on residence requirements has more recently relaxed. In this age of increasing political controversy around the right to free movement for all citizens, the Court now accepts that member states can apply residence tests even if they have discriminatory effect on non-nationals, so as to ensure that the person concerned has a ‘genuine link’ to the destination state before being granted equal treatment.⁷²

How does habitual residence pertain to legal residence, in the context of social security coordination? Until recently, it appeared from CJEU rulings that legal residence can only be related to benefits that qualify as social assistance and economically inactive EU citizens⁷³ – as directive 2004/38 stipulates that economically inactive Union citizens’ right to residence is conditional on not becoming an unreasonable burden on the social assistance system of the host country (Verschueren, 2017: 73). However, in a recent landmark ruling (concerning the UK’s habitual residence test) the Court ruled that legal residence requirements can also be required of economically in-active EU migrant citizens with respect to ‘classic’ social security benefits (c.f. Verschueren, 2017).⁷⁴

With respect to formal aspects of residence, the directive on free movement stipulates that member states can require that Union citizen register with the competent

⁷² Collins, Case C-138/02,

⁷³ Brey, Case C-140/12; Dano, Case C-333/13; Alimanovic, Case C-67/14.

⁷⁴ European Commission v United Kingdom, Case C-308/14.

authorities of the place of residence (Art. 18, 2004/38/EC). Local authorities may not request a registration for stays shorter than three months, but can require that EU citizens report their presence (for which nothing more than an identity card should be needed). However, '[p]ossession of a registration certificate or of a permanent residence card, may under no circumstances be made a precondition for the exercise of a right or the completion of an administrative formality, as entitlement to rights may be attested by any other means of proof' (Art 25, 2004/38/EC). It is not clear from the directive in what ways such registrations' may be connected to the assessment of habitual residence. However, where registration pertains to a national definition of residence, the definition would, as clarified above, need to be compatible with EU law.

In sum, residence is a critical principle in the EU legal framework regulating EU migrant citizens' social rights. As such, it applies to national social legislation across all member states. In this regard, it is worth noting that some recent important Court rulings on residence and economically inactive EU migrant citizens' social rights have been cases from Germany⁷⁵, a welfare state thought of as largely work-based.

Being resident in Sweden

Turning now to the case of Sweden. The notion of residence is an important concept in defining access to social benefits in Swedish law (Erhag, 2016). The basic entitlement criterion for social assistance, the education and health care system, and residence-based social security benefits (various child and parent, retirement, disability, illness/injury, survivor and housing benefits) is residence. Although a couple of

⁷⁵ *Dano*, Case C-333/13; *Alimanovic*, Case C-67/14.

different residence concepts are used to frame the right to different benefits (ibid.) the dominant one is that found in the civil registry law (*Folkbokföringslagen*, FBL), which is directly tied to residence registration. According to FBL, '[a] person can be considered resident ... in the country if he or she can be expected to regularly spend his or her night-rest or equivalent rest ... in the country for at least one year.' (FBL, para. 3). When a person can demonstrate the intention to stay for more than a year, she can be registered in the civil registry and then also receives a personal ID number.

The civil registry is administered by the Swedish Tax Agency. It was originally meant to register and tax citizens, but it is also the basis for a large number of other rights and duties that can depend both on a person being registered, and where the person is registered (Bill 2012/13:120: 34-35). Thus, the registration encloses both that the individual is resident in the country and her local residence, and serves as the basic proof of the individual's inclusion in the largely residence-based Swedish welfare state (Hyltén-Cavallius, forthcoming). Due to the special rights-bearing effects of residence registration, the Swedish government has motivated the one-year requirement to be a suitable timeframe to establish a link between a person and the Swedish state (Bill 2012/13:120:40-41).

A previous obligation to register with the Migration Agency for a residence certificate was removed in 2014 (Bill 2013/14:81). Around the same time the FBL was changed in relation to EU citizens so that a demand for legal residence was introduced as a precondition for registration in the civil registry (Bill 2012/13:120: 148), thus making the Swedish registration similar to the UK habitual residence test (Verschueren, 2017). This means that proof not only of the intention to stay for at least a year, but also that the person is legally resident during this time, is demanded. Accordingly, all EU citizens, with the exception of workers and job seekers, must prove that they have

sufficient resources as well as sickness insurance for the duration their intended stay. However, a job seeker will not be registered if she is exporting unemployment benefits under Regulation 883/04 for six months, as she cannot show that she will have lawful residence for a full year (Erhag, 2016). In other words, the national norm of habitual residence is here paired with the EU concept of legal residence (Hyltén-Cavallius, forthcoming).

Many other laws use the residence concept in the FBL or use registration as a precondition when deciding on residence in another legal context (Erhag, 2016: 212-214). In effect, residence registrations are requested to determine eligibility for a number of social benefits. At the local level, a registration is needed for access to locally provided benefits and services available to municipal residents, e.g. social assistance, child care, schools and eldercare. It is also needed for non-emergency healthcare access, which is a regional responsibility. In contrast, a residence registration should not be central to the evaluation of residence for social security benefits that are administered at the national level. This after the Swedish Social Security agency changed their administrative practice in 2013 and now base their evaluations of residence on the relevant EU directives (883/2004/EC and 987/2009/EC).⁷⁶

Furthermore, the personal ID number obtained as part of the registration is used for the purpose of proof of identity and residence throughout Swedish society, well beyond social benefits and health services. Not only is the ID number routinely requested by municipal, regional or state public bodies to verify the residence status and address of

⁷⁶ Nonetheless, an internal assessment of the way Social Security Agency case workers evaluate habitual residence, showed that registration in the population registry was used to evaluate habitual residence in forty-four per cent of the cases (Försäkringskassan, 2015).

the person; as the ID number contains extensive information about the individual (full name, address, marital status, gender, date and place of birth) (FBL, para. 28), also private-sector parties – such as potential employers or landlords, service providers like banks and telecommunication providers, and so on – may require proof of residence registration in order to accept a person as a new employee, tenant or customer (SNBT, 2014). E.g. banks and insurance providers can compare the personal information of their clients against the national population registry, and also use the number to retrieve information about a person's tax assessment and financial credibility (Hyltén-Cavallius forthcoming).

Implications for EU migrant citizens' social rights

Someone who moves to Sweden and intends to stay for one year or more is 'generally required' to register in the civil registry (Swedish Tax Agency, 2016). Although not doing so is not associated with any formal penalty, the manifold purposes for which one requires the registration in Swedish society means that not having one is penalty in and of itself. According to interviewees, the value of possessing one cannot be overestimated, because:

... once you have it you are in... you're one of us. (Gbg4)

However:

... the population registry registration somehow rests as a shadow over almost all questions that are actualised for EU migrant citizens [in Sweden]. (Sth8)

It is clear that it is more difficult for EU migrant citizens to obtain a residence registration than it is for Swedish nationals. National citizens are normally registered in the population registry at birth, and only need to report to the Tax Authorities if they change their address. New arrivals from other EU countries in contrast have to qualify

for registration in accordance with the FBL rules and the one-year intended residence demand. To prove that one intends to stay for one year, the Swedish Tax Authority (that administers the registry) requires a one-year work contract from EU citizens who apply for registration as an employee (Bill 2012/13:120: 148). In this respect, it should be noted that those who arrive in Sweden as job-seekers and are able to secure an employment contract, whether a job requiring high or low qualifications, will normally be offered a six-month probationary contract (Gbg5a). The one-year intended stay requirement in other words means that EU migrant citizens, and even workers, who cannot satisfactorily prove a one-year intention to stay will not be registered in the civil registry, even though they may fulfil the requirements for legal residence according to EU law. One interviewee explained that, in the past year, the one-year condition appears to have been reevaluated, as the Tax Authority now tends to find a six-month contract, plus the intention to stay for a year, to suffice for registration (Gbg5a). However, evaluation of such an intention does not involve a consideration of the individual's intention, but focuses on the employer's; the Tax Authority will typically call the employer and ask whether they plan to extend the contract to at least a year (ibid.). Finally, very many migrant citizens who arrive find hour-based employment, for which it is hard to prove any intension of being employed in the future, indeed even 'demonstrating that one will be employed tomorrow is difficult' (Sth8).

Not having a registration has important implications for EU citizens' entitlement to social rights in Sweden. Most obviously, it bars them from accessing benefits where a registration is required (as described in the previous section). EU migrant citizens may be lawfully residing in Sweden, but if they cannot prove the continuity of legal residence for one year, it is difficult for them to access many public benefits and services that they may be entitled to under EU law. One emblematic example is health

care. For an EU migrant citizen who qualifies as a worker, the country of employment is responsible for her social insurance. However, as Swedish health care requests a residence registration it is very hard to get the health care that you are entitled to legally unless you can demonstrate a work contract of at least one year (Sth8).

Not having a residence registration also has indirect implications for EU migrant citizens' access to social benefits. Importantly, it affects one's ability to qualify as worker and thus to enjoy the rights associated with this status (disregarding the difficulties of registering on a short-term contract). That is to say that the generally extensive use of the personal IDs that are tied to residence registrations impacts considerably on the likelihood of finding a job: you need the ID to open a bank account (to which a salary could be paid), you often need it to register on job-websites, and employers frequently require personal IDs before they offer job-contracts (Dokia et al 2013; SNBT, 2014; Sth5). Not being registered also poses problems to using the Swedish employment services (Swe4, Swe2, Swe8; SR, 2013), as jobseekers are entitled to do, and to access Swedish-courses for immigrants (Swe1; Swe2; Gbg4; SNBT, 2014: 9). In both cases, a so-called coordination number should since 2014 in principle suffice to access both of the latter services, following changes in internal practices at the Employment Services (Sth5) and municipalities changing their demands for SFI access (Swe1; Swe2). However, in practice, the coordination number often does not suffice despite these changes and many offices still require a residence registration (Gbg4) as I will describe further below. This easily creates a dead end for job-seekers, since an employment contract might be necessary to prove residence status and subsequently obtain a personal identity number (SNBT, 2014: 6).

The coordination number

Through the interviews it emerged that another form of registration has become relevant due to the difficulties associated with not having, and not being able to obtain, a residence registration and personal ID. For individuals who are not, and cannot be, registered in the Swedish population registry, but need to be dealt with administratively, a so called ‘coordination number’ (*Samordningsnummer*) exists. The coordination number can be relevant to those without a residence registration in particular for finding employment, to being employed (paying taxes and receiving salary in a Swedish bank), opening a bank account, and accessing Swedish for Immigrant Courses. This number is generated by the Tax Agency, and is a number assigned to an individual that allows authorities to communicate across each other with regard to that person, and enables taxation of the person. It does however not contain information about residence, nor does it have any rights-bearing effects. Despite these limitations, it turns out that the coordination number in practice has ‘started to be used a bit like the civil registry registration’ (Sth8). As such, coordination numbers have become an *additional* form of registration, that formally has nothing to do with residence, but is at times used as if it did.

A coordination number can be obtained if one gets employed (i.e. have a signed contract), in which case the employee herself applies to the Tax Authorities for the purposes of paying taxes. For job-seekers, the number must instead be requested by public authorities classified as ministries. This has had the consequence that the employment services – which is a ministry – has become *the* place where EU citizens often go only to get a coordination number (Sth5; Swe3). To be able to register EU citizens without a personal ID, the employment services requests a coordination number from the Tax Authority. Municipalities are in contrast not classified as

ministries and hence cannot request coordination numbers. In practice, the employment services appear, however, the only realistic way of obtaining a coordination number. This is so because employers typically only employ those with either a personal ID (civil registration) or a coordination number (Sth8), that is:

Many believe that it [the coordination numbers] is equivalent to residence registrations. For example, many employers demand that a person has a coordination number before they hire someone, as they consider it some sort of guarantee that everything is ok – that they have the right to work – but it is not! Coordination numbers do not guarantee that you have the right to reside and the right to work. (Sth5)

In other words, it is highly unlikely that EU migrant citizens can secure a contract without a coordination number, and they need an employment contract to apply for a coordination number. Hence, they are dependent on the Employment Service. Nevertheless, although the latter have changed their internal rules so that they should provide EU migrant citizens with coordination numbers, they do not always follow this. For those who have been denied a coordination number from the employment services, ‘it becomes really difficult’ (Sth8). This clearly mimics the dead-ends pertaining to obtaining a civil registration.

What is more, the tax authorities do not grant a coordination number for someone with the intention to work for less than six months. Hence, jobseekers as well as the few who manage to get a short-term job-offer without a registration or a coordination number, will again be adversely affected:

So, if you come here and have a temporary employment-contract with the ambition of looking for further employment you still do not get the coordination numbers, which means that the employer cannot pay your salary – you need the coordination number to open a bank account. And then it can easily be that the

employer does not have the patience to deal with it and takes someone else.
(Swe3)

In a similar way, municipalities have moved from requesting residence registrations to asking for coordination numbers, with the impression that the latter (also) convey an intention to stay. Specifically, to allow access to SFI courses, the municipalities want a means of checking the incentives of the person and the permanence of their stay (arguing that one must be ‘more than a tourist’ to take the course) (Swe1). Until recently, municipalities consequently demanded a residence registration. This practice has been altered as of 2015 and now a coordination number should suffice to get access to the language course. The coordination number indicates that the person is registered with the employment services and hence looking for a job and trying to make a living in Sweden (Gbg5a). In other words, the coordination number, which is really only meant as a tool for authorities to communicate between themselves and administer individual cases, has partly developed into an alternative means of assessing an individual’s residence intentions.

In short, it is clear that being registered as resident, and thus recognised as resident according to the Swedish civil registry definition thereof, is of great significance to access social rights in Sweden. Registering can however be problematic, both for workers and other legally residing EU migrant citizens. Taking the observations together, having or not having a personal ID (that derives from residence registration) comes across as a significant line of inclusion and exclusion in a (welfare) state widely organised around the principle of residence.

Being resident in Germany

According to the German Social Code I (sec. 30), which contains the general rules for German social security, the social security law applies to ‘all persons, who have their home [*Wohnsitz*] or habitual residence within the territorial scope of the law’. The same law clarifies that ‘Someone has a home where he has a dwelling/house [*Wohnung*], under circumstances which allows the assumption that the home is kept and used. Someone has their habitual residence where he resides under circumstances that allows the assumption that he is not only lingering temporarily in the location or territory.’

The central notion of having a home (*Wohnsitz*) is linked to a local residence registration, which is regulated in the Federal Registration Law (*Bundesmeldegesetz*, BMG). To register one’s local residence, an address, a passport, and a written permission from the landlord to register in the specific address is needed (BMG, para. 19 and 23). Once registered, a registration certificate can be issued upon request, which conveys the person’s name, date and place (and country) of birth, address of residence, and (in its extended form) also information about the individual’s household (shared household, children), marital status, current and previous citizenship, dates of immigration and emigration, previous addresses (BMG, para.18). Similar to Sweden, Germany abandoned the requirement that EU citizens register with their migration authority (the Foreigner’s Registration Office) for a residence certificate in 2013 (c.f. Heindelmaier and Blauburger, 2017: 13).⁷⁷ In contrast to Sweden, however, German local registration does not entail an assessment of legal residence.

⁷⁷ Bundestag-Drucksache 17/10746, page 11.

Being resident in Germany is the basic eligibility criteria for entitlement to unemployment benefits, child benefit, parental allowance, housing subsidy, income support; long term care benefits; housing allowance, social services (e.g. child and youth services, housing). For several of these benefits, you need to have a local residence registration, as I will explain below.

In many respects, the local residence registration functions as a purely administrative tool, albeit an important one. The Jobcenter is the local administrator of certain social assistance benefits (SGB II). Since this benefit is partly financed by the local municipality, it is important to control where/from which Jobcenter the individual should apply for, and receive benefits. This is determined based on a person's district of residence, which can be determined based on where they have their residence/home (§ 36 SGB II; 16 SGB I).

The local registration also functions as a proof of residence, which is crucial for accessing benefits. To use the Jobcenter as example again, habitual residence in Germany is an eligibility criterion to apply for unemployment benefits (SGB II) (which are also effectively in-work benefits⁷⁸) and the Jobcenter demands that EU citizens (specifically) show a copy of their rental contract, a local registration and passport as proof of such residence (FDA, 2017). To apply for child benefits from the Federal Employment Agency (FDA) one also needs a local registration: on the one hand to determine which the responsible administrative office is, and on the other hand to confirm details about your household.⁷⁹ When the children reside in Germany,

⁷⁸ Unemployment benefit II, or 'Hartz IV', is classified as unemployment benefits, but in practice also functions as a 'top-up' benefits for those with very low income.

⁷⁹ Since recently, parents also need to have a German tax identification number. And this is issued only after you have registered as resident (Spiegel, 2015).

moreover, they too need to be registered locally. A registration is likewise needed to apply for parental benefits. Aside from being requested for certain benefits, the German local residency registration is, just as in Sweden, also crucial for numerous other matters. Because it conveys validated information about the individual, it is often requested by private-sector parties, such as potential employers or landlords, and service providers like banks (Ham8; Ham4a; Ber9, 2015; Ber12).

Implications for EU migrant citizens' social rights

Also in Germany, having a residence registration is of great importance. Social workers described how a local registration 'is the first thing they [public authorities] ask for' (Ber11b), and that:

Without a registration, you cannot do anything. You cannot find a job, you cannot open up a bank account, you cannot send your child to school (Ber10).

German law demands that one registers one's residence in the local municipality within two weeks of taking up residence (BMG, para. 17). As with the Swedish civil registry registration, obtaining a local registration in Germany is often more difficult for EU migrant citizens than for nationals. In contrast to Sweden, this is not tied to different demands placed on nationals and non-national EU citizens. Rather, it has to do with the ability of migrants to fulfil the requirements for registration that applies to citizens and non-citizens alike and, indeed, with residing as such.

Finding housing is a barrier to local registration in Germany that impacts EU migrant citizens more than nationals, since not being able to show a German income statement for the past three months, a certain level of income relative to the rent, or speaking the

language sufficiently well often poses significant hurdles to finding appropriate housing (Ber8; Ber4; Ham8).

Housing is a clear barrier. You need to prove that you earn three times more than the rent. If you are unemployed you can't do that. And there is also already competition between those who have well paid jobs. (Ham7a)

What is more, landlords normally request proof that one is clear of any debts, typically in the form of a certificate from the General Credit Protection Agency (SCHUFA) (Ham8; Ber11a). In order to obtain this certificate, however, one normally needs to have a German address in the first place. A related issue is that of initial limited access to the German labour market for the last two waves of accession countries. EU citizens had to register as self-employed to be allowed access to the German labour market unless they had employment prior to arriving. When their income did not suffice to support their living, and they applied for income support at the Jobcentres, they would however often be denied benefits as they did not have a sufficient number of sources of income (and thus did not count as self-employed). The outcome being that because they could not receive income top-up benefits (Hartz IV) they built up debts, which has implications till this day, as these individuals and families try to find accommodation (Ham8), as 'someone who is registered with the Schufa has no chance of getting housing' (Ber12).

Not having a registration also raises difficulties with respect to employment, which in many respects mirror those arising in Sweden. That is, many employers request a local registration for the sake of signing contracts (Ham8; Ham4a; Ber9, 2015; Ber12), which leads to similar dead-ends since German income statements are often a prerequisite to find housing to register in:

It is a very big issue for those who come here. When they come here and seek work from one day to another they cannot show that they have a certain amount of money in their bank account. In Germany, you usually need to show the statements of your three last incomes, and stuff like that, so it becomes a closed circle. And in order to get a work contract, they need to have an address. (Ber8)

Moreover, not every type of accommodation will suffice to register as resident. Many newly arrived EU citizens stay with friends or family as this is the most affordable and perhaps the only option available when they cannot find a flat for themselves (Ham4a). Citizens who arrive and have employment already arranged often obtain accommodation through their employer (Ber8). Both of these scenarios often result in overcrowding (BMI/BMAS, 2014: 42), however, which is problematic with regards to registration as there are limitations to the number of persons allowed to be registered at any one address.⁸⁰

And precisely that [obtaining a registration] has become much harder, because now when a person goes to the Registration Office to register, the authorities want a notification from the owner of the place you want to register in that guarantee that you're allowed to live there. And this is generally hard, since many house owners allow only a few people to register there. (Ham8)

Noticeably, the trouble of finding housing and the limitation on how many persons that can live in one address, together with the requirement of obtaining official approval by one's landlord, have led to widespread exploitation of EU migrant citizens in some German cities (Willeke, 2016). This manifests in the widespread practice that migrants are (unlawfully) offered to register at an address against a monthly fee without being

⁸⁰ The precise rules are regulated by each individual state (*Wohnungsaufsichtsgesetze*).

offered corresponding accommodation (Ham5; Ham7a; Ber1; Ham8; Ham6; Ham4a; Ber9, 2015; Diakonie Hilfswerk, 2015).

The sense of a vicious circle facing EU migrant citizens was expressed by several interviewees (Ber10; Ham5; Grosou; 2015; Ham8; Ham4a; Frostschutzengel, 2015), the following quote gives a sense of it:

You need the registration for everything; you also need the registration to find work, you need it to apply for child allowance. And here the problem starts already. First they [EU migrant citizens] need to find a place to live, then they need to find a place to register, mostly this is not the same place that they live in. Cause if there are too many people living in the place you're staying – there are regulations – or the owner of the place does not allow you to register there it would be illegal... And you cannot find a flat of your own without a registration, and without money. So it is a big vicious circle. So first of all you have to organise a registration, maybe they can register where they really live. Or they have to buy a registration – pay someone who lets them register in their address – or they have to pay monthly for the registration. So there are people who make lots of money on this. With every step of establishing here [in Hamburg] there are people making money. (Ham4a)

In sum, we find that residence registrations are of extensive importance to social rights access also in Germany. Just as we saw in Sweden, obtaining a registration may be complicated, not because of requirements for certain periods of (habitual or legal) residence, but because of complications to do with residing as such.

Residence registrations as direct and indirect conditionality

When contrasting the two countries, we first note important differences in the national definitions of residence tied to residence registrations. The German notion of residence, just like the EU one, is based on the assumption that an individual is not lingering temporarily in a place. The Swedish definition of residence, in contrast, is forward-

looking and not in line with the EU definition of habitual residence: a person could have their ‘centre of interest,’ as per EU law, in Sweden without fulfilling the civil registry definition of residence. For these reasons, obtaining a residence registration is more difficult in Sweden than in Germany, for while the Swedish registration demands that the citizen can provide an employment contract of at least a year, the German one mainly demands a certified address. Moreover, the Swedish residence registration is in contrast to the German one connected to legal residence, meaning that where a residence registration is required for access to social benefits, legal residence is also, indirectly, demanded.⁸¹ At the same time, the demand for proof of habitual residence for at least one year also means that those who are legal residents according to EU law, may not be able to register and qualify as habitual residents according to the Swedish definition of residence. Any assumption that welfare systems characterised by the residence principle are by default more inclusive is accordingly put into question. If anything, the comparison here suggests that states with more residence-based entitlements are more likely to have demanding definitions of residence. Perhaps unsurprisingly, Denmark uses similar residence registration system as Sweden, which appears to have negative implications for EU migrant citizens’ ability to exercise supra-nationally defined rights (Jacqueson, 2016: 198).

Although it is clear that it is more difficult for EU migrant citizens to obtain residence registrations than for citizens of the respective member state, the registrations do not necessarily contradict EU law. It is unclear whether the Swedish demands in the FBL are in accordance with EU law (Erhag, 2016: 224); although the CJEU has confirmed

⁸¹ It must be acknowledged that EU migrant citizens have the right to reside only in the moment. Thus, even those with a residence registration may have lost their right to reside at a later point after acquiring the registration.

that legal and habitual residence requirements may be connected to residence-based social benefits, the Court has also made clear that other factors than residence must be considered in determining whether a person has ‘genuine links’ to the destination member state (Hyltén-Cavallius, forthcoming). In Germany, German citizens as well as EU-migrant citizens need to register locally according to the same rules, and it thus does not amount to discrimination. It is however likely to be significantly easier for nationals to fulfil the criteria for registration (especially finding a place to register). Whether or not discriminatory according to EU law, residence registrations in practice clearly exert stronger conditionality on EU migrant citizens’ social rights than nationals.

Regardless of these differences, there are also clear similarities across the two countries with respect to how residence registrations are employed and their implications. In both, formal aspects of residence condition social rights’ entitlement in both direct and indirect ways. Residence registrations are direct conditions for eligibility, in that they convey specific definitions of residence that are also eligibility criteria for certain benefits and services. In this respect, it is notable that whereas a local registration is requested when applying for certain social security benefits (e.g. child benefits) in Germany, they are not a criterion when applying for social security benefits that have residence as basic eligibility criteria in Sweden.

Other times, residence registrations in each country operate as indirect forms of conditionality, in that they convey information about the individual that public and private actors use to confirm not only the person’s residence, but also identity. The extensive significance of having a registration manifest clearly in the German case, where a new lucrative business appears to be the trade in addresses to register (but not live) in. Not having a registration clearly makes settlement more difficult; it shapes the

ability to find both employment and housing. Because these formal aspects of residence impact on the ability to qualify for a certain migrant status (working EU citizen), to which different rights of residence are tied, the registrations also condition the EU migrant citizens' ability to exercise free movement as such. The many practical difficulties that arises from not having a residence registration challenges their ability to successfully settle in the new member state. As such, it may furthermore be argued that even where entitlement to residence-based social security is evaluated based on the EU concept of habitual residence, as in Sweden, the barriers raised by not having a residence registration (i.e. not satisfying a national residence definition), makes settlement (and thus qualifying under the EU definition of residence) very difficult. The indirect conditionality that arises from residence registrations thus, paradoxically, makes habitual residence a pre-condition for effectively exercising the right to free movement and residence. Although member states may, in accordance with EU law, demand a link or a certain degree of integration before the residing citizen is entitled to access benefits in the destination member states, it is probably not the intention that this should precede the right to settle. Moreover, the indirect implications of residence registrations also demonstrate how legal and habitual residence is not only at times formally (as in Sweden), but also practically connected, thus confirming the need to study the two forms of residence in tandem to understand the social rights of EU migrant citizens.

An additional comment on the findings – in light of the previous paragraph and with respect to the difficulties not only of registering but finding a place to do so in – is necessary. Whereas the latter issues made evident primarily in the German case, the form of indirect conditionality arising from finding an appropriate place to live in the first place, is likely to be a problem in Sweden as well. Although the issue of finding

housing was not salient in the Swedish interviews, it can be expected that the general lack of housing (especially rental) in the country's bigger cities and the thriving black rental property market in Stockholm (Crouch, 2015) has significant impact on newly arrived. Indeed, just as in Germany, you need an address to be registered in the population registry. Equally, indications of prominent overcrowding and exploitation can be found in news reporting (GF, 2014).

Finally, it is also with respect to similarities between the two countries that the local level becomes salient. First, the local is relevant in that registrations in both countries convey local residence, making them crucial to accessing locally provided benefits and services. Indeed, in Sweden, the national definition of residence, and the associated registration, are needed to access locally (and regionally – health care) provided welfare. The same holds for Germany, where a local residence registration is taken as proof of your entitlement, not only in a specific municipality, but also in a specific district. In contrast, social insurance benefits are in Sweden – at least formally – not tied to being registered in the civil registry. Second, the local level is of significance in that being recognised as resident is locally conditioned. That is to say that whereas legal definitions of habitual residence, as well as the administrative means by which definitions are implemented, are defined at the national level, multiple factors tied to the local context and local actors have bearings on EU migrant citizens' ability to satisfy the conditions under which one is recognised as resident. Thus, local factors – especially the local housing market, landlords and employers – indirectly shape EU migrant citizens' social rights. Being recognised as habitually resident is in other words conditioned at the EU, national (member state) and local level.

Conclusion

This chapter has demonstrated how the principle of residence, despite generally being considered an inclusive basis for welfare inclusion and a means of fostering cross-border inclusion into social systems within the EU, can have significant exclusionary implications. This results from diverse, and only partly overlapping, legal definitions of residence at EU and member state levels, as well as the formal aspects of residence definitions that member states use to implement residence requirements. Specifically, the chapter has demonstrated how proving habitual residence for the purpose of accessing benefits and services is often contingent on having a residence registration. In addition, it has shown how residence registrations can operate as indirect conditionality criteria, shaping the ability to enjoy free movement as such.

Residence registrations may thus be understood to constitute a type of alternative ‘inner’ administrative and/or political boundary to nationally provided welfare, in a Europe where traditional ‘outer’ borders of welfare – i.e. the control of who enters the territory – has been largely abolished (Ferrera, 2005; Martinsen and Vollaard, 2014: 684). However, in contrast to the sort of deliberate attempts at ‘limiting the impact’ of CJEU’s rulings on migrant citizens’ rights that member state courts and bureaucracies may engage in (Heindlmaier and Blauburger, 2017; Martinsen, 2015; Blauburger and Schmidt, 2014) – the use of residence registrations in my view rather, or at least in addition, reflects how the spatial organisation of welfare has remained largely intact despite European integration and the creation of supra-national formal social rights. Although the ‘principle of territoriality’ has been weakened (Cornelissen, 1996) – member states can for example no longer control where benefits are consumed, due to EU migrant citizen’s right to export certain benefits – welfare provision is still organised according to member state’s national and sub-national territorial boundaries.

Accordingly, also welfare administrations and their procedures operate according to the same logic of territoriality. For example, the Swedish population registry was created and linked to rights and obligations at a time when there was no reason to take freedom of movement of the sort that the system is exposed to today into account. That being said, such bureaucratic frameworks not only create what at times appears to be unintentional side effects, but also generate opportunities to intentionally maintain, or further strengthen, control (and exclusion) – an example being the case of Germany introducing a rule that landlords must approve registrations.

The broader conclusion to be drawn from this chapter is thus that EU member states' organisation around the concept of residence to determine rights and obligations, stands in direct contrast to the EU's general emphasis on, and attempted advancement of, mobility. Nevertheless, it would seem that we cannot do away with the principle of residence if we want to achieve substantive social rights, after all:

In a Europe where states are still geographical, but nationality is taboo, residence is one of the few realistic ways of determining the obligations of individuals and public authorities to each other. (Davies, 2005: 43)

Chapter 5

Bottom-up enforcement: how non-profit and voluntary sector organisations facilitate access to social rights

The previous chapter examined a key barrier to EU migrant citizens' social rights access. This chapter is concerned with the ways in which EU migrant citizens' access to social rights is *facilitated* at the local level, in particular by non-profit and voluntary sector organisations (NPVOs). Given such organisations' typical role in supporting those with less resources to make their own claims heard, we would expect them to play an important role in supporting EU migrant citizens who face obstacles to exercising their rights. And indeed, my data shows that NPVOs are crucial bottom-up facilitators for the exercise of social rights. In fact, they tend to be the sole providers of support for EU migrant citizens seeking to exercise their social rights.

Through an examination of the way in which NPVOs in each country address barriers that EU migrant citizens' face in accessing social rights I make the following arguments. First, NPVOs act not only as facilitators of EU migrant citizens' substantive social rights, but also as important bottom-up enforcers of EU law. Second, two major factors significantly shape NPVOs' ability to facilitate social rights' access and means of doing so, namely the organisational structure of the welfare state and the domestic legal context. These factors vary between the two countries. On the one hand, comparatively more extensive support is available in Germany, where NPVOs are a core part of the welfare state, tend to be large in size and have access to substantial resources. In Sweden, where NPVOs primarily play a complementary role in the

welfare system, much more extensive reliance on public funding sets comparatively narrow boundaries for their scope of work. On the other hand, a stronger juridification of social rights in national law provides additional opportunities for NPVOs to support EU migrant citizens in Germany than in Sweden. Support through legal appeal appears more common in Germany than in Sweden, and constitutionalised rights (which do not exist in Sweden) provide additional opportunities for German organisations to secure social support for EU migrant citizens in need.

Non-profit and voluntary sector organisations, social rights and social Europe

NPVOs have generally been important actors in promoting individual rights. To begin with, non-state actors have furthered formal social rights by promoting human rights more generally, and by advocating for economic and social rights specifically (Chong, 2008). Human rights oriented non-governmental organisations have lobbied for international treaties and national legislations to include individual economic and social rights, pushing for them to be made legally enforceable (ibid.). Likewise, NPVOs have been pivotal to the realisation of formal social rights. NPVOs often have a crucial role in ‘mobilising’ laws that have direct or indirect bearing on social rights, which is to say that they often act as intermediaries between individuals and the state and ‘give force’ to legal social rights (O’Brien, 2012). In so doing, they typically represent the interests of those who lack political representation or the resources to challenge the status quo themselves (Dahme and Wohlfahrt, 2013: 130).

As channels of voice in political systems, NPVOs have also taken part in shaping welfare policies (Johansson et al, 2015: 14; Greip and Renn, 2011: 63-64). The extent to which they are able to do so is likely to depend on the particular role they play in

different countries and welfare states (Bode, 2006; Evers and Laville, 2004). In some countries, such as Germany, non-state non-profit organisations have also played a significant role in delivering substantive rights. Finally, in all western welfare states, non-state actors have been and continue to be important sources of social support for those who fall into the gaps of statutory and occupational safety nets, of which migrants are a key group (Leerkes, 2016).⁸²

In light of this, we may reasonably expect NPVOs also to play a key role in facilitating EU migrant citizens' access to social rights, especially migrant citizens with limited capacity to claim their rights independently. Importantly, EU migrant citizens stand out in contrast to other migrants that NPVOs may have as target groups, most obviously undocumented migrants. EU citizens have a legal status that comes with some fundamental rights (i.e. time-limited freedom of movement) and the opportunity to enjoy additional rights when certain conditions are fulfilled (i.e. non-discrimination, permanent residence). Put differently, even if they are not citizens of the country of destination, they are embedded in a supra-national citizenship structure with rights attached to it. At the same time, however, EU migrant citizens' legal status is volatile and the rules for when they have the right to reside and right to social benefits is often complicated and contested,⁸³ as well as subject to member states' diverse interpretation and precise implementation. Sources of support may thus be crucial for some EU migrant citizens to benefit from social rights derived from their status as EU citizens.

⁸² It must be pointed out though, that such provision is entirely 'welfare as charity'; wholly discretionary and not rights based.

⁸³ Also citizens' social rights are of course often up to dispute, especially for benefits and services where conditionality is built into the entitlement criteria and discretion on behalf of the rights administrator is even justified. However, this discretion is amplified for EU citizens, as the EU framework is added on top of the 'usual' conditionality and direction.

Yet, even if volatile and at times elusive, there are actual supra-national, or ‘post-national’ (Soysal, 1994), rights for EU migrant citizens, as well as supra-national institutions to enforce them.⁸⁴ Recall the discussion in chapter two on how social rights often are not ‘true rights’ in the sense of being claimable via the judicial system. EU law, in contrast, strives for a more explicit individualisation of rights as well as a manifest court-control of rights (Lind, 2009: 41). This may provide NPVOs seeking to support EU migrant citizens with additional leverage in defending and facilitating individual’s rights.

With respect to the social integration of Europe, previous research has inquired into how member states seek alternative routes for closure in response to supra-nationally (specifically CJEU) driven expansions of cross-border welfare rights (Handelmeier and Blauburger, 2017; Blauburger and Schmidt, 2014; Ferrera, 2005). The picture that emerges is generally one of top-down (i.e. CJEU and the Commission) attempts at opening, and bottom-up (member state) scepticism to opening or attempts of renewed closure. In examining non-state actors – rather than the political institutions of member states that are typically the ones held to oppose further changes to welfare boundaries – it is however not unlikely that we discover rather different trajectories. NPVOs operate and are motivated by very different sets of values and goals than the state. As was mentioned above, a human rights perspective can for example be at the core of these organisations motivation and work. (Member) states in contrast have a much broader set of concerns. These may include human rights, but certainly also matters that do not sit easily with the often-inclusive aims of NPVOs, for instance budgetary

⁸⁴ In contrast, although a state may have signed human rights declarations, undocumented migrants’ human rights may be much more difficult to support as human rights do not have the same solid supra-national institutional framework that these organisations can appeal to.

questions, border control, and the regulation of national membership. Therefore, the NPVOs that operate in member states may well endorse an ‘opening’ of the welfare state, as this may provide opportunities to support their ‘clients’ by offering supra-national sources of legitimacy for rights claims. Accordingly, when such organisations use the scope for action generated by supra-national laws and institutions, they can effectively become bottom-up forces of European social integration.

Monika Eigmüller (2013) has argued that individuals must be taken into account to fully understand the evolution of European social policy, precisely by reference to their supra-national rights. The point is that, when disputes occur in domestic courts, individuals can invoke European law. In the case of uncertainties about the interpretation of European law, the national court can turn to the CJEU to clarify the issue in a ‘preliminary ruling proceeding’. Such cases make up the vast majority of cases pending before the CJEU (*ibid.*), and these are the rulings through which European social integration is further delineated by the Court. What this argument overlooks, however, is that it is likely that a good many of the cases were originally taken to local courts not by individuals alone, but with the help of some source of formal support. For those with few resources, it is not unlikely that such support comes from NPVOs. Indeed, previous research has shown that one way of explaining the uneven distribution of preliminary references across member states is whether citizens have access to NGOs that help individuals access the CJEU and drive test case strategies (Sigafos, 2012).

NPVOs’ role in facilitating EU migrant citizens’ access to rights may also come in less momentous forms than backing what ultimately becomes the material for CJEU rulings. Organisations that support EU migrant citizens’ exercise of rights could also be potentially important actors in the implementation and enforcement of already

existing EU law. EU member states routinely try to limit the Court's influence at the implementation level (Haindelmeier and Blauburger, 2017), or fail to transpose a law correctly (Cerna, 2013). For example, member states may 'contain compliance' by applying CJEU rulings only to the individual conflict, but otherwise remain passive (Conant, 2002: c.f. Haindelmeier and Blauburger, 2017: 7). When that is the case, NPVOs could push national administrations to better or fully implement CJEU jurisprudence – at least when the case law supports their own ambitions – as they support individuals in making rights claims, something which would suggest a form of bottom-up enforcement of EU law.

Clearly, paying attention to the ways in which individual EU migrant citizens' exercise of social rights may be facilitated from the bottom-up are important to better understand how social Europe 'happens' beyond EU law-making and the jurisprudence of the CJEU. The remainder of this chapter will focus on NPVOs and examine in what ways, if any, they facilitate EU migrant citizens' access to social rights.

Governance and mechanisms of facilitation

Looking at NPVOs in the context of social rights and welfare states raises some critical questions about where the line between these organisations and the (welfare) state may be drawn – as mentioned earlier, NPVOs have played a significant role in some welfare states and in others much less so. With respect to my two country cases, and as discussed in more length in chapter two, NPVOs have played very different roles in the German and Swedish welfare states, respectively. Through the so called subsidiarity principle, the German 'voluntary welfare providers' are central to the delivery of welfare services. These organisations act under public law defined at the federal and state level with the support of public finance (Wilensky, 2002: 254-260). Due to their

very central position in the welfare state, they are also very much part of the political process and can influence, though not directly make, social policy. The voluntary welfare providers are guided by different normative understandings and traditions, and can also be referred to as *Weltanschauungsverbände* ('world-view associations') (Dahme and Wohlfahrt, 2013: 131). In stark contrast to Germany, NPVOs in Sweden have generally played a marginal role in delivering welfare services for the larger population and the main role and function for NPVOs has been to act as political agents, 'fulfilling an expressive rather than a service-oriented function' (Johansson et al, 2015:1603; c.f. Svedberg and Olsson, 2010; Lundström and Svedberg, 2003). If anything, non-for-profit actors have been judged to have a complementary role in the Swedish welfare system (Johansson and Panican, 2016; Johansson et al, 2015: 1611; Svedberg, 2005: 51-52).

These differences in the relationship between the (welfare) state and NPVOs is important, because it highlights that the latter are not necessarily, or at least not exclusively, clearly distinct from the state. Where they act as service providers, they typically act under procurement contracts and thus essentially on behalf of the state. To get an accurate picture of who bottom-up enforcers are and with what motivation they act, it is thus important to take the patterns of governance of NPVOs that support EU migrant citizens' access to social rights into account. NPVOs that provide support to EU migrant citizens could, in so doing, act both independently, with the support, or on behalf, of local or national governments. Moreover, the governance structures within which organisations act may shape their scope of action by compromising their autonomy, and thereby condition what kind of support NPVOs can provide to EU migrant citizens. Looking at these governance aspects, the present chapter will also

shed light on how NPVOs' position in different welfare states shapes their ability to facilitate EU migrant citizens' access to social rights.

When it comes to governance structures, it should, in the context of the EU, furthermore be noted that non-state actors are important partners in the implementation of EU policy. They also often receive EU funding. In enacting EU cohesion policy, the Commission has — through the so called 'partnership principle' — sought to include sub-state actors and non-state actors in the implementation and monitoring of the EU cohesion funds, which are the only re-distributive forms of policy in the EU (Allen, 2010). Thus the Commission is said to have created means of 'bypassing' member states' national governments (Hix and Høyland, 2011: 234). At times, integration is furthered by local authorities who adjust to European norms in order to benefit from the 'carrot' of structural funding (Marshall, 2005). EU funds have also been crucial to social innovation and social policy at the local level, where supra-national funding has been essential for the realisation of new social projects (Sabato and Verschraegen, 2016). If it can be shown that NPVOs facilitating EU migrant citizens' access to social rights are supported by EU funds, we may thus speak of a bottom-up facilitation of European social citizenship that is supported top-down and supra-nationally. The chapter will look at this issue too and examine whether NPVOs that support EU migrant citizens' access to rights operate with EU funding.

Specific contextual factors may also shape the mechanisms available to NPVOs to support EU citizens. Most obviously, the domestic legal system may be of relevance for these organisations' ability to support rights claims. Specifically, the more general status of social rights and their degree of juridification (see chapter two) may be of significance. Where social rights have a more juridified character, it may be easier for NPVOs to support EU migrant citizens' right claims. One indicator of the degree to

which rights are legally enshrined is available redress mechanisms. As explained in chapter two, Germany is a country where judicial review is understood to be a constitutive element of democracy with codified social rights. Sweden meanwhile lacks this tradition of giving courts large influence; social rights are considered part of politics and hence court control has been avoided.⁸⁵ These differences may thus be another conditioning factor shaping the mechanisms whereby NPVOs can support EU migrant citizens' access to social rights. This leads to the final question guiding this chapter: How do different legal context shape the way in which NPVOs' facilitate EU migrant citizens' access to social rights?

To recapitulate, the remainder chapter investigates in what ways NPVOs facilitate EU migrant citizens' access to social rights, looking at three specific issues in particular:

1. How do the different positions NPVOs occupy in different welfare states shape their ability to facilitate EU migrant citizens' access to social rights?
2. Do NPVOs that support EU migrant citizens' access to social rights operate with EU funding?
3. How do different legal contexts shape the way in which NPVOs' facilitate EU migrant citizens' access to social rights?

⁸⁵ With respect to my country comparison, it may be noted that a recent comparative report on the redress mechanisms available to claim social rights across EU member states, rated these to be 'full' across all studied areas of rights in Germany. In contrast, Swedish social rights were evaluated to be between moderate and fair based on available redress mechanisms, but never full in any of the examined areas of rights (Stendahl and Swedrup, 2016).

Methods

In order to answer question 1-3, I first identify salient barriers to accessing social rights, which suggest that there is need for support. I base this primarily on the interviews that have been conducted for this study: one set of question in my interviews with local stakeholders concerned the barriers that EU migrant citizens face as they try to exercise and access social rights in Germany and Sweden. I then look at how NPVOs address such barriers, which is what I take to be the ways in which they facilitate social rights access. In so doing, I consider what *means* and *channels* they use to facilitate rights' access. In addition, to further understand what shapes the type of support provided, I look at the structures of governance in which these organisations are embedded, in particular the sources of funding (for the work of theirs that targets EU migrant citizens) that are available to them and any specific mandates under which they operate as they provide support.

Although I refer throughout to NPVOs, some of the studied organisations are strictly speaking separate projects (with their own names) run by an NPVO (e.g. 'Crossroads' in Gothenburg and Stockholm are separate projects run by the City Mission in each city). The organisations that I interviewed were identified both through positional criteria (Tansey, 2007: 19-20) and snowball sampling, as described in the methods chapter. Some organisations could easily be identified without interviews. However, to learn more about such organisations' relevance, and identify further ones, I probed in most interviews not only what barriers there are, but also what forms of support to overcome these barriers the interviewees could think of. Here, my primary concern was with organised, formal sources of support provided to EU citizens, and not (for example) ways in which they themselves might solve certain problems. The

organisations that I was repeatedly referred to – and hence can be considered (some of) the most significant ones – are those that I contacted for interviews.

An important difference between the two countries must be flagged here. In Sweden, I was able to identify what would appear to be the full range of organisations that provide support for EU migrant citizens – most of those were interviewed.⁸⁶ In Germany, the picture was very different. First, EU citizens can under some circumstances have access to general (i.e. not targeted to specific immigrants) immigrant support services, which are delivered by NPVOs (which will be discussed in detail later on); a subset of those NPVOs has been included in this study. Second, of the organisations providing support specifically for EU citizens, only a selection of those that I was referred to by other interviewees agreed to participate in the study. However, most of those that were repeatedly mentioned as relevant were included, and the final sample appears sufficiently representative since the descriptions of other/non-interviewed organisations and their activities were very similar. All organisations that have been included in the study are listed in table 6.

⁸⁶ There were additional organisations, but as these were very similar in kind (mostly church based organisations providing shelter) and already represented among the most prominent organisations (which I interviewed), I did not include these.

Table 6: Interviewed non-profit and voluntary organisations

		Name of Organisation	Brief description
G E R M A N Y	BERLIN	Amaro Foro	Migrant counselling provided in Bulgarian, Romanian and Romanes. Official focus on ‘Roma and non-Roma’
		Caritas Mobile Contact Point for European migrant workers and Roma.	Migrant Counselling with focus on Southern and CEE European citizens. Additional focus on Roma
		Diakonie Simeon, Migrant Counselling for Adults	Migrant counselling. Have developed focus on Bulgarians and Romanians.
		Fair Mobility	Counselling for migrant EU workers. Focus on CCE citizens
		Frostschutzengel	Mobile social counselling working in the low-threshold care in Berlin. Focus on CEE EU citizens
		Polish Social Council	Counselling for Polish speakers
	HAMBURG	Work and Life. Information Centre Labour Mobility	Counselling for migrant EU workers. Focus on CEE citizens.
		Diakonie, Migrant Counselling for Adults	Migrant Counselling, English, Spanish, Italian, Polish and French
		Diakonie Housing Support and street work	Support for homeless. Provision of basic needs, finding shelter, social counselling. Has developed focus on CEE Citizens
		Office for Immigration from South-eastern Europe, Diakonie Hamburg	Counselling, focus on CEE citizens
		SOS – South-eastern Europe Service Center, City Mission	Social counselling in Romanian, Bulgarian and Romanes
Verikom, Migrant Counselling		Migrant counselling	
S W E D E N	GOTHENBURG	Bräcke Diakoni	Shelter for EU citizens
		Crossroads, City Mission	Basic needs, counselling in different European languages
	STOCKHOLM	Crossroads, City Mission	Basic needs, counselling in different European languages
		Social Centre, Salvation Army	Basic needs, shelter for EU citizens

Barriers and support

Barriers come in two forms: (1) as barriers to entitlement and (2) as barriers to accessing rights once entitlement has been granted. To give a concrete example, becoming a worker makes you eligible to treatment according to the non-discrimination principle with respect to all benefits, and not being a worker is thus a barrier to being eligible. However, also for those who are workers, there may be barriers to exercising the rights that one is formally entitled to, for instance language competence and different types of administrative barriers.

Basic needs

A repeatedly mentioned barrier both to exercising and becoming eligible for social rights is not having one's basic needs satisfied. The common assertion that a modicum of social rights is required to be able to enjoy other rights (Marshall, 1950; Somers and Roberts, 2008: 395) is here somewhat paradoxically reversed; according to my interviewees, exclusion from social entitlements in and of itself becomes a barrier to EU migrant citizens' social rights access. Due to the limited conditions under which EU citizens are actually entitled to access social support in the destination country, EU citizens who arrive as jobseekers often end up in destitution with acute needs for material assistance. Having to focus, say, on finding a place to stay for the night certainly both overshadows and makes it very hard to see to concerns such as job-seeking or applying for social benefits.

This not a marginal issue. It was repeatedly emphasised by interviewees that many, or almost all of their clients, visit the organisations because of 'existential problems' (Ber12) and questions about how to financially support themselves (Gbg4). It appears to especially affect citizens from CEE countries. Even if they arrive in Germany and

Sweden with savings or with exported unemployment benefits the very low value of their financial resources and benefits (c.f. Bruzelius et al, 2017) in the destination country quickly leaves them without financial means (Gbg4; Ber9). However, also non-CEE EU citizens are affected, and found amongst those who end up in precarity (Socialstyrelsen, 2013: 63-64; Ber11a; Ham5; Gbg4). Tellingly, each of the studied cities have seen growing numbers of homeless EU citizens in the last couple of years (Feantsa; 2012). Social workers in homeless care repeatedly told me the story of ‘a new clientele’ – persons being different from those who they have previously mainly cared for (Gbg6; Ham5; Sth6; Ber11a; Diakonie Hilfswerk, 2014). These persons do not (at least at the outset) share problems common to society’s ‘usual outcasts’: no drug addictions, no psychological issues, no previous history of homelessness (Ham5; Ber11a; Gbg4; Sth6; Socialstyrelsen, 2013: 28). Homeless EU migrant citizens are most often not entitled to various available public support from the local community since they either are not resident (Sweden), or not in receipt of social benefits (Germany). What is more, in Germany, many of the homeless EU citizens are in work, but because many of those who are also are in unreported and/or exploited work, they cannot afford housing, and/or cannot receive social assistance to ‘top-up’ meagre salaries if they apply for it (Ham3; Ham4a). In Hamburg, there were reports of unreported workers being bussed by their employers at the end of the working day to open homeless shelters in Hamburg (Ham3).

Addressing basic needs

Several organisations provide basic material assistance for those who are not entitled to standard public provision. This support consists primarily of outreach work and providing shelter and food, but at times also more long-term housing and financial support.

In Stockholm and Gothenburg, NPVOs primarily address needs as providers of homeless-services, which mostly entails the provision of day-centres with access to showers and meals, street-teams doing outreach work and consultation/support. In winter, the Salvation Army in both cities, and Bräcke Diakonie in Gothenburg, provide shelter for homeless, sometimes in cooperation with churches. Of the interviewed German organisations, Diakonie Housing support similarly provides basic support to homeless EU migrant citizens.

The City Mission in Stockholm also runs a separate project, in which they offer the possibility to EU migrant citizens of renting a cheap room in an apartment building owned by the organisation for a couple of months at the time. This enables the migrant citizens not only to live somewhere in the owner-dominated housing market in Stockholm, but also to get Swedish references and thus have a chance to gain access to the limited rental market (Sth7; Stadsmissionen, 2014). In Berlin, one NPVO (Phinove)⁸⁷ has bought two houses to provide EU migrant citizens with access to better housing (Ber3).

Occasionally, certain organisations in Germany provide some economic support (Ber12). A Diakonie migration counselling office described how they at times use some of their funds to support individuals without access to economic support, for example by paying parts of their rent. In Germany, material needs are at times also addressed by appealing legally to human dignity, and thus securing some time-limited cash-support – which I will describe in detail in a subsequent section.

⁸⁷ I unfortunately have not interviewed this organisation; they declined my invitation despite repeated attempts.

Information and bureaucracy

In this section I discuss a rather broad category of barriers, which all have to do with welfare bureaucracy. Some relate to migrant citizens, others to both individual migrants and local welfare administrations, and some only to the latter. The previous chapter has already addressed one of the main barriers, that of residence registrations, and I need not expand further on that here. Another barrier mentioned in more or less every interview with respondents with insight into EU migrant citizens' practical difficulties, was language. This pertains both to individuals who lack skills either in the national tongue (German or Swedish) or in English, and to service providers who are typically obliged to ensure that the individual understands and thus to provide adequate translation service when the person does not.

However, it appears that few authorities live up to such translation promises, and very often the migrant citizens do not receive any translation support (Ber9; Ham8; Ber3; Ber11a). Moreover, whilst service providers often referred to language being a complication when handling EU migrant citizens' claims (Gbg12; Sth5), support organisations highlighted that language is not always that big a problem, but rather that discrimination of certain nationalities is (Ber11a). Discrimination was frequently described by migrant support organisations as a barrier to accessing social rights. People being turned away at the door, without an assessment of their claims being made, was repeatedly reported in Germany (Ham6; Ham7a; Ber11a) and also mentioned in Sweden (Gbg5a). In both countries, EU citizens would also often receive oral rather than written responses to their rights claims (Ham4a; Ber11a; Gbg5a; Gbg5b) – which makes it harder to dispute decisions. Relatedly, blanket collective treatment of certain nationalities rather than individual assessments was repeatedly reported in interviews in both countries (Gbg4; Sth6; Ber9, 2015; Ham7a).

Other interviewees attributed incorrect processing of rights claims to poor knowledge of EU rules on behalf of social rights administrators, rather than discrimination (Gbg4). Still other interviewees spoke of ‘ignorance in the institutions, sometimes they even ask for a visa’ (Ber10). The last two things point to poor implementation: national administrations and social workers appear to often have poor knowledge of when and how EU law applies – a fact also emphasised by other research (Ehata and Seeleib-Kaiser, 2017). Altogether, the interviews were rife with examples of poor implementation. One illustrative example is the case of jobseekers and social assistance in Sweden. Jobseekers have the right to reside and to equal treatment according to EU law. At the same time, in accordance with the free movement directive (2004/38/EC), member states may choose not to grant non-permanent residents social assistance. This has however never been implemented in Swedish law, and there exists Swedish case-law where job-seeking EU migrant citizens’ have been granted the right to social assistance.⁸⁸ However, according to a legal expert at Crossroads Stockholm:

... it is often difficult for people to claim this, on the one hand because it is difficult to prove that you are seeking work, and on the other because there exists a knowledge-gap with many caseworkers who lack knowledge of this and do not understand it. (Sth8)

Also related to knowledge is the commonly reported barrier relating to individuals’ lack of knowledge of what rights they have (or may have) as EU citizens, as well as how to benefit from those rights. In the words from a social worker in an NPVO in Berlin:

⁸⁸ Administrative Court Gothenburg, Case: 5917-09

They [EU migrant citizens] are not really aware of their rights ... they go somewhere [to a public agency] and ask for help... [they are told] yes or no... and then if it is no: 'ok then it must be no'. They think they ask for help, but they don't think 'I go there to claim my rights'. (Ber11b)

Even for those who are aware of their (possible) entitlements, however, it is far from obvious what formal requirements there are, how one can satisfy these, what institution is responsible for what, and so on. It does not make things easier that the bureaucracy associated with these matters in each country has kafkaesque tendencies. For example, when applying for social assistance from the Jobcenter, one is expected to provide a long list of documents (the list from the Jobcenter in the Berlin district Friedrichain-Kreuzberg gives an indication – appendix 5). From the day that a person registers with the Jobcenter to make a claim for social support, they have ten days to collect and provide all required documents (Ham5). For many, this is near-impossible. Required documents are for example proof of birth of any children one might have, as well as marriage and divorce certificates. Unless the applicant was extremely well-organised and brought a big folder of personal documentation with her to Germany (in which case she might still lack the right type of proof), she would need to obtain these documents from a different country within less than two weeks. This clearly has a strong exclusionary effect. The problem of not having a registration also plays an important role in manoeuvring local administrations – as we saw in the previous chapter. Similar obstacles arise when someone does not have a residence registration, but seeks support from German social services. In Berlin, the individual should in this case seek help according to a system whereby the right municipal district to go to depends on your month of birth, and the responsible social worker on the first letter in your name (Ber10; Ber11b). Nonetheless, it is rare that these existing alternative procedures are actually

applied (Ber11b), and not having a registration normally leads to a rejection of applications for support (see chapter four).

In Sweden, similar types of bureaucratic barriers and lack of communication and knowledge across institutions affect citizens who came to Sweden in search for work and wanted to use the Swedish employment services. For to access these services, they need a so-called coordination number, unless they – as is highly unlikely – have a Swedish residence registration (c.f. chapter four). Without such a number, the employment service would send them to the Tax Authorities, who are responsible for issuing coordination numbers. But since individuals cannot apply for these numbers themselves, the Tax Authority would proceed to send the individual to the Migration Authorities, which would in turn send them back to where they started, namely the Employment Agency (Gbg4; Sth6).

Addressing poor information, implementation and discrimination

The interviewed organisations have responded to the problems I have described in various ways. These responses are naturally overlapping, just as the problems they are meant to solve. First, most organisations, in one way or another, provide individuals with information that supports right claims: e.g. information about the destination member state's society, laws and institutions, including how the labour market and job seeking works, what institutions are responsible for what, and so on. Some do this sporadically in combination with providing basic needs (for example the Salvation Army in Stockholm), while others focus on providing migrant counselling. The latter is offered in physical counselling offices (for example Caritas migrant counselling in Hamburg) as well as by mobile social counselling teams working in the street environment (for instance the so-called Frostschutzengel in Berlin). Counselling is

often offered in multiple EU languages (several organisations for example focus on Romanian and Bulgarian speakers).

To get a better idea of what sort of information organisations provide and why it matters, consider the following case. As noted earlier, Jobcenters demand a long list of documents when applying for social assistance, and there is a ten-day turnaround rule – several organisations offer assistance with these sorts of issues. As one social worker from Diakonie Housing Support in Hamburg explains, ‘we know what documents are needed and we help people collect documents *before* people go to the Jobcenter to meet the ten-day requirement’ (Ham5). In this way, migrant counsellors – with their familiarity of available forms of support, requirements for accessing these and how EU-derived rights interact with these – can try to find ways to help EU migrant citizen access public support. In many cases, it is the counsellors themselves who urge the latter to seek public social support, rather than the other way around. A social worker doing mobile social counselling for homeless EU migrant citizens in Berlin describes:

Some of our clients have already worked. Some have even been here for five years, and thus can have [a] permanent right to reside [which can be a basis for social benefits]. So, when there is a client, we always try to ask: ‘Have you worked – even for one day? Do you have a statement showing your salary? Etc.’ – to try to prove that they have not been just jobseekers [during the five years] and therefore be able to make some claims as EU citizens. Or do you maybe have a child here that goes to school? That gives you another reason [for eligibility when claiming social support]. (Ber11a)

Supplying individual migrant citizens with information does however not always suffice to realise rights, due to lack of knowledge on behalf of case workers and discrimination in authorities. In addition to providing information and support through individual counselling, many of the organisations also accompany individuals personally to their appointments with different authorities. In this way, they seek to not

only guard against discriminatory treatment, but also to inform case workers of the legally correct procedures (Ham7a; Ham4a; Ber10; Ham5; Ber11a; Gbg4). An interviewee from Crossroads in Gothenburg called this part of their work ‘advocating rights’ (Gbg5b). This appears to be a crucial part of supporting EU migrant citizens’ rights claims. As one interviewee from Berlin described:

Sometimes when they [the EU migrant citizens] go alone they get told: no you do not have any rights, although they actually do. It is not just about language [skills], the importance of the person who accompanies [‘der Begleiter’] is that we really know their rights and can be stubborn about them. (Ber10)

Two others, from Hamburg and Gothenburg respectively, report similar things:

The Jobcentre ... sends people off before they have even been able to make their application. When we come with them it is all very different. (Ham6)

We have unfortunately experienced quite a few cases of discrimination. That is of course disappointing, but at the same time it is good, because those times we have demanded to speak to the boss and after that the whole office has started behaving properly, since everyone has been informed. (Gbg4)

The last quote indicates how, by accompanying individuals, organisations not only support the individual but can improve implementation of EU law and facilitate rights claims more generally. Importantly, by accompanying their clients, the NPVOs can also provide translation support. As a social worker from Diakonie Migration Counselling in Hamburg explains:

We organise ‘chaperonage’ [‘Begleitungen’] since we know that they won’t get their application accepted without a translator... Although the Jobcentre has money for translators, it doesn’t work in practice. It is easier if I just call my colleagues and ask if they can go with my client... But our [official] responsibility is not to translate. (Ham8)

As far as language is concerned, it is worth underlining that some organisations (for example Crossroads (Gbg4) or Phinove (Ber9)) provide language courses themselves in order to help migrants who have difficulties accessing the publicly provided language course (c.f. chapter six). This is a form of ‘indirect enabling’: with some basic knowledge of the language spoken in their destination country, their chances of finding work are improved.

Some of the interviewed NPVOs pushed for proper implementation of EU law not only through supporting individual cases, but also through more comprehensive education of employees and administrations in relevant public authorities. By this is meant that organisations put their efforts and energies into ensuring that those employees of governmental agencies who are responsible for handling migrants’ claims possess adequate knowledge of EU law and all the relevant regulations. When I asked the (then) head of Stockholm social services about this, she directly referred to Crossroads as the only organisation providing such training to their staff (Sth2). Crossroads in Gothenburg meanwhile explained that, ‘education of staff in societal institutions is really our number one [priority]’, and that they frequently give lectures to different public institutions and administrations (Gbg4). The same exists in Germany, where some organisations pursue a strategy they refer to as ‘sensibilisation’ in public institutions (Ber11b; Ber9).

Some organisations have also used indirect means and third party channels to try to enforce EU law. To make sure that the dead-end situation for EU migrant citizens trying to use the employment services without a residence registration, Crossroads Gothenburg contacted the Swedish Radio which highlighted the issue in a radio show. This was the start of (at least some) change to the employment services’ internal practices (Gbg4; Sth5). The Gothenburg based organisation has also reported Sweden

to the EU Commission for incorrect application of the free movement directive (according to a so called ‘pilot procedure’⁸⁹), with reference to the endless problems tied to the Swedish residence registration (as described in the previous chapter). The EU Commission is now in contact with Crossroads and other NPVOs. If, in the next stages, the Swedish government does not take action upon receiving the Commissions demands for action, the Commission could start an infringement procedure against Sweden. Finally, Crossroads has also, through and with the Swedish SOLVIT⁹⁰, successfully pushed the case that EU migrant citizens should not need a Swedish residence registration, but that a coordination number should suffice (Swe1; Swe2).

Both the provision of information and chaperonage support could in parts be described as legal support, as it is often about information and enforcement of rights. However, legal support is also provided in much more explicit sense, namely through legal appeal. I put this issue to one side for the time being, since it constitutes a separate and more extensive issue.

Conditioning type and scope of action: the welfare state

Thus far, we have explored what forms of support NPVOs offer to EU migrant citizens. The picture drawn was fairly general and has brought to light many parallels between the two countries studied. Once we zoom in on the issue, however, and look more closely at the structures that condition the provision of support, clear differences

⁸⁹ The ‘EU pilot’ is a scheme designed to resolve compliance problems without having to resort to infringement proceedings.

⁹⁰ The SOLVIT network is a body funded by the European Commission since 2002 to assist citizens and businesses to ascertain their EU rights in cases where a dispute has risen between a citizen or a company and an official body of a member state of the European Union. There is a SOLVIT centre in every member state.

between the countries emerge (Table 7). For one, we see that most of the interviewed German organisations provide counselling (information and chaperonage) rather than basic needs. In Gothenburg and Stockholm, on the other hand, the Crossroads organisations are the only organisations that more clearly focus on counselling. This is the organisations' stated purpose, and they proactively employ legal experts in order to deal with the many legal issues that arise. One interviewee from the Employment Services in Stockholm points out the absence of other sources of legal support for EU migrant citizens:

It has been so good to work with Crossroads – because very much is after all about information about society. That is what is missing [in Sweden] somehow. (Sth5)

To understand these differences, and to also expose additional ones, it is helpful to look at these NPVOs' general positioning within the respective welfare state.

Table 7: Germany. Organisations, forms of support and source of funding

	Forms of support					Source of funding	
	Service provided in other languages	Accompanying	Information/Counselling	Basic needs	Legal support		
BERLIN	Amaro Foro	√	√	√		√	Berlin state
	Caritas Mobile Contact Point for European migrant workers and Roma.	√	√	√		√	Berlin state, FEAD
	Diakonie Simeon, Migrant Counselling for Adults	√	√	√	√	√	Federal State (Federal Office for Migration and Refugees)
	Fair Mobility	√		√		√	ESF, Ministry of Labour and Social Affairs (BMAS), German Trade UNION (DBG)
	Frost-schutzensengel	√	√	√	√	√	Diakonie (GEWEBO) Caritas, (FEAD from 2016)
	Polish Social Council	√	√	√		√	Berlin state
	Work and Life, Counselling for Migrant Workers	√	√	√		√	Hamburg state + ESF
	Diakonie, Migrant Counselling for Adults	√	√	√		√	Federal State (Federal Office for Migration and Refugees)
	Diakonie Housing help and street work	√	√	√	√	√	Diakonie + Hamburg state
	HAMBURG	Office for Immigration from South-eastern Europe,	√	√	√		√

Diakonie Hamburg						
SOS – South- eastern Europe Service Center, City Mission	√	√	√		√	Hamburg state + FEAD
Verikom, Migrant Counselling.	√	√	√		√	Hamburg state

Table 8: Sweden. Organisations, forms of support and source of funding

	Organisation	Forms of support					Source of Funding
		Service provided in other languages	Accompanying	Information/Counselling	Basic needs	Legal support	
STOCKHOLM	Crossroads, City Mission	√	√	√	√	√	City mission, Stockholm municipality (earlier ESF)
	Social Centre, Salvation Army				√		Salvation army, Stockholm municipality
GOTHENBURG	Bräcke Diakoni	√			√		Bräcke Dikaoni, Gothenburg municipality
	Crossroads, City Mission	√	√	√	√	√	City mission, Gothenburg municipality

Germany

Table 7 shows that most of the organisations studied in Germany are tied to one of the big ‘voluntary welfare providers’ (Diakonie in particular), which constitute the main social service providers in Germany. One service offered by these welfare providers is federally and locally funded migrant counselling (c.f. chapter seven). Many of the federally funded migrant counselling offices offer counselling in different European languages – much depending on where they see a concrete need (Ham8). Diakonie

Simeon in Berlin and Diakonie migration counselling and Verikom in Hamburg are funded under these schemes. Counselling for migrants is also in part organised by the individual states (Bendel, 2014). Thus organisations such as Amaro Foro and Caritas' Mobile Service Point for European Migrant Workers and Roma receive part of their funding from the Berlin Senate, specifically through the Senate's integration framework (Ber4). The point to note is that many German NPVOs provide counselling for EU migrant citizens in their capacity as social service providers in the German welfare state. Moreover, many of them act specifically as providers of migrant counselling, rather than – as is the case with the Swedish organisations – providers of basics need/homeless care.

There are also German NPVOs that are financed exclusively by the 'voluntary welfare providers,' without additional state support. In addition to the (public) funding the voluntary welfare providers receive to carry out specific welfare tasks (where they act under public law defined at federal and state level with the support of public finance) – which constitutes the by far biggest part of their revenue – these organisations raise their own funds (through fees and charges and charitable giving) (Anheier, 2001: 99-101). Hence, they can also fund their own projects, in accordance with their own aims and values. An illustrative example of this is Diakonie in Hamburg. Through some of their other undertakings – in this case Diakonie Housing Support – Diakonie saw growing numbers of clients from Central Eastern Europe. Several persons from this group also needed different types of support than what the Housing Support could offer, and the need for a counselling office concentrating specifically on this group of EU migrant citizens was recognised by Diakonie's workers (Ham7a; Ham5). Such an office would enable social workers to support not only homeless citizens, but also 'families and those with other issues [than homelessness]' (Ham7a). Hence Diakonie

set up an Office for Eastern Europe Immigration (*Fachstelle Zuwanderung Osteuropa*), where the provided support concerns first and foremost health insurance and social benefits (although they support their clients also in many other ways). This project is financed exclusively via Diakonie's own resources – with 'church money', as one employee of the organisation put it (Ham7a). Similarly, Frostschtzengel in Berlin, is an initiative founded by independent social workers and financed jointly by Caritas and GEBEWO Berlin (which is a member of the Diakonie), independently of state funding (Frostshutzengel, 2016).

Those project-specific branches of some organisations that operate partly with state funds (for example Diakonie Simeon migrant counselling in Neukölln/Berlin, or Diakonie Housing support in Hamburg) can, because they belong to a larger organisation with many different tasks and undertakings, also use the organisation's own resources. As such, these organisations, and organisation-related projects, have manoeuvre to more freely choose their ends without constraint by public institutions. In Diakoniewerk-Simeon Neukölln in Berlin, a social worker described how sometimes 'we can for example turn to church collects to help people pay the rent or such' (Ber12).

The entrenchment and multitude of voluntary welfare associations and their ability to set up smaller and more temporary support projects appears to create scope for significant networks of support and divisions of labour to develop – something which generates genuine opportunities to support EU migrant citizens. We already saw the example of Diakonie in Hamburg, where separate services were set up within one organisation. One illustrative example of multiple organisations being involved in supporting EU citizens is a Diakonie migrant counselling office in Berlin that cooperates closely with Amaro Foro, a recently founded organisation providing counselling in Romanian, Bulgarian and Romani. Whilst Diakonie can rely on their

established position and additional means of, for example, economic support, Amaro Foro (which is funded by the Berlin state and EU funds) adds leverage with expert knowledge of the countries of origins and their social policies (such as health insurance and unemployment benefits). Both Diakonie Simeon and Amaro Foro in turn work closely with several other organisations – amongst them Fair Mobility, a counselling service specifically for migrant EU workers – who possess expert knowledge on matters relating to employment and act as an important source of support in (the very common) instances of labour exploitation. Yet another organisation that closely cooperates with the already-mentioned ones, is Frostschutzengel that targets homeless persons and provides support in Bulgarian, amongst other languages.

Throughout these cases it appears to be the case that the subsidiarity principle of the German welfare state provides leverage to the inclusive ambitions of many NPVOs, as well as generate additional sources of support for EU migrant citizens. Let us now move to the second country case.

Sweden

In Sweden, too, we find that NPVOs' scope for action is shaped by their position in the welfare state. The emphasis on basic needs in the services delivered by the Swedish organisations has to do, on the one hand, with the fact that most of them are homeless care providers, and on the other hand with the strict rules for local government welfare spending. To the extent that Swedish NPVOs are financed by local governments to support specifically EU migrant citizens', their task is to address and alleviate acute social needs.

To begin with, one reason why most organisations and organisation-related projects are concerned with basic needs is because homeless-care is one of their core fields of

work. This is one of the typical roles of non-profit organisations in the Swedish welfare state. The studied organisations typically receive local government funding in the form of a so-called ‘operation grant’ (*verksamhetsbidrag*). The prerequisite for obtaining such a grant is that the organisation provides some form of service for municipal residents. The organisation’s activities must furthermore cover areas of work that are also within the scope of the social services’ areas of responsibility (Stockholms Stad, 2013). Once an operation grant is secured, organisations can use it within the scope of their stated aims, without being subjected to detailed steering by the municipalities. This leaves scope for manoeuvre for organisations to choose their ends without constraint by municipalities.

Although operational grants should leave scope for the receiving organisation to act rather autonomously, the demand that those receiving such a grant should provide services for municipal residents appears to impact on the interviewed NPVOs’ ability to support EU migrant citizens. An interviewee from the Salvation Army in Stockholm explained, for example, that when homeless EU citizens started to become a pressing issue around 2010,

Stockholm municipality required that all voluntary organisations receiving operation grants to support the homeless should put up a note that only persons with [Swedish] personal identity numbers may come. (Sth6)

At the same time, operational grants from the local municipality account only for limited parts of these organisations’ costs, and organisations such as the Salvation Army or the City Mission typically operate on several sources of funding. Thus, according to the Stockholm Salvation Army, the reaction of Stockholm NPVOs to the municipality’s demands to restrict those who could get access was:

But no one did that of course – we have our own values... [And] we could help anyways, because we have money from other sources. (Sth6)

Nevertheless, when contrasted with the German organisations, the scope for independent action is comparatively limited – because of the studied Swedish NPVOs’ limited competences, size and financial resources. All organisations catering to EU migrant citizens in Stockholm and Gothenburg are primarily active in the homeless care sector, which has direct consequences for the sort of support they can provide. EU migrant citizens may or may not be homeless, but they certainly need also other forms of support. Hence, even when these organisations act independently of constraints placed on them by local governments, they do not always possess the competence, experience or resources (in terms of staff and time) to provide support similar to migrant counselling providers in Germany. Moreover, the City Mission and the Salvation Army, which are the two most important NPVOs in Sweden, although being two of the larger ones, are nowhere close to the size of the German voluntary welfare providers (see table 9). In other words, unlike the German organisations, they do not have the financial or organisational resources to readily provide more sophisticated forms of support.

Table 9: Number of employees in selected NPVOs in Germany and Sweden (2015-17)

	Organisation	Number of Employees
Germany	Diakonie Berlin-Brandenburg-schlesische Oberlausitz	52 000 ¹
	Diakonie : all of Germany	465.000 ²
	Caritas Hamburg	7000 ³
	Caritas : all of Germany	617.193 ⁴
Sweden	City Mission Stockholm	278 ⁵
	City Mission Gothenburg	211 ⁶
	Salvation Army: all of Sweden	1135 ⁷

Sources: 1. Diakonie, 2017; 2. Diakonie, 2016; 3. Caritas, 2017a; 4. Caritas, 2017b; 5. Stockholms Stadsmission, 2016; 6. Göteborgs Stadsmission, 2016; 7. Frälsningsarmén, 2016.

Still, with an increasing number of EU migrant citizens arriving in Gothenburg and Stockholm and ending up in destitution, and the issue making it onto the political agenda, some of the studied Swedish organisations have started receiving public funding – in other forms than that of an operational grant – in order to support and further their work with EU migrant citizens specifically. Under a recently developed scheme of cooperation called ‘Idea Supported Public Partnership’ (IOP, *Idéburet Offentligt Partnerskap*),⁹¹ local governments provide partial but targeted funding to NPVOs to address a societal challenge that the two parties have defined together (Forum, 2017). This is a cooperative partnership that falls somewhere in-between procurement and the just-described general grants; the third sector organisations are thus supposed to retain autonomy in how to carry out the agreed task. In Gothenburg, an IOP called ‘Efforts for migrating EU citizens in Gothenburg’ (*Insatser för migrerande EU medborgare i Göteborg*) has been operating since 2014, consisting of four organisations (Göteborgs Stad, 2013). Under this agreement, Crossroads had 28 percent of its 2015-year budget covered by the municipality (Gbg4).

Increased public funding does however come at the price of being more closely intertwined with the welfare state and its stricter limits concerning who can benefit from public resources. That is to say that, although Swedish local governments can levy their own funds through taxes, they are constrained in how they can employ their financial resources. According to the Swedish municipal law, a municipality should

⁹¹ This terminology is a consequence of NPVOs that are not primarily members’ interest organisations are typically referred to as ‘idealistic’ organisations (*ideella organisationer*) in Swedish. A word which at the same time refers to idealistic and non-for-profit. IOP is not specific juridical form, but a civil-right agreement between one or more public actors and one or more NPVOs (Forum, 2017)

deal with matters of common interest (that are not the responsibility only of the state or of another municipality) that are connected to the municipality's area or its residents.⁹² These rules of competency thus mean that the Swedish municipalities can lawfully spend municipal money only if it benefits their own residents (SKL, 2014).⁹³ And many of the EU migrant citizens who need support are not yet resident in the municipality (also recall how difficult it can be to obtain a residence registration in Sweden).

Note, however, that according to the Social Services law⁹⁴, municipalities have the utmost responsibility that individuals who dwell within their borders (irrespective of residence) receive the support and help they need. If it is clear that another municipality than the temporary, or the 'stay municipality' (*vistelsekommun*) is responsible for supporting an individual, then the stay-municipality's responsibility is limited to situations of acute need. This means, or perhaps more accurately has been interpreted to mean (SKL, 2014), that municipalities can at the most provide emergency support and a ticket home for the non-residence EU migrant citizens.

Due to these constraints on municipal action, the Swedish Associations of Local Authorities and Regions (SKL, *Svenska Kommuner och Landsting*) has made the following suggestion. Because voluntary organisations are not restricted in their scope of action in the way that municipalities are – i.e. limited in using their resources in ways that primarily benefit their residents – the municipalities should cooperate more closely

⁹² Chapter 2, para. 1

⁹³ The municipalities operate on tax money and must thus be able to show that they act in the interest of their residents/tax payers

⁹⁴ Chapter 2a.

with these organisations (Olsson, 2014). While this suggests that there might be room for municipalities to provide support beyond very basic needs, it does not appear to have broadened the scope much where the idea has been put in practice. In Gothenburg, the IOP partnership between the municipality and a number of NPVOs is almost exclusively focused on addressing acute and basic needs; all organisations funded under the IOP are funded primarily to provide for basic needs (shelter, basic health). The organisation Crossroads stands out from the rest, since it is supported according to the IOP to provide counselling. It is however unclear what the IOP funding means for Crossroads in practice. According to one interviewee from Crossroads Gothenburg, ‘it [the cooperation] does not work quite as it is supposed to, the municipality intervenes a lot’ (Gbg4), and (later in the same interview) that ‘they [the municipality] have full focus on the beggars! ... because these are the ones one sees, but the others have been here all the time.’ This suggests a discrepancy in focal concerns between the municipality and the organisations, in spite of the intention that they cooperate to address a jointly defined social issue. It is moreover unclear what the combination of funding NPVOs to deal with EU citizens and the limitations on local funds implies for what NPVOs can legally do when operating under this form of funding. Although Swedish administrative courts have ruled that Swedish municipalities acting according to law in providing emergency shelter specifically for EU migrant citizens,⁹⁵ it is unclear whether funding the sort of support that Crossroads provides is in line with the

⁹⁵ In 2014, Linköping municipality judged that there was an imminent risk for a number of EU migrant citizens who were ‘staying’ in the municipality to freeze to death during the cold season and had provided money to an NPVO to set up a shelter explicit for these persons. A local resident challenged this in the local administrative court, arguing that this was a to engage in international aid and not a municipal matter. The court ruled, however, that the municipal action was lawful, as it was in line with the municipal’s responsibility to cater for those in acute need (Linköping administrative court (*förvaltningsrätt*), Case 611-14).

constraints on municipal spending described earlier; this is potentially something for future domestic case law to determine (Swe1).

To sum up the argument of this section: not only does the NPVOs positioning within the Swedish welfare state leave them with less resources for support, where they receive funding explicitly to deal with migrant citizens it is primarily in order to cater to the most basic of needs. Let us now turn to the second issue this chapter addresses: How NPVOs that support EU migrant citizens' access to social rights operate with EU funding.

Conditioning action: EU-funding

As already explained, another important aspect of governance is the EU funding on which several of the NPVOs studied here operate. As shown in table 7 and 8 above, a number of organisations are financed in part by the European Social Fund (ESF) or the Fund for European Aid for the Most Deprived (FEAD)⁹⁶ – both of which are created from EU structural funds. In addition to the ones that were examined for the present study, there are several other organisations supporting EU migrant citizens⁹⁷ in each of the Germany cities⁹⁸, and a few across Sweden, that operate on EU structural funds (see appendix 4).

⁹⁶ FEAD funded projects should target the most vulnerable in society, whilst ESF funded project should target labour market inclusions. The idea is that FEAD support will help people take their first steps out of poverty and social exclusion. Helping the most deprived people addressing their most basic needs, is a precondition for them to be able to get a job or follow a training course such as those supported by the ESF.

⁹⁷ I am referring here to those projects receiving FEAD or ESF funds that have an explicit focus on EU migrant citizens, and not to projects with a broader target group from which EU migrant citizens may also benefit.

⁹⁸ There are several more across Germany, but I limit the appendix to those in Hamburg and Berlin.

In Germany, a couple of organisations operate – at least partly – on ESF or FEAD funds. The Frostschutzengel project in Berlin is one example. This organisation has repeatedly failed to obtain other forms of state or federal state funds and has operated exclusively on voluntary welfare organisation funds from Caritas and Diakonie on a year-by-year basis, with great uncertainty about their future. Having been granted three years of FEAD finance (2016-2018) covering 95 per cent of their costs has enabled them to expand their ambitions and engage in more long-term projects such as the ‘sensibilisation’ of public institutions as well as migrant counselling (Ber11a).

In Sweden, Crossroads Stockholm is the only organisation with an explicit focus on EU migrant citizens that has received ESF funding in the period of 2013-2015. This funding source has been crucial for the initial launch of the organisation, which received 60 per cent of its funds from the ESF in its first year and slightly less in the following two years (Sth7). EU funds were in other words crucial for the development of this important project, which was also the forerunner to Crossroads Gothenburg.⁹⁹

National and sometimes local governments can influence the distribution of these EU funds. They take part in defining the content of national programmes that receive those funds (defined in line with the broad aims of the funds set by the EU), and play a crucial role because both ESF and FEAD funding requires co-financing by the member states. Specifically, the ESF requires 50-85 per cent co-financing, whilst FEAD requires at least 15 per cent. In Germany, the ESF is distributed both by individual states and the federal government (there are thus no less than 17 operational ESF programmes in Germany). Accordingly, we find that the Work and Life (counselling for migrant

⁹⁹ Compare to Sabato and Verschraegen’s (2016) findings that EU funds have been crucial to the initiation of social innovation projects at the local level.

workers) in Hamburg is partly funded partly by Hamburg state ESF funds, whilst Fair Mobility (counselling for migrant workers) in Berlin is partly funded by German federal government ESF funds. Projects receiving FEAD funds in Germany need to finance five percent of the project costs themselves; ten percent are then financed by the federal state, and 85 percent by EU funds (BMAS, 2017a). Since many of the NPVOs applying for FEAD are unable to provide five per cent themselves, however, they need additional support, and typically they receive that from their local government (Ber1). Local governments are therefore gatekeepers to acquiring financial support from the EU. For example, in the district of Mitte in Berlin, a Lutheran church recognised that there was a large number of homeless Polish persons and wanted to start a support project targeting this group, and submitted a project proposal in the call for application for Berlin distributed FEAD funds. However, as the Berlin Senate had decided to focus specifically on Romanian and Bulgarian citizens (which will be discussed in the following chapter), the Lutheran Church's efforts were unsuccessful (Ber1).

In Sweden, the ESF and FEAD are distributed by a national body (the Swedish ESF Council) according to national programmatic foci. The FEAD fund also does not require a designated national co-financer for each individual project. Instead, the Swedish national government funds 15 per cent of the whole national FEAD program.¹⁰⁰ As a result, Swedish local governments cannot influence the distribution of FEAD funds. However, local governments act as co-financers for ESF funded projects and can have more of a say in the distribution of these funds. And there is only

¹⁰⁰ According to the Swedish ESF Council (private email exchange, 14.02.2017)

one example of an NPVO with explicit focus on EU migrant citizens that has received ESF funding, namely Crossroads Stockholm.

Putting the gatekeeping function of local government to one side, it is clear that a number of organisations supporting EU migrant citizens are considerably benefitting from EU funding. It is questionable whether those organisations would have received *any funding at all* without the EU resources. But since EU funds limit the required financial burden falling on local (and national) governments, it can make the latter willing to spend local resources where they otherwise would not have. Furthermore, given how the FEAD fund is structured in Germany, the five percent of additionally required funding need not be provided by the local government; as I noted, Frostschutzengel in Berlin had their five per cent funded by Diakonie. This is another example of how the comparatively large resources that the established German NPVOs have at their disposal create special (and, in this case at least, very favourable) conditions for them to assist EU migrant citizens. On the whole, the evidence marshalled above shows that supranational financial support is crucial to many facilitating organisations. It can be seen as contributing to a form of supranationally driven, bottom-up facilitation of rights.

Juridified rights and facilitation

I now turn again to how different organisations support access to rights and the means by which they do so. One very direct way of facilitating EU migrant citizens' social rights access is through legal support. In this respect, there is a clear difference between the two countries. Whereas many of the German organisations provide legal support in terms of supporting individuals by challenging denied claims in local social courts, the Swedish organisations very rarely do. Moreover, the German organisations at times use

legal appeal to secure financial support for their clients, which does not occur in Sweden. On the one hand, this can be linked to the distinctive features and purposes of the German NPVOs, and the less complex support provided in by Swedish NPVOs. On the other, it has, as I will clarify in the following sections, also to do with the national legal context, and the much more extensive ‘juridification of the social’ (Zacher, 2013: 220) in Germany, as compared to Sweden.

Germany

In Germany, interviewees from support organisations repeatedly explained that they assist EU citizens in making legal complaints, and that they at times would appeal to the human dignity clause that exists in the German Basic Law (see chapter two) in order to secure some support for those in urgent need, irrespective of their entitlement according to EU law. First, several interviewees across organisations described that they support EU migrant citizens legally by making legal complaints (*Widerspruch*) in local social courts when they are denied benefits on what the organisation considers to be unjustified grounds. This concerns both the denial of benefits after an assessment of an application had been made and cases where the Jobcentre refused to assess claims in the first place (Diakonie Hilswerk, 2015), or where the public administration had failed to provide a written justification for its decisions as is required by law (Ber11a, Ham4a), or put up other forms of hurdles such as demanding endless numbers of supporting documentation (Ham3; Ham4a). A social worker from a migrant counselling service in Hamburg describes how the latter problem arises especially with Jobcenters:

We help them [the EU migrant citizens] with legal advice. It developed like this; in former times we did not have to engage with the social court. But now we have to, because the Jobcentres do not decide for many months, and they keep sending

letters that new things are needed to support the application, and it takes up to six months to get a response. (Ham4a)

Second, as described above, many EU migrant citizens end up in destitution in the destination member state. To support these individuals, German support organisations sometimes make a claim for Hartz IV at the Jobcenter, even when they know that the person has little chance of getting it. When the claim is rejected, they then make an ‘emergency appeal’ (*Eilantrag*) to the local social court to challenge the Jobcenter’s judgement, and in doing so they appeal to the human dignity clause that is inscribed in the German constitution (Article 1(1)) The emergency appeal implies that the case is dealt with faster, which means that a normally very long (several months) wait can be reduced to two weeks or less. Subsequently, an individual judge decides whether the individual concerned should be granted some form of subsistence minimum. A social worker from Diakonie Housing Support (Hamburg), explains the process as follows:

... one goes to Jobcentre and at the same time one goes to court. One gets a rejection from the Jobcentre, and then go to the court. And then, within two weeks, the court has to reach a decision on whether the person is entitled to benefits or not. (Ham5)

Most of the interviewees who said that they sometimes support individuals in this way explained that it was only sometimes successful (see the statements from the social worker at Diakonie and the migrant counsellor from Amaro Foro below, also Ber12). Several interviewees attested (Ham5; Ber12; Ber9) that the success of their appeal would ultimately always depend on the individual judge. In the words of a counsellor from AmaroForo in Berlin:

... we would file an application for Hartz IV even when we knew the Jobcentre would turn it down and then we would go to the Sozialgericht with these rejected

applications and the judge would decide, so it would depend then on the specific judge. (Ber9)

Nonetheless, although there is no guarantee that appealing to the human dignity clause in the German Basic Law will make individual claims successful, this clause itself does open up an additional legal path to support EU citizens' access to social support. German organisations can therefore try to proceed on the grounds of national legislation when EU migrant citizens have no entitlement to social support according to EU law. The social worker from Diakonie Housing Support explains:

There are different jurisdictions. There is the EU level, national level and the constitutional law. The EU level says... there is the new judgement, *Alimanovic*... which says no benefits for jobseekers. But that is EU level, and then there is the national level, and when it pertains to 'human dignity', the subsistence minimum, article 1, then we can try to go about it that way. That is of course difficult, but when one explains the situation very clearly then there are cases... where benefits have been granted. (Ham5)

If an emergency appeal has been approved by a social court, and social support is granted, this lasts until the normal complaint procedure with the social court has been completed (which may still be several months). This significantly prolongs the time available to individuals to look for a job and establish themselves in Germany, and so also gives them the possibility to claim social rights according to the non-discrimination principle in EU law at a later point.

Having said all that, several interviewees professed that recent judgments from the CJEU (the *Dano* case and, especially, the *Alimanovic* case) have made it significantly more difficult for them to place their hopes on the German human dignity clause (Ber9, 2015; Ber12; Ham5; Ham6). In the words of a social worker from Diakonie Office for Immigration from South-eastern Europe (Hamburg):

... the last *Alimanovic* case, before this we thought that for the people who come here as jobseekers and really try to find a job, and perhaps also do a language course, for them we can perhaps get some social benefits to get them something to eat and somewhere to sleep for a little while and improve their job-finding chances. And sometimes, although seldom, we managed to help them. But since the *Alimanovic* case, this possibility seems to be gone. (Ham7a)

Nevertheless, only a month before most of the interviews in Germany were conducted, the German Federal Social Court (*Bundessozialgericht*) ruled that all EU citizens, irrespective of the lawfulness of their residence (as determined by the free movement directive), are entitled to a subsistence minimum after residing for six months in Germany, as they can then be considered to have solidified their residence in Germany. This ruling was made possible precisely by the strong human rights and the social state principle enshrined in German Basic Law (recall, chapter two). It happened shortly after the *Alimanovic* ruling by the CJEU. In light of this, some interviewees suggested that the pendulum might swing back again (Ber12). Since this ruling, however, the federal government has gone against the Federal Social Court and imposed new rules on EU citizens' entitlement, ignoring the six-months rule (Zeit, 2016; BMAS, 2016).

Sweden

In Sweden, the general emphasis on collective social rights and the comparative lack of grounds for legal claims to social rights (c.f. chapter two) are reflected in how NPVOs support EU migrant citizens. To begin with, the organisations in Sweden do not seem to use courts to dispute the decisions of public authorities. Crossroads in Stockholm explained that they do not act as representatives (*ombud*) for the person, but can support EU migrant citizens with how to make an appeal; that is, they can 'assist with knowledge and assist with the writing of the appeal' (Sth8). This happens quite rarely, however. Crossroads in Gothenburg have at times challenged the Swedish Tax

Authority's interpretation of the population registry law (Gbg5a). Yet, legal experts from Crossroads in both cities professed that taking the court route was generally not necessary. In most instances, they explained, they would simply contact the local or national authority in question, discuss the matter with them and so reach a solution (Gbg5b; Sth8). Importantly, this does not mean that there is a lack of sensibility to legal questions in these organisations. On the contrary, as the following statement by a Crossroads interviewee reveals, they see the EU's supranational framework of rights as an important basis for their work:

We are of the opinion that the EU citizenship goes before the national, in some questions. When EU law and the national collide, EU law should have priority – as one can dispute up to this level. (Gbg4)

That Crossroads do not normally take cases to administrative courts thus rather appears to reflect the intentional vagueness of social rights in Sweden and the inbuilt scope for discretion in their delivery (recall, chapter two). In both Crossroads organisations – and they are really the only relevant ones to consider in Sweden, since none of the other organisations provide counselling – legal work centres much more on bottom-up advocacy for implementation, as discussed earlier.¹⁰¹ Finally, whereas NPVOs in Germany have at times been able to obtain social support to EU migrant citizens by way of appealing to the constitutional clause on human dignity, the only comparable point of reference for Swedish support organisations would seem to be the

¹⁰¹ Crossroads Stockholm for example 'communicate[s] with legal secretariats regarding how the government agency applies national law or the EU law through national law' (Sth8).

aforementioned legal obligation for municipalities to provide emergency care to anyone in acute need.¹⁰²

Conclusion

This chapter has sought to demonstrate how NPVOs act as local facilitators of EU migrant citizens' social rights, as they provide different forms of support to overcome barriers to access social rights. Although it is unsurprising to find that NPVOs support struggling migrants, the details of these findings unveil a largely untold story of how distinct welfare systems and judicial contexts shape NPVOs ability to provide support to (EU) migrants, and thus how the implementation of European social law and the boundaries of social citizenship differs in different member states.

First of all, by looking at how NPVOs support EU migrant citizens access to social rights, the chapter found that NPVOs act as bottom-up enforcers. Several of the studied organisations appear critical in ensuring that local social rights delivering institutions are aware of EU legislation as well as its domestic application – both by providing individual case-workers and administrative offices with information, and by way of reporting infringements to the EU level.

As far as the question of how NPVOs' particular role in welfare states shape their ability to support EU migrant citizens is concerned, the chapter has argued that NPVOs in both countries under study operate both as independent actors and as service providers on behalf (or partly on behalf) of the state. A big difference with respect to the NPVOs that support EU migrant citizens on the basis of state funding, is that the

¹⁰² Debates in Sweden regarding municipalities' responsibility have thus revolved around how far this emergency responsibility reaches (Sth4), rather than invoking a notion of human dignity or the like.

ones in Germany are providers of publically funded migrant counselling services, whereas the Swedish organisations provide services primarily in the homeless-care sector. This is directly relevant for what type of support they are able to offer EU migrant citizens. And it may be seen as a function of the organisations' general position in the welfare state. In Germany, where the organisations are core part of social services delivery in general, their size and resources provide them with more opportunities to act in accordance with their own particular interest and norms, and to provide additional support for EU migrant citizens. Put differently, public funds to provide migrant counselling plus internal organisational resources create a layering of means of support.

This raises interesting questions about where and by whom the boundaries of welfare are drawn. Whilst the German government has recently tried to limit EU migrant citizens' access to specific benefits (BMAS, 2016), the voluntary welfare associations are facilitating access to social rights with the support of (federal and local) government funds. Swedish organisations can also act in accordance with their own norms and values, but their ability to do so is comparatively more constrained due to limited competences and financial resources. And although they have received extra funding specifically to cater to the needs of EU migrant citizens, this has come at the expense of being more closely intertwined with the welfare state and its stricter limits for who may benefit from it.

With regard to the question of governance, the evidence presented in the chapter has furthermore illustrated the significance of EU funds for the financing of several of the NPVOs. We thus see how the only existing form of redistribution at the EU level – the structural funds – are used to enforce EU social citizenship bottom-up. Given that funding from the FEAD or ESF makes up between 50 and 85 per cent of the project funding where organisations receive such grants, it is plausible that several

organisations operating on such funding would not have existed without them, or at least not been able to provide the additional support. Although in most cases the local or national government co-finances organisations receiving EU funds, we also saw examples of NPVOs acting together in order to circumvent the gatekeeping function of the local government, and acquire FEAD funds independently (while still being subject to the federal government's FEAD programme selection criterion, however). In sum, though there continues to exist no pan-European welfare state, redistributive programs at the EU level help fund support to welfare access for EU migrant citizens and the corresponding implementation of supranational rights and forms of citizenship.

Another issue the chapter has explored is how the legal systems of member states shape the facilitation of rights. Member states' legal systems are usually studied in terms of how they contribute to EU integration through referring, or refraining to refer, cases to the CJEU (Sigafos, 2012; Wind et al, 2009). The findings presented here indicate that domestic legal systems also matter at the more 'practical' level of supporting EU migrant citizens' access to social rights. In Germany, the more extensive juridification of social rights seems to explain why EU migrant-supporting NPVOs are more likely than their Swedish equivalents to use a judicial appeal route. Most notably, the human dignity clause in the German constitution provides an opportunity to secure financial support for destitute migrant citizens. In Sweden, the generally lax legal status of social rights appears to result in a more discretionary way of supporting EU migrants' rights claims. As we saw, Crossroads would call and talk to public authorities whose decisions they disagreed with, but very rarely take the case to court.

On the whole, it is clear that NPVOs that support EU migrant citizens are important to the latter's ability both to become eligible for and claim social rights. The organisations' outspoken recognition of the significance of supra-national law and EU

citizenship for ensuring individual migrants' social rights make them important local actors in negotiating the local, and national, boundaries of social citizenship. This demonstrates how 'rights have the powers to constitute ... progressive mobilizations for social change' (Somers and Roberts, 2008: 408). NPVOs push their agenda for inclusion and thus take part in shaping not just the implementation of EU law as defined at the EU level, but to further define and specify EU law in the particular context where it is being applied. As we have seen, the greater the general role of NPVOs in the welfare state, the greater appears to be their ability to impact on the substantive boundaries of social citizenship. A plurality of welfare providers comes with a plurality of objectives and normative commitments (Dahme and Wohlfahrt, 2013: 130), and the size of the 'third sector' determines resources that NPVOs have at hand. In Germany, plurality is institutionalised and a normative principle (Annheier and Siebel, 2001), whereas welfare providers in Sweden exhibit more uniformity. Even if there has been a significant growth in non-state providers in Sweden during the last decade, this has consisted mainly of private for-profits, and NPVOs have not been able to establish themselves (Blomqvist and Winblad, 2017). The organisation of the welfare state is in other words important to understand the lines of inclusion and exclusion not only of EU migrant citizens, but migrants more generally. Therefore, research on migrants' social rights should look not only to differences in social policies themselves, but also the institutional context within which they are delivered.

Chapter 6

Immigrants or migrants? Indirect facilitation of social rights through integration support

In the course of conducting research for this study, it became apparent that there are substantial differences across countries and cities both when it comes to the perceptions of EU migrant citizens and with respect to the local policy efforts targeting them. On the one hand, there were great disparities as to whether those who arrived from other EU countries with a lack of resources and/or skills were accepted as having immigrated, or whether they were seen as residing only temporarily in the country. On the other, the extent to which such EU migrant citizens were given access to different means of support to integrate in the destination member state also varied greatly.

Against this backdrop, this chapter is predicated first, on the idea that EU migrant citizens may at the same time be viewed – both legally and in theory – as immigrants and migrants. And second, on the view that that different forms of support to integrate in the destination member state may facilitate EU migrant citizens' access to social rights, in that it supports especially labour market access. Focusing specifically at how those EU migrant citizens that raise social policy challenges for local governments are recognised in terms of status (as migrants or immigrants), the chapter demonstrates that there are salient differences in the way EU migrant citizens are recognised across the studied cities and countries [by which I mean the official standpoint conveyed in policy documents and interviews], and that this corresponds with different degrees of integration support being provided for them at the local level [by which I mean formal (i.e. financed by the state or local government, and not exclusively civil society

initiatives) in-kind (not cash benefits) forms of integration support]. This, I suggest, is connected to differences in how immigrant integration is governed in each country, and the room for manoeuvre local actors enjoy in choosing to target EU migrant citizens with integration measures.

Immigrants or migrants?

It is not easy to provide a single and simple definition of a migrant, since various institutions have different approaches to and understandings of migration. ‘Migrant’ and ‘immigrant’ are often used interchangeably, although migrant refers to a person who moves between destinations (a temporal movement) and immigrant to someone who moves into a specific place (permanent change of residence) (Cenker, 2015: 192).¹⁰³ EU migrant citizens, as opposed to other migrants, are entitled to conditional free movement, which makes them ‘free movers’ (Favell, 2008). In theory, ‘movement’ suggests something rather transient, that people are not staying for any longer period of time. In this sense, EU citizens who move between member states are migrants. At the same time, they are, legally speaking, all potential *immigrants*, for all EU migrant citizens have the right to free movement and all could fulfil the requirements to reside for a period long enough for them to be considered immigrants.

Rainer Bauböck suggests (2011: 350) that ‘free movement’ can be understood as constituted by three separate parts: the right to (1) leave, (2) move and (3) settle. And, it is in the last stage of free movement – settlement – that ‘the critical ideal that underpins EU citizenship ... the principle of non-discrimination on the grounds of

¹⁰³ A case in point for differences in definitions are migration statistics and the study of migration, which suffers from incoherent definitions and corresponding poor comparable data (Cenker, 2015: 195).

nationality and thus equal treatment with nationals of a certain Member State' (Kostakopoulou, 2014) becomes applicable. This emerged quite clearly in chapter four that demonstrated the need to be resident. Ultimately, it comes as no surprise that EU citizens in practice engage in different types of movement. These can be categorised both as immigration and as circular or temporary migration (Recchi, 2015; Wallace and Stola, 2001).

Besides empirical patterns of movement and all EU migrant citizens' legal potential to be both migrants and immigrants, EU citizens' intra-EU movement is framed differently at different points in time and by different actors. As we know, what is considered a political issue is not 'objective' and policy solutions do not follow straightforwardly from particular socio-economic challenges (Majone, 1989: 23 f.n.). Across Europe, political actors critical of free movement have tended to cast EU citizens' intra-EU movement in terms of immigration rather than mobility (Favell, 2008: 183). These distinctions moreover map in dissimilar ways onto different (perceived or legal) categories of EU citizens. Favell (2008) argues that, ever since the expansion of the Union to include Central Eastern European states, EU migrant citizens fall into two categories. On the one hand there are the free movers – the 'Eurostars' of European integration. Those are the small number of EU migrant citizens from the older member states; a group that reflects a cosmopolitan, post-national Europe. On the other hand, there are the movers from the younger member states, moving from East to West.

The latter group's movement has tended to be cast much more in terms of immigration than as free movement in destination member states (SR, 2014), tacitly (and sometimes explicitly) drawing a connection between EU migrants from the East and waves of 'ethnic immigration' that occurred in the late twentieth century (thus also

distinguishing Central Eastern European from West-European movers) (Favell, 2008). Nationality is here entangled with socio-economic factors, mirroring the economic similarities between old member states and dissimilarities between new and old ones (Bruzelius et al, 2017; Scharpf, 2002, p. 650). In political discourse, some westwards migration from CEE countries is often referred to as ‘poverty migration’ (FAZ, 2013), or even as the migration of ‘poverty refugees’ (Spiegel, 2013). What is more, this geographical and socio-economic distinction is also often entangled with ethnic differences, with Roma from south-eastern member states being a case in point (Parker and Catalán, 2014).

Meanwhile, a reverse shift appears to have happened in the language of the European Commission, which since the 1970s and 80s – in the documents of the European Community and subsequently of the EU – has increasingly replaced ‘migration’ with the term ‘mobility’ in order to refer to the movement of citizens of one member state to another (Recchi, 2015: 19). This use of terminology would appear to be a politically very conscious one, in times when both immigration and intra-EU migration has become increasingly political contentious across member states (Ferrera, 2016), the Commission frames intra-EU migration as transient – nurturing an expectation that EU migrant citizens will at some point ‘go home’, rather than settle long-term in the new member state. Such expectations of temporary stays are also reflected in the common use of ‘host’ and ‘home’ member state. However, whilst some find that labelling EU migrant citizens as *immigrants* is ‘populist’ and ‘hideous’ (Joppke, 2017), some EU migrant citizens *do* settle long term in other member states. To not accept this may amount to social exclusion – as I will discuss in the next part, it is likely to impact on whether efforts are made to support the social integration of migrant citizens in the country of destination.

'In-betweenness' and integration support

Immigrants, i.e. those who intend to (or are expected to) settle, are typically expected to integrate in the new country, and are accordingly offered, or required, to participate in various integration programmes and given different forms of support intended to assist and encourage their integration into their host society. Importantly, immigrant integration programmes are not only aimed at cultural integration; very often they are meant to facilitate labour market integration. For example by providing access to different forms of labour market integration programmes, such as subsidised employment.¹⁰⁴ There are also measures that are not directly tied to employment that tend to be indirectly aimed at facilitating individuals' integration into the labour market (and hence self-sufficiency), most notably perhaps language training.

Labour market integration is crucial for EU migrant citizens, as the worker status is the most advantageous status to hold during the first five years of residence in a new member state. Being a worker or having permanent residency is core to full equal treatment with respect to social rights in the destination member state. However, in contrast to other groups of immigrants, EU migrant citizens' free mover status tends to be more or less connected with the assumption that they manage by themselves. This often places EU migrant citizens in an 'in-between' position. One example of this is jobseekers' support in the country of destination. EU migrant citizens are entitled to receive the same assistance from the national employment office in the destination member state as nationals of the same member state.¹⁰⁵ EU migrant citizens' right to

¹⁰⁴ Immigrant integration programmes typically also focus on cultural integration, this too may further labour market integration. However, my main focus here is on programmes that explicitly target labour market integration and language acquisition (which may or may not include a cultural element).

¹⁰⁵ Article 5 of Regulation (EC) No 883/2004

access financial benefits for the purposes of easier access to employment, however, is much less straightforward: although such an entitlement exists¹⁰⁶, destination member states can demand proof of a ‘genuine link’ between the jobseeker and geographic employment market in question. The nature of that link is for each member state to define, and may require fulfilling residence requirements or having ‘genuinely sought work’ for a ‘reasonable’ period in the destination member state (European Commission, 2010: 8). Another example of EU migrant citizens’ ‘in-betweenness’ is the practice of providing homeless EU migrant citizens – those who have not seamlessly integrated – with a ticket back to their country of origin (a common practice in each of the studied cities), which tends to be justified on the grounds that they can ostensibly ‘solve their problem by going home’ (NDR, 2016).

That EU migrant citizens are assumed to be mobile, and not necessarily to have come to stay, is also reflected in EU migrant citizens’ entitlement to participate in various forms of immigrant integration programmes, which varies across member states. Generally speaking, if a course or programme is available also for nationals of the destination member state (who might be returning from abroad), EU citizens must not be discriminated against on grounds of the EU prohibition of nationality-based discrimination. However, not all courses are available accordingly: in some member states, orientation and language programmes are limited to refugee and humanitarian immigrant populations. In other, especially Western European member states, support programmes may be open to EU citizens, but on the face of it are rarely proactively

¹⁰⁶ The CJEU has concluded that EU migrant citizens, since the introduction of Union citizenship, should qualify for equal treatment also with respect to such benefits (Cases C-138/02, C-258/04 and C-22/08).

promoted towards this group (Collett, 2013: 4), and are often only available against a fee.

The issue of integration, and whether EU migrant citizens' integration should be actively supported in destination member states, is made more salient with the movement of low-skilled job-seeking citizens from new member states. Lack of the right skills can make it very hard to find lawful employment, affecting the right to reside as well as the migrant citizen's social rights entitlement in the destination country. In the absence of relatively fast labour market integration, these migrant citizens are likely to end up in precarity due to insufficient savings and/or exportable benefits, and the typically very limited or non-existing access to formal social support for economically in-active EU migrant citizens (Bruzelius et al, 2017).¹⁰⁷ This can turn said group into policy challenges for local governments – most obviously when people find themselves in acute need of shelter, food and other basic needs, but also for example when they are forced to take up exploitative employment – and make integration a specifically salient topic with respect to these migrant citizens. In contrast, the highly qualified and economically self-sufficient EU citizens who migrate between member states – the 'Eurostars' – may not integrate in the sense of learning the local language, but are unlikely to become a social concern for local or national governments and may go largely unnoticed.¹⁰⁸

¹⁰⁷ Difficulties arising from insufficient exportable benefits and limited access to social support affects not only low-skilled EU migrant citizens, but it can be assumed that this is the group that may benefit most from (labour market-) integration support in the new member state.

¹⁰⁸ Although in places like Berlin, they arrival of economically self-sufficient EU migrant citizens who do not integrate in the sense of learning the language have become the source of local annoyance, as they contribute to the rise of rents and housing shortage.

Retuning to my earlier point, namely that intra-EU movement has been cast interchangeably as migration and immigration with respect to different groups of EU migrant citizens, we may ask in what way EU migrant citizens' who struggle to integrate and become policy challenges to local governments are perceived by the latter – as migrants/mobile or as immigrants? Where local governments view them as immigrants, this may induce a perceived obligation on behalf of these authorities to support individuals' socio-economic integration in the destination country. Take the example of Germany, where a federal strategy for immigrant integration was instituted only in 2005, with the recognition that Germany is a 'country of immigration' (Bendel, 2014).¹⁰⁹

Against this background, the first question that this chapter seeks to answer is whether EU migrant citizens are recognised as immigrants or mobile citizens by local governments, and whether this correlates with EU migrant citizens' access to locally provided integration measures? Furthermore, although the underlying assumption in this chapter is that access to immigrant integration support can promote access to social rights, the chapter also seeks grounds for this claim and asks in what ways access to specific programmes can be said to promote the substantive social rights of EU migrant citizens.

Understanding how local governments respond to the integration needs of EU citizens, requires that we take structural constraints into account. More specifically, we should

¹⁰⁹ With this recognition, the federal government, amongst other things, committed to streamline and finance locally delivered integration courses.

consider how immigrant integration policies are governed across levels, which I do in the following section.

The multilevel characteristics of integration policy

European integration has reduced EU member states' sovereign control over their physical borders and so their ability to control immigration. However, policies targeting the integration of immigrants and social cohesion remain in the hands of member states and vary considerably across them.¹¹⁰ Mirroring research on welfare states, the nation state has therefore been the dominant lens for research on immigrant integration politics and policies, in which distinct national models of integration have been identified (Brubaker 1992; Koopmans and Statham, 2000). Sainsbury (2012) speaks in this connection of different 'incorporation regimes' that play an important role in determining immigrants' access to social rights. One core component of this, she argues, are 'special reception measures and settlement programs directed to newcomers' (p. 17).

However, integration policies may vary also within countries. Scholarship on the topic has notably stressed the local dimension of immigrant integration politics and policy, and indicated that local governments do not only implement, but also formulate integration policy (Alexander, 2007; Capoino and Bockert, 2010; Scholten, 2013). Cities, after all, are sites of integration (Glick Schiller and Çağlar, 2009). On the one hand, it has been demonstrated that integration policies in European cities (including Berlin) have been reactive and ad hoc rather than responsive to national policy; integration is put on the local political agenda only when it is widely perceived as an

¹¹⁰ See MIPEX (Migrant Integration Policy Index) at www.mipex.eu

issue that concerns the whole local community and not to just the ethnic minority group itself (Mahning, 2004). Others similarly have pointed out that local policies reflect the local problem situation, political setting, and specific local policy legacies (Glick Schiller and Çağlar, 2009; Caponio and Borkert, 2010). On the other hand, the power-relations between national and local government in this specific policy area has been shown to constitute an important factor for understanding local governments as integration policy actors (Emilsson, 2015). National models of integration have also been found to often directly influence the local level, sometimes leading to congruence between national and local integration policies (Dekker, et al. 2015).

Previous research in other words suggests that integration policy is best described in terms of multi-level governance: local governments are important actors in shaping integration policy, acting in a national context that lends constraints and possibilities. In asking whether EU migrant citizens are perceived as immigrants or migrants and whether they are granted access to any integration support, it is thus important to look closely at the general governance structures of integration policy in each country. The final question that this chapter seeks to answer is thus under what forms of governance structures we find distinct types of recognition and access to locally provided integration measures?

Methods

I explore each of the above-defined questions in the following way:

Question 1: *Are EU migrant citizens recognised as immigrants or mobile citizens by local governments, and does this correlate with access to integration measures?* To answer this question, I look at how the nature of EU migrant citizens' status is described

(1) by local government interviewees and (2) in policy documents relating to the local government's measures and strategies pertaining to EU migrant citizens. I also consider whether the status ascription as either immigrants or migrants can be traced in the substantive content of, and the motivations behind, locally funded general immigrant integration measures, as well as other measures targeting EU migrant citizens. I here focus on those EU migrant citizens who are perceived by local governments to represent a social challenge. These citizens can be seen as critical cases, not only because they will most likely be regarded as problematic, unwanted and temporary migrants, but also because they are those who are likely to benefit most from access to integration support. The policy documents selected were hence chosen because they are key documents outlining the local government's targeted efforts towards this group of EU migrant citizens.

It should be emphasised that 'recognition' does not refer to actual perceptions held by different local actors, but rather to the official standpoint conveyed in policy documents and interviews. 'Integration measures' refers to formal (i.e. financed by the state or local government, and not exclusively civil society initiatives) in-kind (not cash benefits) forms of integration support. These can be of general kind (aimed at immigrants *tout court*), or targeting EU migrant citizens specifically. It is important to note that it is not clear precisely what supports integration, and that also efforts not labelled as promoting integration may support integration.¹¹¹ However, I single out integration measures as those programmes/projects/policies/services that have an explicit focus on furthering the integration of participants or clients.

¹¹¹ In chapter five we for example saw how EU migrant citizens' integration was supported through basic needs support.

Question 2: *In what ways can access to specific programmes be said to promote the substantive social rights of EU migrant citizens?* In answering this question, I rely primarily on interviews with both local government actors and non-for-profit organisations that provide support for migrants. Here I looked for examples that indicate either the immediate success of projects aimed at supporting EU migrant citizens' integration, or indirect ways in which such efforts matter for EU migrant citizens' access to social rights.

Question 3: *Under what forms of governance structures are particular types of recognition and access to locally provided integration measures found?* To better understand this, I include a separate section that looks at the national context within which local governments respond to EU migrant citizens' integration needs. I there consider how much leeway local municipalities have in making their own integration policies, and the extent to which EU migrant citizens enjoy access to general/nationally provided integration measures. I also investigate the position of municipal interest- and working groups that represent my city cases (amongst others) through the analysis of policy and position papers. This to add to our understanding both of the national context and the respective local governments' positions. Moreover, because Berlin stands out in contrast to the other cities – being the single city of those I have studied where more targeted support for those EU migrant citizens' who are viewed as local challenges has been provided – I single out Berlin for closer investigation to better understand the conditions under which such policy responses came about.

Because Berlin was studied by way of within-case analysis, the presentation of the respective case studies is structured somewhat differently. For Sweden I discuss Gothenburg and Stockholm in parallel, whereas the presentation of the findings from the Germany case study starts with a broad comparison of perceptions expressed at the

pan-local level by municipal interest groups, and then offers a brief overview of the most pertinent differences between Hamburg and Berlin, before proceeding to look closely at Berlin.

The national context: integration policy and EU citizens' access to national/federal integration programmes

In Germany, immigrant integration is a joint endeavour of the federal state and the regional German states. In 2005, rather late given several decades of immigration, Germany adopted a coordinated, federal strategy for immigrant integration, the National Integration Act (*Nationaler Integrationsplan*). Accordingly, streamlined and federally funded measures to integrate immigrants were implemented across the country (Bendel, 2014). Any existing policies aimed at migrant integration prior to this were the initiatives of individual German states, implemented at their discretion. Indeed, the federal integration policies in Germany evolved bottom-up from the local level, supported by a strong involvement of (local) civil society (Heckmann, 2003; Bommes 2010). Today, the states are responsible for implementing federal integration policy, but also continue to operate their own integration programmes (Bendel, 2014). The state of Berlin for example has its own Commissioner for Integration and Migration and its own Integration Concept (*Integrationskonzept*). Although the Berlin integration concept closely resembles the National Integration Plan (*Integrationsplan*), the former developed almost half a decade before the latter and was certainly perceived as a model for the National Integration Plan (Dekker et al. 2015: 649). In addition, most of Berlin's districts have advisory boards and commissioners for integration, and the same holds true for Hamburg. This presents a challenge for policy coordination and coherence within the German cities (c.f. Dekker et al, 2015: 641).

The Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge*, BAMF) finances integration courses and migrant counselling services that are provided at the local level by civil society organisations (as described in the previous chapter), in particular by the voluntary welfare organisations (BAMF, 2016). The counselling funded by the federal level includes Migrant Counselling for Adult Migrants (*Migrationsberatung für Erwachsene*, MBE) and Youth Migration Services (*Jugendmigrationsdienst*). According to the MBE guidelines, EU citizens with the right to free movement can also use the counselling services when they have an ‘integration-need that is similar to that of other new immigrants’. By this is meant, for example, ‘particularly inadequate German language knowledge’ (BAMF, 2016: 549, para. 2.3.5.).

The integration course, which in large part is a language course, is however not as easily accessible to EU migrant citizens as they have no legal entitlement to participate. However, the BAMF can give permission to participation ‘if you do not yet speak adequate German, if you have particular integration needs, and if there are places available on the course’ (BAMF, 2017). EU citizens who are in receipt of unemployment benefits or social assistance are exempted from the course fee,¹¹² whilst EU migrant citizens who do not receive benefits are required to pay fees. It is however possible to be exempted from the costs altogether if one suffers from economic hardship (*ibid.*). In order to further reduce barriers for EU citizens to participate in the integration courses, it was 2014 in decided at federal level that cities ‘especially affected by EU immigration’ should reduce the demands on evidence EU citizens have

¹¹² The price for a full course as of February 2017 was € 1287 (BAMF, 2017).

to provide in order to be exempted from the course fee (BMI/BMAS, 2014:13; c.f. Drucksache 18/3015: 37-46). There have also been demands from individual states to establish a legal entitlement for EU migrant citizens to take the integration course (I will discuss this further below).

Compared with Germany, Sweden has a markedly more top-down structure of integration policy (Dekker et al, 2015; Emilsson, 2015). Immigrant integration issues are since 2010 the responsibility of the Ministry of Employment, although the policy is supposed to permeate all government agencies (Dekker et al, 2015: 646).¹¹³ Prior to 2010, responsibility for immigrant introduction programmes had been decentralised. With the 2010 reform, the state took over responsibility for the introduction programmes from the municipalities (Bill 2009/10:60), in order to correct what the government perceived to be an insufficient focus on labour market activities and slow labour market integration. Moreover, centralisation was intended to reduce what was perceived as too great disparities in how municipalities organised the introduction programmes, thus guaranteeing a better implementation of state policy (Emilsson, 2015).

The ‘establishment efforts for certain newly arrived immigrants’ – is the most important integration measure provided by the Swedish state (Emilsson, 2015; Bill 2013/14:01). The aim of this policy is to make participants learn Swedish and other necessary knowledge of Swedish society, find work, and so enable them to support themselves financially.¹¹⁴ The category of ‘certain newly arrived immigrants’ here

¹¹³ Immigrant integration used to be a distinct policy area with a ministry of its own.

¹¹⁴ *Lag om etableringsinsatser för vissa nyanlända invandrare* (2010: 197).

includes refugees and those who have received a residence permit for similar reasons, as well as relatives of one of the latter – but not EU citizens. Local governments are responsible for the implementation of services such as language courses and civic orientation, for which they receive state funding (Dekker et al. 2015: 647). Most other integration measures have a focus on employment; immigrants entitled to the establishment support can also benefit from services providing ‘fast-track’ access to the labour market (Employment Services, 2017), such as subsidised employment (Regeringskansliet, 2017).

Beyond the establishment efforts for newly arrived, Swedish integration goals are since 2010 meant to be achieved primarily through general measures that extend to the entire population (Bill 2009/10-60: 25). Examples of such measures are different forms of labour market activation programmes.¹¹⁵ The Swedish Employment Services do not register citizenship, and hence no data is available on how many EU citizens ultimately benefit from these programmes. However, according to interviewees in Stockholm and Gothenburg employment offices, it is rare that EU migrant citizens who do not have permanent residence can benefit from the programmes, since access to most of them requires a period of (registered) unemployment longer than the time that many EU citizens (may) reside in the country as jobseekers (Gbg12; Sth5; Swe3). In practice, only one programme can become applicable, namely one targeting young persons who have not found employment within 90 days.¹¹⁶ Access to this does however require a

¹¹⁵ Such programmes are in contrast limited in scope and comparatively insignificant in Germany (European Commission, 2016).

¹¹⁶ The so called ‘work-guarantee for young persons’ [*jobbgarantin for ungdomar*].

personal ID and thus residence registration, meaning that those arriving as jobseekers are practically blocked from access (see chapter four).

Nevertheless, EU citizens are entitled to take the Swedish for Immigrants (*Svenska för Invandrare*, SFI) course, which is one component of the ‘establishment efforts’ provided by the municipalities. There is however a lack of clarity as to under what conditions they can make use of this entitlement. The Swedish School Law defines as entitled those who are registered in the population registry. At the same time, there are exemptions from this, and the law also states that ‘resident shall also be considered s/he who has the right to education according to EU law.’¹¹⁷ For those who are not registered as resident, this thus often triggers a vicious cycle (Swe2). As a result of the efforts made by Solvit and organisations like Crossroads, municipalities have started accepting coordination numbers instead of personal registration numbers in order to facilitate access to the Swedish for Immigrants courses. Meanwhile, The Swedish Association of Local Authorities and Regions (SKL) has defended the reluctant position of municipalities, who are not keen on the idea that ‘tourists’ should be able to take the course that is for immigrants.

In summary, EU migrant citizens are entitled to use some of the German integration services; so the German municipalities operate in a context where EU migrant citizens are to some extent recognised as immigrants as far as access to state provided integration support is concerned. The Swedish municipalities, in contrast, operate within a framework of few targeted integration measures, in which EU citizens have very limited access to existing integration measures.

¹¹⁷ *Skollagen, art. 29, 2§, undantag 3*

Sweden: temporary ‘vulnerable’ EU citizens and short-term strategies

Although the data available for numbers of EU migrant citizens in Swedish cities is scarce (as discussed in the methods chapter), Gothenburg and Stockholm are also likely to have most EU migrant citizens in the country as they are the largest cities in the country. In both Gothenburg and Stockholm, existing measures and strategies that target EU citizens specifically all pertain to EU migrant citizens in precarity. These citizens are perceived by the local governments as temporary migrants. There is a thoroughgoing emphasis on these citizens being beggars, and correspondingly on their temporary or absent right to reside. This view is also echoed at the national level. The term ‘vulnerable EU citizens’ (*utsatta EU-medborgare*) was a key term used by interviewees and in policy documents, and has also become a key term (together with ‘EU migrants’ (SR, 2014)) in the Swedish public debate on intra-EU migration. Although a precise definition of the term is rarely to be found, it tends to refer to EU citizens who have temporary rights to reside in Sweden (i.e. who are not expected to be able to fulfil the requirements for residency) and who find themselves in precarious situations in Sweden (SOU 2016/6). More often than not, it also explicitly or implicitly refers to begging migrant citizens.

Let us first look at the more general, pan-local, context. The Swedish Association of Local Authorities and Regions (SKL), an organisation that represents and advocates for local government in Sweden, has been vocal in placing the question of municipalities’ responsibilities towards vulnerable EU migrant citizens on the agenda and push the national government to respond to the situation. Based on queries received from their members (the municipalities), SKL has produced a couple of guideline-documents on the relevant legal rules. In one of their guidelines, which outlines the formal responsibility of municipalities towards vulnerable EU citizens, SKL writes:

The right to freedom of movement has in the last years been used by the newest member states', Bulgarian and Romanian, citizens. Those who have come here appear to not have had as their main purpose to seek work, alternatively a genuine chance to get a job, but rather support themselves through begging. (SKL, 2014: 2)

According to one of the authors of the document, the term 'vulnerable EU citizens' was used 'only because there are so many who were so provoked by calling them beggars... but those we talk about are exactly those who sit and beg in the streets' (Swe1). The guideline also emphasises the limited nature of vulnerable EU citizens' right to reside, clarifying that 'It is ... not the intention that one should exploit this right to movement entirely without limitations' (p. 1). Moreover, in a letter to the National Board of Health and Welfare (*Socialstyrelsen*) ahead of the Board's appointment of a national coordinator tasked to oversee municipal practices regarding 'vulnerable EU citizens', SKL emphasised that: 'The EU citizens with which we are concerned ... are those who stay temporarily in Sweden, but who do not have the intention to settle in Sweden' (SKL, 2015: 1). Apart from addressing questions of these citizens' right to residence and social assistance, SKLs focus has also been to clarify questions of law and order nature, for example what to do about tent-camps that have been set up by homeless EU citizens (SKL, 2014; Swe1).

Both in Gothenburg and Stockholm, it is recognised that also EU citizens who are not vulnerable arrive in the city. These are EU citizens residing in either city who have arranged work and/or accommodation before arriving or in connection with arriving (Göteborgs Stad, 2015: 3) and who handle their economic maintenance themselves (Stockholms Stad, 2012: 2). This group, however, is rarely in need of local government support (Göteborgs Stad, 2014: 3) and are rarely in touch with societal institutions [*samhällsinsatser*] (Stockholms Stad, 2012: 2). The EU migrants with which the local

governments of both cities are most concerned are those who are poor and who are perceived as residing there only temporarily. Gothenburg municipality's contract with civil society organisations (c.f. chapter five) is meant to provide 'measures for migrating EU citizens' in 2013 (Göteborgs Stad, 2013), which should target 'those EU citizens who are in an economically and socially precarious situation... [who] are here primarily for their economic maintenance' (Göteborgs Stad, 2014: 3). In Stockholm, civil society organisations have been funded to support 'poor EU citizens' (Stockholms Stad, 2012, Stockholms Stad, 2015) (c.f. chapter five). The target group for the measures provided were described, more specifically, as 'EU-citizens who reside temporarily in the city' (Stockholms Stad, 2012).

In addition, the job-seeking motivation of these citizens is acknowledged, but is downplayed with the emphasis on begging. According to Gothenburg municipality, the target group of the municipal funded measures, are citizens 'who have come to Sweden to look for work... many ... support themselves through begging, bottle redemption and/or street-music. Some work in the shadow economy.' (Göteborgs Stad, 2015: 3). In the document laying out the ground for Stockholm municipality's funding of support targeting vulnerable EU citizens, there is likewise an emphasis on begging, and a section discussing the lawfulness of this practice (Stockholms Stad, 2012, cf. Stockholms Stad, 2015). The coordinator of Gothenburg's policies targeting vulnerable EU citizens acknowledged in an interview that:

They [other, non-Swedish, European cities] have a completely different perspective. There they see persons who come more from the perspective that it is manpower arriving... So it ... [is] evident that this is a Swedish phenomenon, that here EU citizen means beggar. (Gbg1)

In Stockholm, civil society organisations have been funded to support ‘poor EU citizens’ (Stockholms Stad, 2012) (c.f. chapter five). The target group for the measures provided were described, more specifically, as ‘EU-citizens who reside temporarily in the city’ (ibid.: 1).

In response to the municipalities’ demands, and SKL’s advocacy, a national coordinator was appointed in 2014 to provide support for government authorities, municipalities and organisations that meet ‘vulnerable EEA¹¹⁸ citizens who reside temporarily in Sweden, under three months that is, and who do not have the right to reside’ (Dir. 2015: 9). The coordinator’s final report defined ‘vulnerable EU citizens’ as ‘individuals who are citizens in another EU country and who do not have the so-called right to reside in Sweden’ (SOU 2016/6: 7). The report explains that vulnerable EU-citizens have been arriving in larger numbers since 2012, and that ‘some came to beg and others to pick berries or to seek work’, and that ‘these persons leave their home countries... because of poverty and unemployment’ (SOU 2016/6: 19). Further, ‘[w]hen they come here, it concerns a wish to create better material preconditions for themselves and their children’ (SOU 2016/6: 20).

Despite the recognition that some came to seek work, the remainder of the report focuses almost exclusively on begging EU migrant citizens and the temporary nature of vulnerable EU citizens’ stay in Sweden is repeated throughout. Moreover, the report stresses that ‘EU citizens residing temporarily in Sweden... have significantly less rights to welfare than the majority living in Sweden, [which] has presented bureaucrats, politicians and the civil society with challenges of a new kind’ (p. 45). These challenges

¹¹⁸ The European Economic Area (EEA) includes EU countries and also Iceland, Liechtenstein and Norway. It allows them to be part of the EU’s single market.

are according to the report for example resource-demanding processes of evaluating applications for emergency support; balancing the decision to support EU migrant citizens with shelter, food, and return-travels with the limited responsibility that municipalities have for this group; problems with un-lawful tent-camps set up by homeless EU citizens; as well as impact on local politics.

What emerges from examining these issues is that a very similar view of EU citizens who face challenges in using their freedom of movement – or from the point of view of municipalities: who become local social/policy challenges – is held across the two Swedish municipalities, namely that EU citizens in need without formal entitlement to local support are temporarily in the country and chiefly beggars. While the presence of begging EU migrant citizens cannot be denied, however, the strong focus on this group appears unjustified both given existing estimates of their numbers and in the light of accounts other than the local governments', of who the EU migrant citizens in need of support are. A rough estimate based on a survey sent to the municipalities, found that there were about 3.900 to 4.700 begging EU citizens in *all* of Sweden in 2016 (SVT, 2016). A study from 2013 of homelessness among foreign-born persons without permanent residence permit in Sweden (Socialstyrelsen, 2013) concluded, based on reports from local bodies that meet homeless EU citizens:

...the majority of EU-migrants who come to Sweden have come to look for employment. The majority are young men who want to work and make a living. Some of these want to earn money to then return to their home country, others want to stay and create a better life for themselves here in Sweden. (p. 32).

The study also gives away that a minority – roughly 30 per cent – of survey respondents reported to survive playing music in the street, begging, recycling cans or the like. The local government view of the vulnerable group sketched earlier was also rejected by

interviewed civil society organisations, who complained that other (non-begging) vulnerable EU migrant citizens are simply overlooked. A social worker from the Salvation Army in Stockholm described how:

A problem is that the social services only target their work towards Romanians that beg... they say they focus on those who suffer most – those who sit and beg ... ‘because we [the local government] have decided that [– that they are the ones who are worst off]’. (Sth6)

Crossroads Gothenburg’s project manager in turn described how it was only with the arrival of ‘the visible group of EU citizens’ that Crossroads began (Gbg4) – i.e. this is when the local government decided to partially fund the City Mission to enable them to start the Crossroads project — despite the fact that ‘the others [the other EU citizens] have always been here’ (Gbg4). Accordingly, Crossroads’ project manager expressed frustration with the fact that the municipality ‘is involved in the question, but then it is ... full focus on people who beg... because that is visible! You do not see these Spaniards looking for work...’. Meanwhile, Crossroads Stockholm report that they almost exclusively meet persons who have come to seek work and income (Socialstyrelsen, 2013: 26), and that the majority of their visitors are men in working age from Central Eastern Europe looking for employment (Sth7; Crossroads Göteborg, 2014).

Irrespective of the actual duration of (and motivation for) their stay, EU migrant citizens who fall into precarity in Gothenburg and Stockholm are primarily recognised as temporary migrants. As they are understood to have no genuine chance of finding work, their right to reside is also assumed to be temporary.

Responses: addressing acute needs and furthering development in home countries

The pervasive focus on short-term stays is reflected in Swedish municipalities' responses, in municipal organisations' policy recommendations, as well as national representatives' standpoints, to vulnerable EU migrant citizens. The most common reaction by each of these actors has been to emphasise the very limited municipal responsibilities towards non-resident subjects and the concomitant narrow scope for municipal action. Accordingly, measures targeting vulnerable EU citizens that are provided or financed by the Gothenburg and Stockholm local governments mostly address acute needs with few long-term ambitions or strategies. Both municipalities have also called for change in vulnerable citizens' home countries to alter these citizens' opportunities.

The narrow scope for municipal action is a consequence of the Swedish municipal and Social Services law, which stipulates that a municipality's responsibility for non-resident citizens is limited to emergency needs (I discussed this at greater length in the previous chapter). This important limitation is highlighted in several policy documents relating to local efforts targeting EU migrant citizens (SOU 2016/6; SKL, 2014; Stockholms Stad, 2012; Göteborgs Stad, 2015).

The emphasis on limitations of local responsibility and the absence of long-term strategies or solutions in the destination municipality (or country) is reflected in local governments' concrete responses to challenges arising with the arrival of EU migrant citizens. The measures targeting EU migrant citizens that are financed and/or delivered by Gothenburg and Stockholm municipality are indicative of this: they consist almost exclusively of short-term solutions. As I described in chapter five, Swedish civil society organisations with EU migrant citizens as their target group are primarily funded to cater to acute needs (shelter, food, hygiene). According to an interviewee from the

Salvation army, Stockholm municipality was initially ambivalent as to whether they should support these organisations or not: ‘they were very much focused on not attracting additional persons. At the same time, they saw a need to provide some form of basic-needs support to needy.’ (Sth6). In addition to giving partial funding to NPVOs primarily to cater to homeless EU citizens, Gothenburg and Stockholm also provide their own street-worker teams that focus on rough sleeping EU citizens.

The national coordinator’s final report, which was awaited by local actors who wanted to see national guidelines in order to streamline their work in this area (Sth1; Sth6; Swe1), reinforced the above limitations to what local governments can do (SOU 2016/6). In terms of solutions, two things were emphasised. First, cooperation with civil society organisations (as has been discussed at length in the previous chapter); and second, improving the situation for vulnerable EU citizens in their home countries. The national coordinator concludes that ‘despite the variation in efforts [made by municipalities with respect to vulnerable EU citizens]’ there is ‘a growing shared position from the side of the municipalities... an insight that the long-term solution is altered conditions in the vulnerable EU citizens’ countries of origin’ (SOU 2016/6: 46). One of the authors of the report described in an interview that emergency support is the solution that the municipalities use and that ‘they do not want to take over responsibility for others’ citizens’ (Swe6). This line has also been pushed further by the Swedish Minister for Social Affairs, who together with the national coordinator declared that supporting organisations that work to improve the situation of vulnerable and alienated

(and above all Roma) persons in their ‘home countries’, is the best way to support vulnerable EU citizens in Sweden (Regnér and Valfridsson, 2015).¹¹⁹

Finally, in the context of long-term perspectives and strategies it is worth noticing specifically how Swedish municipalities have dealt with EU migrant children’s access to schooling. As we will see, in Berlin, families and children are often taken as a sign of people having immigrated. Although a concern for children’s rights and wellbeing were expressed in interviews in Sweden, this was mainly with respect to ‘children who dwell in street-environments’ (read: who beg/accompany those who beg) (Sth1). Nonetheless, a political debate has taken place over the last couple of years with respect to EU migrant citizens’ right to schooling. This debate has focused specifically on whether those EU citizens who stay in Sweden for more than three months without the right to reside have the right to go to school in Sweden.¹²⁰ According to the Swedish National Agency for Education (*Skolverket*) as well as independent legal experts (Stendahl and Swedrup, 2015), there exists a clear legal entitlement for these citizens to go to school, since they are to be considered ‘undocumented’ and thus are legally entitled to go to school.¹²¹ That is to say that, ever since a legal change in the Swedish School law in 2013, schools cannot exclude children who have resided in the country during a longer period of time on the basis that the school cannot evaluate their period of residence (Bill 2012:13). However, this requires (according to some local

¹¹⁹ Accordingly, the Swedish government also signed agreements in 2015 with both the Romanian and the Bulgarian government to cooperate in the field of social policy. These agreements are meant to promote common projects on social questions and welfare systems, as well as to encourage cooperation between non-governmental organisations in the two countries that address ‘vulnerable EU citizens’ (c.f. Regeringskansliet, 2016)

¹²⁰ The Swedish National Coordinator’s report estimated that only about a 100 children of ‘vulnerable’ EU citizens were dwelling in Sweden around 2015.

¹²¹ In 2013, a change was made to the Swedish School Law, in order to ensure access to schooling for undocumented children (Bill 2012:13).

bureaucrats) that the municipality has actually conducted an evaluation and concluded that the person(s) in question is/are undocumented (DN, 2015). Local governments' have thus argued that, 'the problem is how the municipality should be able to know whether children are really to be considered undocumented' (ibid.). One way of interpreting this, is that rather than respecting their right to education municipalities have tried to find counter-arguments to exclude children from schools – the whole point of the law from 2013 is after all to make it easier for children of unclear legal status to access schooling (Stendahl and Swedrup, 2015).

In summary, in Sweden, and in our two cities specifically, there is a general absence of responses to EU migrant citizens in need of support that are framed in terms of integration in the destination municipality. The question of integration and enabling EU citizens to become or maintain lawful residence, or access to services that could further integration, is almost entirely absent throughout the studied documents, interviews and the by local government financed or provided measures.

Germany: immigration from EU countries and local integration challenges

Berlin and Hamburg are amongst the cities that have received most immigration from EU member states in all of Germany, in particular from the new member states in CEE (BMI/BMAS, 2014: 24). Berlin and Hamburg are however not the only cities to see large increases in numbers of EU migrant citizens arriving in the past couple of years; many German cities have experienced similar developments (ibid.). The picture that emerges from looking at key German municipal organisations' positions on increased migration into Germany from CEE member states, and the municipal impacts thereof, is that some EU migrant citizens pose an 'integration challenge'. However, the pan-

local recognition of immigration from other EU member states and associated integration challenges makes itself visible in different ways in concrete policy responses across Berlin and Hamburg.

The Association of German Cities (*Deutscher Städtetag*) represents and advocates for most cities and towns in Germany and also functions as the national local-authority association of urban districts (*Kreisfreie Städte*). Amongst its members are Berlin and Hamburg. In 2013, the organisation published a position paper on the issue of ‘immigration from Romania and Bulgaria’ (Deutscher Städtetag, 2013). The paper has been intended to ‘raise a dialogue’ around the challenges arising for German cities as a consequence of immigration from Romania and Bulgaria – ‘this is for us not about shielding Germany from immigration, but much more about the conditions for successful integration’ (p.1). The Association of German Cities clarified that there are two types of migration from Romania and Bulgaria: on the one hand migration of highly qualified citizens that are ‘generally not associated with problems’ (p.2), and on the other hand migration of those who in their home countries partly lived under ‘the most precarious conditions’ and who ‘understandably seek the chance to improve their own life situation in the rest of Europe’ (p.2). The paper describes the latter group as those who move with very little resources and primarily in search of work, but with lacking skills and opportunities to find a job – ‘immigration of Bulgarian and Romanian citizens without language skills, social insurance and occupational outlooks...’ (p.3).

Notably, the arrival of these new immigrants is described to have a considerable local impact, as they ‘often move into rundown housing or as stay as homeless in the cities, have significant effects on the communal education, social and health system, the labour and housing market, as well as the local community altogether’. (p. 4) To address this situation, the position paper posits that change in the countries of origin is

necessary to improve these citizens' life situation and to make 'poverty migration unnecessary' (p.5). On the other hand, it also stresses that, 'To at the same time enable immigrants' good life perspectives, the cities urgently need a framework that enables appropriate communal action' (p. 5). Thus, it calls for solving difficulties with health-care access, creating pathways into employment, as well as adequately equipping schools and counselling services (p.7). The Association also demanded that the federally funded integration course should be 'fully opened for the immigrants from Bulgaria and Romania', and that 'BAMF's [Federal office for migration and refugees] migration services are put fully at disposal [to EU citizens]' (p.7). Throughout, the position paper does not touch on the issue of the plausible duration of these EU citizens' stay.

The Association of German Cities also created a federal-state working group (*Bund-Länder Arbeitsgemeinschaft*) in 2013, in which all cities 'affected by Romanian and Bulgarian immigration' participated. The working group's position paper devoted a separate section of the report to the question of integration, placing emphasis on the significance of access to the federal integration course, support to find work, and participation in school and education. In particular, the paper argued for the necessity of a legal entitlement to participation in the integration course for EU citizens, and courses tailored to the group were argued for (Bund-Länder AG, 2013: 55). Moreover, the working group discussed appropriate responses of schools and pre-schools, what can be done by different actors to address exploitative employment and deficient skills, and how health care access can be ensured to the relevant immigrant group. The overarching focus of the paper was thus on solving issues that have arisen in German municipalities – despite the conclusion that 'poverty migration can only be solved on

the long run, when the situation of those concerned significantly changes in their homeland' (ibid.: 162).

Demands from cities and states in 2013-14 that the German federal government addresses issues to do with 'poverty migration' resulted in an inventory report by the federal government (BMI/BMAS, 2014). The report recognised that integration support must be offered in the affected cities, and that outreach-oriented counselling is especially required, for there is often a notable need for low-threshold offers, support for basic orientation in everyday life, and for alphabetisation and language courses.

At this first broad glance, there thus seems to exist a general recognition that the poor and low-educated citizens from new member states who create significant local level policy challenges have immigrated to Germany, as well as a tendency to emphasise that this group's integration must be supported. However, when we turn to look at concrete actions in Berlin and Hamburg, it is clear that this apparent shared recognition of EU migrant citizens as immigrants does translate into very different emphases on integration at the local level.

Looking at the efforts made to encourage the integration of EU migrant citizens, we find clear differences between Hamburg and Berlin. The dissimilarity manifests in city-financed programmes that explicitly target EU-citizens, and efforts to integrate EU migrant citizens in precarity in Berlin. Whilst Hamburg allows access to their general integration programmes, the city has no targeted city-financed efforts of the kind found in Berlin. EU migrant citizens do have access to general integration measures funded by the Hamburg state, such as the state-funded integration centres [*Integrationszentren*] and a Welcome Centre. Additional efforts are not to be found, however. Inclusion efforts appears to target primarily those already in a stronger position to benefit from

the right to freedom of movement. According to the Hamburg Ministry for Work, Social Affairs, Family and Integration (*Behörde für Arbeit, Soziales, Familie und Integration*, BASFI), the Welcome Centre was set up ‘mainly as a special institution for skilled workers, academics, leading staff and so on to obtain their residence permit and residence registration on the fast lane’ (Ham2). This echoes what some of the civil society organisations in Hamburg stressed, namely that the city of Hamburg appears to embrace the integration only of those EU migrant citizens ‘with skills’ (Ham7b; Ham4b):

... Hamburg city does not want integration, only of the most capable... but [in Hamburg city’s view] most can return home... Hamburg city does not want to support the residence [Aufenthalt] of those who do not integrate well – that is our impression. They rather want to scare them off. (Ham4b)

A case in point is how Hamburg city in 2016 decided to severely limit access for EU citizens to the only publically provided homeless shelters, which until then had been open to all in need, irrespective of residence or citizenship status. The so-called ‘Winter Destitution Program’ (*Winternotprogramm*) that provides shelter in the winter months has been primarily used by persons from Poland, Romania and Bulgaria (NDR, 2016). According to the BASFI, this programme should only be for homeless persons. The EU migrant citizens who use the shelter are however perceived to be ‘voluntarily homeless’ by the city government. This is to say, when EU citizens have no perspectives of establishing themselves in Germany, but do not want to return to their home country (with Hamburg providing a ticket home) their homelessness is

considered chosen – in the view of Hamburg city, they could have solved their homelessness by going home (ibid.; Müller and Füllner, 2016).¹²²

It should be mentioned, however, that there are two FEAD-funded programmes in Hamburg that target EU migrant citizens and aim at integration¹²³, and one ESF-funded project targeting EU migrant workers¹²⁴. Recall that the European FEAD fund is distributed both by the federal state and the individual states in Germany: the said projects have been selected by Hamburg city, which has co-financed the required five per cent of the project. Likewise, the ESF project is also co-financed by Hamburg city. This indicates that the city is willing to support efforts with an integrative aim, similar to how Gothenburg and Stockholm municipality are supporting Crossroads. Still, the main thrust of the two FEAD funded projects in Hamburg is addressing basic needs (see f.n. 123). And the ESF project targets those who already are workers. Neither does the choice to distribute EU funds to these organisations coincide with any wider ambition or strategy to include these citizens at the district or senate level in Hamburg – distinct from Berlin.

In contrast: when asked whether the city of Berlin does anything to address the difficulties many EU migrant citizens face when they arrive in Germany (as described in chapter five), interviewees from Berlin based NPVOs routinely pointed to a specific

¹²² Also in Berlin was I given examples of EU migrant citizens being denied housing/homeless support (but not shelter) based on the same argumentation, which had also been defended in local courts (Ber1).

¹²³ ‘ABB-Service: Mobile counselling and accompanying of especially disadvantaged EU-immigrants’ seeks to improve the residence, housing and health of especially disadvantaged and/or from homelessness threatened EU citizens, and thereby enable lasting chances to societal participation. ‘Create perspectives in Europe- a model project for newly immigrated EU citizens in precarious life situations in Hamburg’ (by Diakonie) seeks to support newly immigrated EU citizens in precarious life situations (homeless or threatened by homelessness), especially from eastern European member states, refer to counselling, and enable social integration (BMAS, 2017b).

¹²⁴ The Information Centre Labour Mobility, Work and Life (Arbeit und Leben).

policy programme ('Action Plan Roma') pursued by the Berlin Senate and the funding associated with it (Ber9; Ber12; Ber10). As we shall see in the next section, in stark contrast to Hamburg, Berlin has provided integration support precisely to EU migrant citizens in precarity.

Berlin: 'they won't leave'

The Berlin Senate recognised in 2012 that the number of EU citizens coming from Romania and Bulgaria has increased significantly (Drucksache 17/0440). On the one hand, it was argued that even the most minimal of social support could create incentives for further immigration, which was not in the interest of Berlin, with its already high number of benefit recipients (ibid.: 2). At the same time, the Senate held that 'a continuous immigration of Roma is to be counted with, whose integration creates an urgent task in the long term interest of Berlin' (ibid.). It therefore seems fair to say that the Berlin Senate has taken a radically different position from that of emphasising these EU migrant citizens' conditional right to reside and the limited responsibility of the local government. The Berlin Senate's Commissioner for Migration and Integration explained in an interview that the 'poverty migrants' from new member states nonetheless constitute a big challenge for Berlin's local districts and have extensive social needs. In responding to this, Berlin has taken the following position:

We think that they [EU-citizens] are legally in Berlin, we not only accept them, but also welcome them and for those who decide by themselves that they want to stay in our city, we help them. Therefore, we finance organisations like Amaroforo who assist them to come into our social welfare system. It is an openly inclusive approach. A political choice. (Ber4)

This inclusive approach has led to the adoption of an 'Action plan for the integration of foreign Roma' [*Aktionsplan zur Einbeziehung Ausländischer Roma*] in 2013

(Drucksache 17/1094). The plan focused on Roma specifically, as these were perceived to be the most vulnerable of those arriving from new member states and as constituting a considerable policy challenge. However, and importantly, the measures adopted according to the Action Plan were open to all EU migrant citizens (Ber4). With the adoption of this plan, Berlin has chosen to finance several measures aimed at supporting integration, using both the state's own funds and EU resources (FEAD and ESF). These are meant to be carried out by both civil society organisation, and the Senate and district governments. The measures concentrate on access to education, employment, health care and housing (Drucksache 17/1094: 2).¹²⁵

The views and actions of the Berlin senate emerge with even greater clarity in the interviews that were conducted with district public administrators in the Berlin district of Neukölln and in the efforts that the district has made. Neukölln is the district of Berlin that, together with the Mitte district, has received one of the largest number of citizens from new member states (District Authority of Neukölln, 2014: 7).¹²⁶ Moreover, Neukölln has seen significantly more of the 'poor EU migrant citizens' arriving in their district than others have (District Authority of Neukölln, 2014: 7-8,

¹²⁵ Some (but not all) key measures under this programme include: district-oriented programmes for inclusion (e.g. Neukölln that accordingly provides integrative advice for families and support of affected schools as well as family-oriented social, education and health advice); a mobile contact point for European migrant labourers and Romani people; improving independent organisations through community building; expansion of care services as part of school holidays: holiday schools for children from south-east Europe; children and youth work: Establishing education and leisure services in the afternoon; expansion of services for school-oriented youth social work with special tasks to support Romani school children and their families; family education and advice concerning access to education in early childhood; provision of necessary immunisations for unprotected people; financing for births by uninsured women; temporary accommodation for families with children; fighting inappropriate practices by landlords (District Authority of Neukölln, 2014).

¹²⁶ According to local registration data – which is however likely to overestimate the number of EU migrant citizens actually present, but also not include new, non-registered, arrivals, 5578 Romanian and Bulgarian citizens were registered as residing in Neukölln alone, and 29.232 in Berlin as a whole (District Authority of Neukölln, 2014: 7-8)

Ber3). In the words of the district's EU Commissioner, Neukölln has received a large number of Romanians and Bulgarians which '...often have very bad education, or are illiterate, live here under bad conditions, have children, are dependent on another person' (Ber3). In response, the district has gone 'to great lengths to address the increasing challenges posed by poverty migration from south-east Europe on a local level', the focus being on creating comprehensive services to address a lack of basic education, illiteracy and an inability to speak German' (District Authority of Neukölln, 2014: 31).

In light of the described low level of education, the poverty and lack of income of many of the south-east European migrant citizens coming to Berlin in general and Neukölln in particular (District Authority of Neukölln, 2014: 4-5; Ber3; Ber2), it could be assumed that many of them have lost, or soon will lose, their right to reside according to the EU rules on free movement; and it could therefore also be presumed that the municipality's formal responsibilities towards this group are at best very limited, as in the Swedish municipalities' responses. However, Neukölln and Berlin appear to have accepted that many of these citizens have come to stay, that they will not go away despite poverty and a lack of access to formal support, and that it is in the interest of the municipality to support their integration. The following quote from Neukölln districts' EU Commissioner largely summarises this perspective:

We [Neukölln district authority] decided that it is a task, so there was really a political decision... You could have the opinion "ah, they'll go". [In] the Land Berlin [Berlin Senate], several departments said in the year 2011 "Are you mad? What are you doing for them? They'll leave! We don't want them" ... And we have the experience: sorry, no! With the Turkish guest-workers you said they would leave, they never left. With the Palestinians, they will leave – they never left... Our experience tells us they won't leave. So, the thing is, we need to try to get them close, those who are able to, not everyone will succeed here... But the

once who are able to struggle ... we have to help them. Because if we don't do, they are still in all the structures here... still they will be exploited and they will try to survive. And I have no instrument to throw them out; we have open frontiers. So there is nothing I could do now to try to be a government who say: 'Ok, I saw you, you lost your 3 month' ... No! It is senseless. (Ber3)

Similarly, in the Neukölln district authority's evaluation of the efforts targeting Roma and south-eastern European migrants, it is recognised that, while many of these citizens have no access to social support, 'people do not just go away if they have no access to ... support, but instead live on a day-to-day basis' (District Authority of Neukölln, 2014: 13). These EU migrant citizens, are perceived as one among many groups of immigrants, and have been treated as a group of special concern within the district's general framework of immigrant integration. The Neukölln Commissioner for Integration explained that the immigrant groups that Neukölln targets specifically are those that are 'big enough ... that we have to deal with them... that we cannot not see them' (Ber2).

The district of Neukölln, as well as the Berlin Senate, differentiates between those who have come to try to make a living in Berlin, and those who come temporarily (for example to beg) and 'who have no interest in integration' (Ber3; Berliner Senat, 2015: 86-87). The focus of local efforts in Berlin is naturally targeting the former. The necessity to integrate EU migrant citizens is furthermore connected to a recognition that they are potential workers. In this context, much focus is on the children arriving. A report on measures taken by Neukölln district states that '[t]he children who come to us today are the workers we will urgently need tomorrow' (District Authority of Neukölln, 2014). Or as the Neukölln Commissioner for Integration put it: 'We need people. If we do not get enough skilled people, we take unskilled people and look to their kids' (Ber2). Indeed, the fact that EU citizens come as families, and bring their

children, appears to be a key motivation for the extra efforts made in Berlin. As one interviewee testifies, ‘Those who come with kids and want to work and send their kids to school, those we support immediately’ (Ber2). Thus, many of the efforts target children and mothers. Moreover, an important factor by way of which the Neukölln district differentiates people without a real interest in staying and integrating (Ber3) from those who do want to integrate, is whether or not ‘they bring their kids to school’ (Ber2). This stands in stark contrast to what we saw in Swedish municipalities, where the discussion appears to be stuck at the question of whether the children of parents who have stayed for less than three months, or beyond this without fulfilling the residency conditions, should have a right to schooling in the first place.

Facilitating access to social rights through integration measures?

In line with this specific view, a number of efforts have been made by the Neukölln district authority in order to support the integration of said group of EU citizens (table 10 summarises the targeted measures provided in Neukölln for the years 2016-2018). Initially, a working group consisting of different district actors from both civil society and local government with awareness of the complex of issues was set up to distinguish the specific problems that arise with respect to this group’s integration (Ber3; District Authority of Neukölln, 2014). Many of the integration efforts target children and mothers/families. For example, ‘welcome classes’ are provided for children who do not know German and/or lack basic skills needed to start school (e.g. reading and writing). These classes are highly resource intensive: twelve children per two teachers for one year (Berliner Senat, 2015: 11). The strategy of educating ‘district mothers’ [*Bezirksmütter*] – a general strategy for integration of immigrants used in Berlin – has also been employed, whereby a few women are educated as ‘multipliers’ and can

spread information to groups not easily accessible to local government (Ber3; District Authority of Neukölln, 2014: 30).

Neukölln has also targeted adult immigrants. They have provided language courses which are tailored to fit this group, which is deemed necessary in order for these persons to benefit from them.¹²⁷ A project called ‘AYEKOO’ was carried out in cooperation between Neukölln district and the local Jobcenter. Although this project targeted EU citizens generally, Neukölln’s EU Commissioner explained that the general focus was meant:

...to help the well-qualified to get a proper job fitting to their qualification and make free some place where a Romanian and Bulgarian could get employed instead, a job which they can reach [alluding to their qualifications]... We need qualified as well as unqualified workers. (Ber3)

In addition, for the integration of young EU-citizens (ages 18-35), the district applied for support from the federal programme ‘Integration instead of exclusion’. Since September 2015, EU citizens are supported through case-management to find a first job or to take part in vocational qualification (Neukölln Bezirksamt, 2016).

Another form of integration support that has been organised locally and funded via the Berlin Senate is translation services to support the work across other municipal services such as schools. Although there is a pool of translators that different local authorities should be able to use, these are expensive and hard to get hold of (see chapter five).

¹²⁷ For example, courses divided by men and women and one mixed ‘for the more open minded’ (Ber3)

Table 10: Integration-support for South-Eastern Europeans, Neukölln, 2016-2018.

Title	What?	Financial source
EU FIT IN – European families integration in Neukölln	Counselling for persons from EU member states in precarious life circumstances, in questions regarding early support of children in the ages 0-6 years. Support for the structural opening of pre-schools and family support offers.	FEAD
Model project	Model project Integration course with social-pedagogical support for educationally alienated EU citizens in precarious life situations.	Federal Ministry for Migration and Refugees
Title not specified, District authority programme	Translation in schools, support for schools in work with parents, target group 7-16 years.	Berlin State, District authority.
KJGD/GDD	Translation service	Berlin State
Title not specified, District authority programme	Linking to labour market integration and qualification support projects	Berlin State, District authority
Title not specified	Support focus: ‘transition to school’, culture sensitive work	European Social Fund (Youth strengthening in the quarter)
Carriera –Ways into work, education and qualification for EU citizens resident in Neukölln	Personally oriented case management, individual language support, sensitise institutions to Diversity Management tools.	European Social Fund: Federal ESF Integration policy. (Integration instead of exclusion)
Open title	Support through tenant-counselling, street-worker social work, training for future tenants, housing projects for persons in junk property, precarious life situation (across several districts)	Competition contingent funds, Model project, Strengthen immigrants.
Title not specified	Counselling and accompanying of EU citizens in precarious life situations, also contact point for EU migrant workers.	FEAD fund + Berlin State

Source: Neukölln Bezirksamt, 2015

Does this emphasis on integration and the corresponding efforts matter for access to social rights? We can first note that several of the projects and measures that were initiated explicitly to further integration of EU migrant citizens in Neukölln are considered to be successful. The welcome classes that were developed in response to this specific group of immigrants have proved successful enough to now be used also

for recently arrived refugee children (Ber4). The ‘district mothers’ programme is likewise said to have been a success (Ber3). The project Carriera, which is a continuation of and by AYEKOO, had 84 participants from 12 different EU member states in April 2016, of whom 27 from Romania and Bulgaria. A number of these had by this time entered employment subject to compulsory social insurance and five were just about to enter such employment (District Authority Neukölln. 2016). In Neukölln, some of the Romanian and Bulgarian children supported through the district’s targeted efforts, are reported to have become some of the best pupils [*Leistungsträger*] in some schools: ‘Those who ... so other people say... don’t go to school in their home countries ... don’t do this and that they do it!’ (Ber3). Finally, the translation support was rated as ‘invaluable’ by migrant counselling workers in their work to support EU migrant citizens from Romania and Bulgaria (Ber12).

A slightly different, yet very important, implication of the recognition of certain migrant citizens’ incentives and efforts to stay is that it can shape local social workers’ and public administrators’ responses to certain EU citizens’ access to rights. A social worker from a Diakonie Migration Counselling office in Neukölln described how the formal recognition of Romanian and Bulgarian citizens’ intention to seek a new life, and the districts’ explicit willingness to support them in this, influences the behaviour also of other key social actors and institutions at the local level:

When one [a local authority] says ‘Ok, this is our task, to integrate and support these people’ ... If that was not the case then the schools might have said ‘Oh no, we don’t want to have anything to do with that. How will we manage that? It will not work at all. We are already overwhelmed...’ ... But because the municipality says ‘we want that’, teachers who say ‘Ok, we take on the tasks’ are supported. (Ber12).

In short, political recognition of certain groups as immigrants to be included in society creates legitimacy for more inclusive decisions and actions across social service (and rights) delivering institutions. This suggests that local governments' political positions may be crucial for the way in which national and local social rights providers or administrators respond to EU migrant citizens, in circumstances where the responsibility of the local government is not clear. Relatedly, in Sweden, several social workers and civil society organisations called for clearer guidelines and a cross-municipal streamlining on how to deal with 'vulnerable' EU citizens (Sth1; Sth6), which highlights the scope for (local) politics in shaping social workers and case workers' responses to EU migrant citizens' social needs and claims to social rights.

Bottom-up incentives

As illustrated in table 10, several of the efforts made in Neukölln are funded with Berlin state funds. Therefore, a number of them are listed as actions taken in accordance with the aforementioned Action Plan (Berliner Senat, 2015). However, although this suggests a top-down relationship between the state of Berlin and the district of Neukölln, on closer inspection the Neukölln district authority appears to have been the real driving force behind the extraordinary integration efforts undertaken in Berlin. For one, the Neukölln district authorities began their work before the Senate decided to adopt their Action Plan. In 2011, for example, they started using their own funds in order to provide a summer school for Romanian and Bulgarian Roma children (Ber2). The Berlin Action Plan was adopted only in 2013. The district's Commissioner for Integration furthermore stresses that Neukölln's work in this area has little to do with EU calls for action, or Berlin's call for Roma integration. Instead, he points out, 'we work because the work needs to be done, not because someone says now you should do this.' (Ber2)

In fact, there is evidence suggesting that the relationship between Neukölln's district authorities and the state of Berlin is a bottom-up relationship. As said Commissioner for Integration explained, Neukölln's efforts largely motivated the Senate's action plan:

And then this EU report came up,¹²⁸ asking member state what do they do, and then the Berlin state said: oh! We have something in Neukölln! And then they listened and observed what we do, and they listened and made it bigger, and then they had good things to write. (Ber2)

Moreover, much of the state and federal state funding, as well as the EU funding distributed by either part, requires that municipal districts or independent organisations apply for this funding (Ber3; Ber4; Ber1). Receiving funds in other words requires bottom-up efforts. The Neukölln district administration has been key to these bottom-up efforts: based on the work of the afore-mentioned working group in Neukölln (persons from civil society and local government knowledgeable of the issues arising with respect to EU migrant citizens with difficulties to integrate), and 'a lot of work', the Neukölln EU Commissioner has been successful in several big funding calls and has secured five million euros to be devoted to the districts work with South Eastern European migrant citizens (Ber3).

This suggests that the 'Action Plan Roma' cannot be understood as an approach initiated by the Berlin Senate and implemented across districts. Indeed, a senate official from the Senate for Work, Integration and Women remarked that,

¹²⁸ In 2011, the European Commission adopted a Communication pushing for the development of national strategies for Roma integration detailing the concrete policies and measures to be taken. Each member state produced a Roma Strategy or a set of integrated policy measures that were assessed by the European Commission in a Communication adopted in 2012. In 2013-2020, each country, NGOs, international organisations and the EU Fundamental Rights agency (FRA) are expected to provide information for annual progress reports.

It [the Action Plan] is sold as a coherent approach. If you ask me, this is not a strategy, but rather a collection of puzzle pieces. (Ber4)

Nonetheless, there can be no doubt that there is a commitment both from the Senate and the district level. When the just said senate official suggested that municipalities could not possibly do more for the EU citizens who migrate to Berlin but do not satisfy the EU rules for equal treatment and residence – because ‘they cannot afford that!’ – she was plainly wrong. In fact, the view in Neukölln appears to be the direct opposite, namely that the district cannot afford not supporting the integration of these EU citizens. The case of Berlin and Neukölln thus demonstrates that, even in a context where the more general, national, conditions for EU migrant citizens to access integration support are favourable – in this case, partial access to federally funded integration measures and a recognition of EU migrant citizens as immigrants – bottom-up efforts may make the real difference.

Concluding discussion

This chapter has demonstrated that there are considerable differences in whether EU migrant citizens are perceived as immigrants, on the one hand, or migrants, on the other, across the studied cities and countries. These differences emerge in particular when we look at those citizens who are viewed as social challenges by local governments. The chapter has also shown that where this group of EU migrant citizens are viewed as immigrants, this can correspond with integration support for EU migrant citizens, which in turn appears to depend much on bottom-up efforts. However, the findings also reach beyond ‘perception’: they demonstrate how local government officials act as political entrepreneurs and have become agenda setters in developing and implementing policies that target EU migrant citizens in ways that accord with the government officials’ own construction of this target group. In these final paragraphs,

I address the questions guiding this chapter, looking first at how framing and policy correspond across the cities and how these findings relate to governance structures in each country. I then consider whether access to integration support can be said to support access to substantive social rights. Finally, I discuss additional ways in which we might make sense of the observed differences.

Across the two Swedish city cases, and at the Swedish pan-local level, a rather coherent picture emerges of precarious EU migrant citizens being recognised as temporary stayers. This has visible implications for the local government-funded projects and efforts that target EU citizens, which in both Gothenburg and Stockholm focus on basic needs and do not have an expressed intention to support further integration. In Germany, we find less consistency between municipal action and general framing. At the pan-local level, there is a clear recognition of *immigration* from new member states, and the concomitant integration challenges. When it comes to concrete policy action at the local level however, Hamburg allows access to their general integration programmes, but – in contrast to Berlin – does not provide integration support targeted at EU migrant citizens specifically, nor does it offer such support for the most vulnerable EU migrant citizens. These differences point to the importance of how the framing of EU migrant citizens as a specific target population matters for the policies addressing them – as we would indeed expect from a ‘social construction’ perspective (Schneider and Ingram, 1993) – but also to the institutional make-up of integration policy and the role of local policy entrepreneurs.

The larger scope for municipal policy making in Germany in the field of immigrant integration, and the tendency of bottom-up and multi-level policy making in this policy field (Dekker et al, 2015: 649), appears in the fact that (many of) the municipalities, as well as the districts, formulate their own immigrant integration strategies. Under this

mode of governance, Hamburg and Berlin diverged in their responses to EU migrant citizens. In addition, Neukölln pursued their own agenda, irrespective of the Berlin government. In Sweden, integration policy is in contrast a centralised task for the national governments. In addition, Swedish municipal law places strict constraints on who municipalities can lawfully spend municipal money on, providing scope only to address the emergency needs of non-residents. This limits municipalities' overall ability to fund projects targeting EU citizens in a more comprehensive way than basic needs provision (at least, it provides a very strong argument for choosing not to do more than basic needs provision).¹²⁹

At the same time, Swedish municipalities could arguably have chosen, just as the German municipalities did, to push for an opening of the 'establishment efforts for newly arrived' that refugees in Sweden can benefit from. As with the integration course in Germany – for the provision of which German municipalities have urged the federal government to create a legal entitlement to for EU migrant citizens – the Swedish 'establishment efforts' are financed by the national government and delivered locally (which would hence have gotten around the limitations to how municipal resources may be spent). However, as described, it has been Solvit – the EU funded body that assists citizens and businesses to ascertain their EU rights – and civil society organisations (Crossroads) that have pushed to make EU migrant citizens' access to the Swedish language course easier.

¹²⁹ Neither the coordinator for Gothenburg's efforts targeting vulnerable EU citizens (Gbg1), nor the legal expert at the Swedish Association of Local Authorities and Regions (Swe1), could tell me whether more comprehensive provision of integration support to this specific group would be in accordance with Swedish municipal law to act beyond providing needs. It appears that the question is one that can only be answered through case-law (ibid.).

The case of Berlin in turn demonstrates that even where the structural conditions are favourable for local integration efforts – in this case with EU migrant citizens having access to federally funded integration measures and there being scope for formulating distinct local integration policies – it is ultimately decisions and efforts at the most local level that appear to generate the most ambitious integration efforts. In Berlin, both the specific construction of EU migrant citizens in need of integration support as immigrants and the associated pursued policies, appears to originate from the district of Neukölln and the ‘policy entrepreneurship’ (Kingdon, 1984: 165-6) of the district’s government officials (in particular their EU Commissioner). This entrepreneurship is possible because of the strong autonomy of local governments in Germany in general, and specifically in the field of immigrant integration policy: in other words, the framing of EU migrant citizens as immigrants alone is not sufficient for the type of bottom-up initiatives seen in Neukölln – it also requires a certain amount of local autonomy to pursue corresponding policies. Moreover, the case of Berlin also demonstrates that local integration politics and policy (Caponio and Borkert, 2010) may be of even greater relevance than national ‘incorporation regimes’, which have been pointed out as significant for immigrants’ access to social rights in previous research (Sainsbury, 2012).

And, if it is indeed the case that access to different forms of integration support enables EU citizens to use their freedom of movement to settle lawfully in another member state, and become entitled to social rights, then the example of Neukölln shows how public administrators at the most local level can shape the way in which EU citizens’ rights are realised. As such, it challenges notions of European social integration being a top-down, judicially driven process that is largely disjointed from national and local political agency.

This brings us to the question of whether integration support measures matter for access to substantive social rights? This is of course hard to evaluate; integration takes time. Certainly, the Neukölln EU Commissioner's subjective assessment of the measures was very positive, in particular when compared to the success of integrating other groups of immigrants. A person pursuing this policy agenda is of course likely to see the results in highly favourable terms, and her enthusiasm should not be accepted at face value. A perhaps more reliable, as well as more surprising, finding was derived from migrant counsellors, who held that official recognition provides legitimacy for local service providers to act inclusively – an indirect form of inclusion that furthers social rights. Nevertheless, it must be acknowledged that providing different sorts of in-kind support for integration does not resolve the many issues and problems connected with poverty itself (and the absence of in-cash support).

Most of the EU citizens who end up in precarity do so because they are poor (either they were already poor before they used their freedom of movement, or they become poor in the destination member state). This means that they may not be able to benefit from available forms of integration support. For example, many interviewees in Germany described that even where language courses are provided for free, EU migrant citizens who would benefit from them often feel that they cannot sacrifice the time to learn a language when they are under pressure to secure basic needs (shelter, food, some minimum of income) and/or work in severely exploitative jobs where they work very long hours (Ber9; Ham7a). Hence, even with the best intentions, the lack of access to financial support can bar these citizens from benefitting from access to forms of integration support (Ham4b). I will return below to this dilemma and how it might in practice be mitigated in Germany compared to Sweden.

Returning again to the differences between the two countries and the cities, I would like to close the chapter by discussing a couple of further, possibly important, reasons for the observed differences and further problematise the issues at stake. A first potential way of understanding differences between Germany and Sweden, is by reference to differences in numbers of EU migrant citizens arriving in each locality, and thus the scale of local impact: is it not more likely that local and national governments respond with integration efforts when there is a critical mass of people in need of such support? As research on local integration policy has found, integration is put on the local political agenda only when it is widely perceived as an issue that concerns the whole local community and to just the ethnic minority group itself (Mahning, 2004), and we may assume that this is more likely the more immigrants of a certain kind there are. It is very hard to say precisely how many EU migrant citizens there are in any of the studied cities, due to the limitations in available statistical data that I discussed in the methods chapter. However, if we assume that the actual number of EU migrant citizens in Germany is somewhere in-between the conservative estimate derived from the Central Register of Foreign Nationals and what is likely to be an overestimation by the Population Register, Berlin has a significantly larger population of Bulgarian and Romanian EU migrant citizens the Swedish cities do (somewhere between 11 602 and 35 088, c.f. table 5). Neukölln has moreover seen significantly more of the ‘poor EU migrant citizens’ arriving in their district than other Berlin districts have (District Authority of Neukölln, 2014: 7-8, Ber3). The generally strong perception of immigration and integration challenges in German cities, and especially Berlin, may thus very plausibly be connected with them simply having received more EU citizens from new member states than the Swedish cities.

At the same time, agenda setting and policy making is rarely tied to ‘objective problems’ (Majone, 1989), and numbers are relative. In fact, although Hamburg had, and still has, a lower total number of EU citizens registered in the city than Berlin, Hamburg experienced a higher increase than Berlin around 2013-14 (BMI/BMAS, 2014: 24). And in the case of Sweden, we saw how the numerically small, but highly visible group of begging citizens received most attention (even though this did not lead to extensive efforts to support their integration). In any case, if it is so that a critical mass is required in order to see responses similar to those in Berlin, it raises critical questions with respect to possible implications for EU citizens’ *individual* rights: does it imply for those migrant citizens who need integration support to benefit from their rights, that their individual rights depend on a larger collective?

Another useful strategy to comprehend the differences that emerged in the chapter is to look at previous immigration experiences in each city. This has been emphasised as an important explanatory factor in understanding local integration policy in the literature on the topic (Caponio and Borkert, 2010). To what extent do the findings presented here bear this out? For one, the legacy of earlier experiences is clearly reflected in the statement by the Neukölln EU Commissioner where she explains that the Neukölln district authorities target efforts at EU migrant citizens because, in the past, several groups of migrants who were initially expected to leave ended up staying. One way of looking at this is to say that Neukölln has learned the costs of non-integration and the importance of early intervention, and acted upon it. This can be said not only for Neukölln, but also for Berlin at large; the city has a large Turkish community since the 1970s, and for a long time the Turkish ‘Gastarbeiter’ were expected to return home and as a result only very limited efforts were made to integrate them (Mushaben, 2008).

A final potentially important explanatory factor for difference between the two countries is their respective labour market. This may be a structural prerequisite for cities to choose to emphasise integration at all. Germany has plenty of so called ‘mini-jobs,’ a form of marginal employment generally characterised as part-time with a low wage that is common in the low-skill sector. Those employed in such work typically receive social assistance (Hartz IV) as a form of ‘top-up,’ or ‘in-work,’ benefits in order to be able to sustain themselves, as the very low salary from mini-jobs is often insufficient for financial survival. Because many (though not all) of the EU migrant citizens that become a concern for local governments possess very limited skills, however, this particular combination of mini-jobs and income support provides a possibility to actually support them into work. If they are successful in securing a mini-job, the problem associated with poverty that I mentioned just a few paragraphs ago is resolved, and the EU migrant citizens can thereby better benefit from any available integration measures. In Sweden, none of this could easily be achieved, since the country has much higher thresholds to labour market access and no in-work cash-benefits like Hartz IV.

To sum up: this chapter has demonstrated how social citizenship for some groups of EU migrant citizens may, ironically, depend on being seen and treated as distinct from nationals, and thus to be recognised as needing particular forms of support, even though their social rights derive from non-discrimination legislation.

Chapter 7

Conclusion

Summary of findings and theoretical contributions

This thesis started with arguing that previous research has paid insufficient attention to EU migrant citizens' substantive social rights. Taking a sociological approach to rights, I argued that understanding social rights requires attention to the implementation, or realisation, of rights: only by focusing on this aspect of rights can we understand how formal social rights translate into substantive ones. Rights are realised in a context, and therefore the various institutions, policies and practices that shape the realisation of rights demand attention. European supra-national rights are implemented in a Union that encompasses a great variety of sub-contexts, presenting very real challenges to the translation of formal rights that have been established at the EU level into substantive ones that can be meaningfully exercised in member states.

My empirical research thus set out to explore how EU migrant citizens' supra-nationally established rights are realised at the local level. The local level, I have argued, is of specific interest: it has provided a crucial spatial demarcation for social citizenship throughout the history of social citizenship, and in the context of a European social citizenship, the relevance of local borders has amplified. The combination of freedom of movement in an economically and socially extremely diverse Union, and limited access to social support in the country of destination places stress on local welfare boundaries.

In examining these issues, the thesis has specifically looked at the local *governance* of rights. I used the rather broad concept of ‘governance’ in order to be able to accommodate in the analysis a multitude of factors that may shape substantive social rights. Accordingly, I focused on what barriers EU migrant citizens face in accessing substantive social rights and how such barriers are addressed at the local level, drawing on material collected in interviews with key local actors (public administrators, welfare providers and advocates) in two major cities in Germany and Sweden, respectively. The empirical material marshalled through this research formed the basis for the thesis’s three empirical chapters that describe various aspects of local governance of rights.

The first empirical chapter centred on a key barrier to social rights, namely the issue of *becoming and being recognised as habitually resident*. It demonstrated how difficult this can be in practice due to the way in which states regulate habitual residence. Specifically, the chapter pointed to how the extensive use of residence registrations in both Germany and Sweden directly and indirectly condition both access to social rights and the exercise of free movement. The second chapter turned to *local facilitators* – i.e. actors that support EU migrant citizens’ access to social rights. The chapter argued that non for-profit voluntary organisations (NPVOs) are crucial facilitators for access to social rights, and it demonstrated how their ability to support migrant citizens is conditioned by their position in the welfare state, the domestic legal system and supra-national sources of funding. The third chapter, then, focused on the *duality of EU migrant citizens’ status* – i.e. that they are migrants and citizens at the same time. Looking specifically at how local governments have perceived and responded to those EU migrant citizens who are understood as social challenges for the local government, I have considered whether migrant citizens are perceived as temporary migrants or

immigrants, and whether either comes with a local commitment to support their integration. I have suggested that the main differences across the two countries as well as the German cities are connected to differences in how immigrant integration is governed in each country and the scope for local actors to choose to target EU migrant citizens with integration measures.

The contribution of the thesis lies not so much in emphasising that local contexts shape rights in practice – which we would expect –, but rather in revealing specific features of welfare systems that shape EU migrant citizens’ substantive social rights, as well as the importance of bottom-up initiatives from civil society, and at times also local governments, in facilitating access to rights. That member states’ welfare systems shape substantive social rights is of course not surprising, given that member states define their own social policies (their substance, entitlement criteria and organisation) and thus social rights. Yet, how precisely this works and how EU migrant citizens can ultimately *access* the rights that have been granted to them at the supranational level is a question rarely explored in detail. It is here that the thesis makes its core contribution, highlighting certain direct and indirect factors that shape *access* to these social policies. The specific issues that the thesis examines have hardly been systematically examined in the literature on how migrants’ social rights are conditioned by welfare states more generally, nor in accounts concerned with EU migrant citizens *tout court*.

The three core findings are as follows. First, the thesis has demonstrated that the way in which habitual residence, and the way in which member states administer it, is crucial in the context of freedom of movement, irrespective of whether the welfare state is classified largely as a residence or contribution-based welfare state. It has shown that being recognised as a resident, and specifically to be registered as resident, has bearings on several factors – the ability to apply for benefits and access services, as well as

finding work and securing housing – that shape access to social rights (and not only residence based ones), but also the ability to exercise the right to freedom of movement as such. This finding adds to research concerned with the significance of lawful residence for EU migrant citizens’ welfare entitlement (Ferrera, 2014; Martinsen and Vollaard, 2014; Hendlmaier and Blauburger, 2017), which has overlooked how important member states’ definitions of habitual residence is, both in a direct and indirect sense, for social rights access. Moreover, the finding reveals how residence – a principle that is generally understood to be inclusive, especially in the context of EU freedom of movement (e.g. Ruhs, 2015) – can have wide-ranging exclusionary implications.

Second, the thesis has pointed to an aspect of welfare states that, so far as I can see, has not received much attention in research concerned with the relative inclusiveness of different welfare systems. While the grounds of entitlement to social rights is routinely treated as a central issue in this research (together with the residence/contribution distinction) (Martinsen and Rotger, 2017; Römer, 2017; Ruhs, 2015; Koning, 2013; Sainsbury, 2012; Banting, 2000), the implications for welfare states’ inclusiveness of how welfare provision is organised has rarely been made the subject of sustained analysis. My research has revealed that the stark difference in the position of non-for profit voluntary organisations in Germany in Sweden have potentially important implications for EU migrant citizens’ social rights. Because of these organisations’ significant role in guarding rights and facilitating access to substantive social rights, the German structure of the welfare state includes *additional venues of social inclusion*. In Sweden, the same organisations have similar ambitions, but much less resources to provide support to the same extent as their German counterparts.

Third, in line with the thesis's more general focus on the local level, it has been demonstrated that we must look beyond welfare 'regimes' and consider their internal spatial hierarchy to better understand how formal rights translate into substantive ones. Even though they are embedded in, and constrained by, national and supra-national institutional frameworks, local governments can restrict or facilitate EU migrant citizens' access to social rights by using their autonomy. This was made evident in how different cities have addressed those EU migrant citizens who do not integrate easily: localities that choose to provide additional integration support most likely enhance access to social rights for this group of migrant citizens. Existing research has stressed social innovation at the local level – predominantly in the context of poverty research (Johansson and Panican, 2016; Oosterlynck et al. 2013; Geddes and Bennigton, 2001) –, and has also placed emphasis on the role of the EU in encouraging decentralisation (Ferrera, 2005: 178) and in funding local social innovation (Sabato and Verschraegen, 2016). However, the question of local social innovation has – as I understand it – not been considered in the specific context of intra-EU migration, inclusion and citizenship. As this thesis has demonstrated, local social innovation, supported by the use of EU funds, may be critical to EU migrant citizens' substantive social rights. Moreover, the provision of integration support in some localities indicates how domestic politicians and bureaucracies can negotiate the boundaries of welfare inclusion not only through trying to limit access to specific benefits and services, but also by using indirect means. This finding offers an important addition to the literature that studies the ways in which member states shape EU citizens' access to welfare primarily through a focus on how EU legislation is implemented by domestic courts and welfare administrations (Martinsen and Vollaard, 2014; Martinsen, 2005; Handelmaier and Blauberg, 2017).

Although my findings are both tentative and preliminary, the results of the study thus provide insights that allows for some general assumptions regarding how EU migrant citizens' supra-nationally defined formal social rights translate into substantive ones. Moreover, although any extrapolation from the thesis's findings to other groups of migrants must thus be done with great caution – as we know, rights vary across groups of migrants and each need to be considered in their own right (Sainsbury, 2012; Morris, 2002) – it is likely that some of the findings put forward here are relevant also to other migrants' rights. For example: while we know that NPVOs are generally important to different forms of residual social support to various groups of migrants (e.g. Leerkes, 2016), the specific aspect pointed to in this thesis – i.e. their position in the welfare state – deserves attention also with respect to other groups of migrants. In the context of the recent arrival of a large number of refugees in Europe, with large numbers remaining after not having being granted asylum, the capacity of German welfare association to use their own resources to socially support migrants may be crucial for migrant's access to various forms of social protection.

In light of the thesis's findings regarding substantive rights, what are the implications of these findings for *European social citizenship* – i.e. the form of membership or inclusion that arises from access to substantive social rights? The first thing to note is perhaps that the rigidity of the boundaries of social inclusion seem to differ depending on the context in which EU migrant citizens seek to exercise their rights: the German case appears to have somewhat more malleable boundaries for social rights' access than the Swedish. In the following section I discuss this tendency and offer some additional thoughts on the theoretical implications that I see arising from my doctoral research.

EU social citizenship: built on fundamentally different national social citizenships

The thesis's empirical findings lead us back to some basic conceptual considerations, and specifically to the notion of the welfare state. More specifically, it seems that fundamental differences in core features – state, society and individual – of the German and Swedish welfare states are directly relevant to how boundaries of welfare inclusion manifest in each country case, and thus germane to understanding substantive social rights and European social citizenship.

Comparative social policy studies, which are dominated by the study of empirically more readily comparable issues such as social budgets or legal norms, tend to compare 'welfare states' with little sensitivity to underlying differences (Kaufmann, 2012: 2-5). Social policies evolved independently in different nations, differed in their rationales of legitimation, and in the shape of the institutions that emerged from political controversies. Such differences continue to underpin the institutional arrangement generally referred to as welfare states, and attention to these are – as I will also demonstrate below – important to take into account when we compare welfare states (Béland and Petersen, 2014; Kaufmann, 2012; Kettunen and Petersen, 2011).

In order to theorise the welfare state and contrast welfare states in a more profound way, Kaufmann (2012) suggests that we distinguish between the 'welfare state', and the 'welfare sector'. Many comparative studies are concerned primarily with the welfare sector, that is, the structural-organisational aspect of welfare states. The welfare state in Kaufmann's terminology on the other hand refers to welfare aims – the normative aspects of the welfare state in the sense of social rights, aims, and values legitimising socio-political intervention (ibid: 12). In theorising the welfare state,

Kaufmann argues, one must look not only to politics and public institutions, but also to the relationship between the political core and the ‘rest of society’ – to the mediation between state and society.¹³⁰ Contrasting continental European notions of the welfare state with Anglo-Saxon ones, he notices that ‘fundamentally different conceptions of ‘state’ and ‘society’, as well as of ‘public’ and ‘private’ are key to the different understandings of the welfare state in each context (ibid.: 6)

While Kaufmann’s focus was the continental European welfare state (in essence the German one) versus the Anglo-Saxon (in particular the British) one, his emphasis on how state and society relate to each other – and the relevance of this relationship for the welfare state – can be usefully extended to think of further variations within the (not only continental) European context. In addition, we should ask how the individual fits into this equation, as the relationship between the individual and the collective is central to the notion of social rights. Different understandings of the state, and its relationship to society and the individual, are discernible both in the composition of the welfare sector (the organisational feature of the state) and the welfare state (the normative understanding behind welfare provision). The Germany – Sweden comparison is a useful example of this, and the findings presented in this thesis demonstrate how such differences may be of importance to migrants’ welfare inclusion. Before discussing these concretely, let me first briefly return to what should now be familiar differences between the two member states, in light of the relationship between state, society and individual.

¹³⁰ Society here understood in the Hegelian sense of ‘civil society’ as distinct from the state and the family (c.f. Kaufmann. 2012: 62).

Recall first how the distinction between state and society is central to the institutional makeup of the German welfare state, which is characterised as a welfare state in which social policy mediates between state and society (Kaufmann, 2013: 176). Indeed, the question of society's and the state's productive interaction has driven the domestic debate about social policy since its early beginnings (Kaufmann, 2012: 2, 59). It was the face of a weak liberal tradition, the legacy of the autocratic state and of the corporatist or 'intermediary' structures of early German modernity that produced a 'mixture of half-authoritarian and autonomous structures' (Stolleis, 2013: 59), that has been typical of German social policy ever since (Zacher, 2013). The society-state distinction is perhaps most clearly reflected in the subsidiarity principle, according to which small units shall have priority over larger units, especially over the state, whenever appropriate (Anheier and Seibel, 2001). For these reasons, we find a strong involvement of 'society' in the welfare sector. This does not mean that societal organisations are completely distinct from the state, but rather that a form of 'hybrid' exists – it is the state that funds the services that voluntary welfare associations provide. To a large extent, society can in this respect be understood to largely mean the Church: the 'societal' actors in the German welfare state are predominantly represented by the six large voluntary welfare providers, of which most are religious – and mainly Christian – organisations.¹³¹

The individual's autonomy from the state is ensured in the German welfare state, but also her right to state-provided social protection: the German state's social obligation is constitutionally recognised in the 'social state' (*Sozialstaat*) principle, at the same

¹³¹ In fact, the subsidiarity principle is itself a core principle to Catholic social teaching, which favours that all social relations including the organisation of the state and international affairs should be organised accordingly (Kaiser, 2008: 90).

time as the individual is protected from the state through the power of the judicial system (Zacher, 2013: 92). German courts have, through the social state principle, ‘established a constitutional “floor” for the social legislation’, meaning that ‘there is a minimum level of social welfare provisions that the legislature is not allowed to withdraw’ (Kartagolous, 1995: 291). In short, the individual in Germany is meant to be provided social protection as defined by the state, provided first and foremost by intermediary institutions (civil society), and have her rights protected by the judicial system.

The relationship between state, society and the individual in Sweden stands in stark contrast to that found in Germany. Also this is reflective of the historical evolution of the welfare state: the tension between ‘state’ and ‘society’ is said to hardly have played any role in the evolution of the Swedish welfare state (Kaufmann, 2013: 117). Sweden was a pioneer in modern state bureaucracy, and the evolving civil society in Sweden never really confronted the state the way it did in Germany. Therefore, a modern interventionist state could develop that never became detached from society (Zacher, 2012). At the same time, the normative ideals underpinning the modern Swedish welfare state clearly make a strict distinction between state and society – but in a very different way than in Germany. In Sweden, the state is meant to protect the individual from society, whilst in Germany the individual and society should be protected from too much state interference. In the Swedish view, the individual should be made autonomous from societal bonds and not have to depend on the charity of others to have their wellbeing secured (Berggren and Trädgårdh, 2012: 53). Indeed, some have noted that few welfare states are as consequently built around the idea of individual autonomy of the single person as the Swedish (Antman, 1994: 16). Herein is also reflected the normative emphasis on equality, in the sense of equal autonomy from

society (social bounds) to pursue one's life (Berggren and Trädgårdh, 2012). This is clearly embodied in the weak legal character of social rights in Sweden – and indeed in the generally weak presence of the judicial system in defining the social – where social rights constitute normative goals that the state should strive to achieve, rather than judicially secured claims of the individual against the state (Lind, 2009: 40).

This separation of state and society is also evident in the very residual role of voluntary organisations in the Swedish welfare sector. Such organisations have continued to be closely associated with charity and provisional support, and therefore viewed with disbelief (Johansson et al, 2015: 1609). Even with the large growth in private providers, NPVOs have not managed to establish themselves as part of the welfare sector in Sweden (Blomqvist and Winblad, 2017). This is so possibly because of the strong public association between such organisations and charity. The political fault line has rather been that of controlling the profit of private welfare providers contracted by the state – the question of the relationship between the state and the market that is so dominant in the Social Democratic welfare state, rather than the relationship between state and society. Moreover, although the individual is central to the notion of rights, we can witness in the Swedish case that an emphasis on the wellbeing of the individual need not imply a legal codification of social rights, if the belief in the state to protect the individual is sufficiently strong.

Kaufman argues that 'it is a specific feature of the European foundations of the welfare state that the welfare under consideration is primarily *individual* welfare' (2012: 4), and that 'the inherent logic of the welfare state assumes that furthering individual welfare also means furthering collective welfare' (ibid: 20). We can see this overarching aim reflected in both the German and the Swedish welfare state, as the welfare, or wellbeing, of the individual is a core motivation for welfare provision in

each country. Yet, the individual's wellbeing is pursued on the basis of profoundly different ideas of how it is to be achieved, and who is responsible for what. This observation can be extended to our specific concern with social citizenship. In the definition adopted in this thesis, social citizenship is held by the individual and is something arising from having, and receiving, social rights. In contrast to national citizenship, which ultimately concerns the individual's relationship to the state – social citizenship is a relationship to the welfare state and the welfare sector. Generally speaking, social citizenship in Germany can thus be understood as a relationship both to the state and society, whilst it in Sweden is a relationship more exclusively to the state.

These important differences in the way in which social citizenship plays out in Germany and Sweden, respectively, can be linked to the thesis's finding that the boundaries of welfare access emerge as stricter, or at least clearer, in Sweden than in Germany. In the Swedish case, the extensive importance of the state in drawing borders and boundaries of the Swedish welfare state and welfare sector appears to come with comparatively clearer demarcations of the boundaries of inclusion. In Germany, in contrast, a less encompassing state and a greater involvement of society, or intermediary actors, in delivering welfare, appears to generate more 'grey areas' – by which I mean opportunities to gradually transition from exclusion to inclusion – and more scope for negotiating the boundaries of welfare inclusion.

Differences in the relationship between the state, society and individual came to light perhaps most obviously in the chapter on how NPVOs support migrant citizens in each country. Although some scholars have suggested that the large German voluntary welfare providers have become more or less one with the state in that their activities are funded by the state (Wilensky, 2002: 254-260), we saw how even where NPVOs

provide publically funded services, they are acting also in their own capacity based on their particular values and traditions. The greater involvement of societal organisations in Germany thus implies that a greater plurality of aims and norms are embedded in the German welfare sector than what can be found in the state oriented Swedish welfare sector. This, as we saw, matters for where the boundaries of welfare inclusion are drawn.

Nonetheless, for those in Sweden who are not recognised as Swedish residents – and thus not protected from society (by the state) – societal organisations are crucial. As has been demonstrated in chapter five, the support provided by the two ‘Crossroads’ organisations can be crucial for EU migrant citizens. In this sense, we might, paradoxically, understand NPVOs to be important also in the Swedish welfare system: not because they have a formal role in providing statutory welfare, but because they provide for those excluded from an internally inclusive but externally exclusive form of social citizenship. As such, the presence of organisations such as Crossroads may be a precondition for the exclusive model to function in the context of European freedom of movement with limited and conditional social rights.

Another instance where these differences manifest is in the issue of residence registration. Here the encompassing state in Sweden was perhaps most clearly reflected. The Swedish state register of residents is also a register of welfare beneficiaries, or of those who the state ought to protect. Obtaining a residence registration can be very difficult, but once you do, you are ‘in’ (as one interviewee expressed it). It is the state, not the local government, that regulates and grants residence registrations, and the individual can herself apply for it. In Germany, the most comparable registration is tied to local residence. Obtaining this is tied to intermediaries: landlords who need to officially approve to the person registering in

their address, on the one hand, and the private credit bureau ('Schufa') that supplies the type of debt-statements that landlords typically take as pre-requisites for subletting their property, on the other. It is tempting to see this as a form of outsourcing of state tasks to societal actors.

Thus, although both welfare states are, as I have argued, organised around the principle of residence, defining *who* is resident is significantly more state-driven in Sweden than in Germany, creating clearer lines of inclusion and exclusion. As such, there is little room in Sweden for the sort of 'in-betweeness' of statuses that appears to exist in Germany. By which I mean, for example, the ability of NPVOs to secure *some* support through appealing to the human dignity clause in the constitution, or the possibility to buy a registration address without living there. From the point of view of state-ensured autonomy from society/equality, a characteristic of the Swedish welfare system in contrast appears to be that partial inclusion is problematic. Although the reduction of inequalities is a principle guiding also the social ambition of the state in Germany, the risk of greater inequality is to some extent accepted in safeguarding the autonomy of society. As Zacher (2013:46) writes, with respect to the notion of 'the social', and its relationship to the state in Germany:

For the sake of freedom, the political and legal formulation of the social must therefore impose a certain asceticism upon itself. Society needs room to develop and unfold. This means: to unleash forces that might also stand opposed to and endanger the social – forces that work toward inequalities and bring uncertainty with them.

If social citizenship is indeed demarcated by differences in the way state, society and the individual are understood to relate each other, what does this mean for European social citizenship? To begin with, if we disregard for a moment that the Union does not have the legal competence to create a coherent European welfare state, or alter the

social systems of member state to any great extent, we see that *differences in said normative underpinnings may make any ambition of equalising social citizenship within the EU even more difficult than already thought*. Diminishing differences in economic development and streamlining the substance of social provision would not do away with the just-discussed normative understandings that underpin national welfare states. On the contrary, these ideas are deeply engrained in the institutional make-up of welfare states – institutions that we know are hard to change once in place (Pierson, 2001).

Another possible implication is that some national understandings of social citizenship may be more compatible with the EU construction of social citizenship than others. Notably, as the European project originated and evolved under the dominant influence of Christian Democratic parties guided by Christian values, principles such as subsidiarity and federalism – which correspond to Catholic social teaching – became core organisational principles for the EU (Kaiser, 2008). These same values are reflected in the German, but not the Swedish understanding of social citizenship. Whilst it is commonly pointed out that European citizenship is built on distinct types of national citizenship (e.g. Bauböck, 2015), the implications of distinct traditions of citizenship and social rights for a European social citizenship has – to my knowledge – not received the same attention. This thesis has hinted at some of the implications that may arise from such differences, but a more focused assessment remains a task for future research.

The future of European multilevel social citizenship

In the first part of the thesis I argued that the creation of supra-national formal rights that do not cover all intra-Union free movers, combined with the absence of any

harmonisation of substantive rights throughout the Union territory has certain adverse implications. The implications thereof for the local level in particular motivated the focus of the thesis. And certainly, the research clearly points to dilemmas that arise from the specific constellation of levels and responsibilities that is EU social citizenship. We have, for example, seen how national and local social provision is centred around the expectation of a certain degree of immobility (residence) that does not chime well with free movement, and how local governments are pushed to find ways of addressing EU migrant citizens in precarity but without formal entitlement to social support. If social citizenship is about social inclusion, then the European social citizenship – in its current composition – is severely hampered. The status quo places stress both on the individual EU migrant citizen and on destination localities. A core issue, it would seem, is the absence of any substantive supra-national source of social support.

Concerns with the absence of EU level social policies – which for a long time has been discussed primarily in the context of how the market-making imperatives of European integration reduce member states' abilities to design their own social policies and maintain high levels of social protection, without offering a supra-national substitute (Offe, 2015; Leibfried and Pierson, 2010; Døllvik and Visser, 2009; Scharpf, 2002; Hemerijck, 2002) – have recently become salient specifically in the context of freedom of movement, EU citizenship and social rights. Numerous scholars now stress the need to make the social component of EU citizenship one composed not only of regulation, but also of allocation (Ferrera, 2017). Some have proposed the creation of individual entitlements at the EU level – in the form of a minimum income scheme for job-seekers (Bruzelius et al., 2017), a means-tested 'Euro-stipendium' (Schmitter and Bauer, 2001) or even in the shape of a European basic income (Parijs and Vanderborght, 2017).

Others – for whom the creation of substantive individual entitlements at EU level seem unrealistic given the current political climate – argue for some form of compensation fund to be set up; an EU fund to which communities experiencing negative externalities of freedom of movement can appeal (Ferrera, 2017 and 2016; Andor, 2014).

This thesis has demonstrated how EU structural funds are in fact already being used to address new social issues arising at the local level due to freedom of movement within a citizenship space with devolved welfare responsibilities, and that many of these responses aim to support the social inclusion of EU migrant citizens. The structural funds, we should recall, are the only EU funds that resemble a form of supra-national redistribution. In other words, whether in the shape of supra-national entitlements or a supra-national fund explicitly dedicated to local pressures arising from freedom of movement, it would seem that the possibility of a substantive and Union-encompassing EU-level social policy for social inclusion of all EU citizens is not merely an ivory tower idea.

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Appendix 1: Standard topic guide for interviews

Introduction

1. Personal introduction
 2. The research project: purpose and nature of the study and why they have been selected for interview.
 3. Inform participant about anonymity, ask for permission to record etc.
 4. Ask respondent to sign consent form.
-

1. Personal and Organisational information and exposure to EU citizens

- Could you first please tell me a little bit more about your role as [professional role]/here at [organisation]?
- How long have you held this position?

If Public Administrator or Welfare Provider:

- In what ways have/do you encounter matters related to EU citizens in your work?
 - o Since when?
 - o Who are the EU citizens that come here/who you meet?
 - Countries of origin?
 - How long have they usually been in [Germany/Sweden]?

If Advocate:

- What do [the actor] do?
- How long has [the actor] existed?
- How is [the actor] financed?
- Who are the EU citizens that you meet here?
 - o Countries of origin?
 - o How long have they usually been in [Germany/Sweden]?

2. Barriers

- What, if any, barriers would you say exists for EU citizens who try to exercise their social rights in general?
- Would you say that specific barriers apply for:
 - o a) housing
 - o b) seeking employment
 - o c) social assistance?
- Are these barriers the same for all EU citizens? Does nationality matter?

Prompts:

(this list was initially based on issues identified in previous research and evolved in the course of research based on what other interviewees had said)

- Can any of the following be barriers?
 - o Language? In what way?
 - o Information? EU citizens' knowledge? Welfare providers'/case workers' knowledge?
 - o Bureaucratic barriers?
 - The determination of (legal) residence?
 - Legal vagueness? E.g. the definition of who is a worker?

3. Facilitating access to social benefits and services

If Public Administrator or Welfare Provider:

- (*Where relevant:*) Do you here at [actor] in any way try to address the barriers that you have identified?

If Advocate:

- Are there other organisations who do similar things to you?

For both:

- Do you know of any other attempts to address the barriers that you have identified?
- Do you know of actors who address issues related to:
 - o Housing?
 - o Finding employment?

4. Closing

- Is there anything else that you would like to share with me?
- Do you have suggestions for people that may be interesting for me to interview?

Appendix 2: Interviews

Table 11: Completed interviews and questionnaires/email: Sweden

	Gothenburg	Stockholm	Sweden/National Level
Local government/public administrators (/Welfare providers)	<p><i>Social worker</i> Social Unit [Sociala enheten] (District: Centrum)</p> <p><i>Case worker</i> Social services. (District: Centrum)</p>	<p><i>Social worker</i> Street team, Social services. Stockholm Municipality.</p> <p><i>Key administrator</i> Social Services, Stockholm Municipality</p> <p><i>Case worker</i> Social Services, Social assistance unit [Försörjningsstödsenheten] (District: Norrmalm/Östermalm)</p> <p><i>Political/policy specialist</i> regarding ‘vulnerable EU citizens’ Stockholm municipality.</p>	
Welfare providers	<p><i>Counsellor</i> The Employment Agency (District: Centrum)</p>	<p><i>Counsellor</i> The Employment Agency [Arbetsförmedlingen] (District: City/Norrmalm)</p>	
Advocates	<p><i>Social worker</i> Crossroads/City Mission.</p> <p><i>Legal expert</i> Crossroads/ City Mission</p> <p><i>Social worker</i> Starlit shelter, [Stjärnklart härbärke], Bräcke Diakonie</p>	<p><i>Social worker</i> Salvation Army</p> <p><i>Counsellor</i> Crossroads /City Mission</p> <p><i>Legal expert</i> Crossroads/ City Mission</p>	

<p>Others</p>		<p><i>Case worker</i> Migration Agency [Migrationsverket] (Region: Stockholm) <i>(questionnaire/email)</i></p>	<p><i>Legal expert</i> Swedish Association of Local Authorities and Regions (SKL)</p> <p><i>Legal expert</i> Solvit/National Board of Trade</p> <p><i>EURES-coordinator</i> EURES</p> <p><i>Lawyer</i> Swedish Trade Union Confederation</p> <p><i>Case worker</i> Swedish Tax Authority <i>(questionnaire/email)</i></p> <p><i>Assistant to the National Coordinator – Governmental report on vulnerable EU migrant citizens.</i></p>
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Table 12: Completed interviews and questionnaires/email: Germany

	Berlin	Hamburg
Local government public administrators /Welfare provider	<p><i>Head of Social Services</i> (District: Mitte)</p> <p><i>Commissioner for Migration</i> (District: Neukölln)</p> <p><i>EU Commissioner</i> (District: Neukölln)</p> <p><i>Berlin Senate's Commissioner for Integration and Migration</i></p> <p><i>Head of Senate Department</i> Department for Health and Social Affairs.</p> <p><i>Legal expert</i> JobCenter Berlin Mitte (questionnaire/email)</p>	<p><i>Head of department</i> Social Services Youth and Health (Wandsbeak).</p> <p><i>Advisor</i> Agency for Work, Social, Family and Integration (BASFI) (questionnaire/email)</p>
Advocates/Welfare provider	<p><i>Project advisor/ counsellor</i> <i>Counsellor</i> Fair Mobility [<i>Faire Mobilität</i>]</p> <p><i>Diana Botescou</i> Amaro Foro</p> <p><i>Counsellor</i> Mobile counselling center for migrants from South-East Europe and Roma. Caritas [Mobile Beratungsstelle für Zuwandernde aus Südosteuropa]</p> <p><i>Social worker</i> Frost-protection Angels, Diakonie/Caritas [<i>Frostschutzengel</i>]</p> <p><i>Social worker</i> Migration Counselling, Diakonie (District: Neukölln)</p> <p><i>Counsellor</i> Migration counselling, Polish Social Council [<i>Polnischer Sozialrat</i>]</p>	<p><i>Project manager</i> Work and Living, The German Trade Union Confederation [Arbeit und Leben, DGB]</p> <p><i>Counsellor</i> Migration counselling, Verikom (District: Wilhelmsburg)</p> <p><i>Social worker</i> Housing Support and street work, Diakonie. (District: Altona)</p> <p><i>Social worker</i> Service spot for immigrants from South-East Europe [SOS - Servicestelle für Zugewanderte aus Süd-Osteuropa], City Mission.</p> <p><i>Counsellor</i> Office for immigrants from South-East Europe, Diakonie [<i>Fachstelle Zuwanderung Osteuropa</i>]</p> <p><i>Counsellor</i> Migration counselling, Diakonie (District: Altona).</p>

Others	<i>Advisor</i> Berlin Foreigners' Agency [Ausländerbehörde/Landesamt für Bürger- und Ordnungsangelegenheiten]	
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¹ Where questionnaires/email conversation was used this is highlighted in the table.

Appendix 3: Key to in-text interview references

Germany

Berlin

- Ber1 : Head of Social Services, Mitte district authority. 10.11.2015.
- Ber2 : Commissioner for Migration, Neukölln district authority. 19.11.2015.
- Ber3 : EU Commissioner, Neukölln district authority. 09.12.2015.
- Ber4 : Commissioner for Integration and Migration, Berlin Senate. 26.11.2015.
- Ber5 : Head of Senate Department for Health and Social. 10.12.2015.
- Ber6 : Legal expert, JobCenter – Berlin Mitte. 14.02.2017.
- Ber7 : Project advisor and counsellor, Fair Mobility. 30.11.2015.
- Ber8 : Counsellor, Fair Mobility. 19.10.2015.
- Ber9 : Counsellor, Amaroforo. 16.11.2015.
- Ber10 : Counsellor, Mobile counselling centre for migrants from South-East Europe and Roma, Caritas. 19.11.2015.
- Ber11a : Social worker, Frost-protection Angels, Diakonie/Caritas. 24.11.2015.
- Ber 11b : Social worker, Frost-protection Angels, Diakonie/Caritas. 29.06.2016.
- Ber12 : Social worker, Migration Counselling, Diakonie. 09.12.2015.
- Ber13 : Counsellor, Polish Social Council. 04.02.2016.
- Ber14 : Advisor , Berlin Foreigners' Agency. 08.06.2016.

Hamburg

Ham1 : Head of department, Social Services Youth and Health, Wandsbeak district authority. 07.12.2015.

Ham2 : Advisor, Agency for Work, Social, Family and Integration (BASFI). 18.12.2015.

Ham3 : Project manager, Work and Living, DGB. 12.11.2015.

Ham4a : Counsellor, Verikom. 11.11.2015.

Ham4b : Counsellor, Verikom. 11.04.2017.

Ham5 : Social worker, Housing Support and street work, Diakonie. 12.11.2015.

Ham6 : Social worker, Service spot for immigrants from South-East Europe (SOS), City Mission 03.12.2015.

Ham7a : Counsellor, Office for immigrants from South-East Europe, Diakonie. 03.12.2015.

Ham7b : Counsellor, Office for immigrants from South-East Europe, Diakonie, 31.03.2017.

Ham8 : Counsellor, Migration counselling, Diakonie. 02.12.2015.

Sweden

Gothenburg

Gbg1 : Head of unit for efforts targeting EU citizens, Social Unit, Centrum district authority. 16.02.2016.

Gbg2 : Case worker, Social services, Centrum district authority. 20.01.2016.

Gbg3 : Case worker, Public Employment Agency. Centrum. 20.01.2016.

Gbg4 : Social worker, Crossroads/City Mission. 19.01.2016.

Gbg5a: Legal expert, Crossroads/City Mission. 09.06.2016.

Gbg5b: Legal expert, Crossroads/City Mission, 20.12.2016.

Gbg6 : Social worker, Brücke Diakonie. 19.01.2016.

Stockholm

Sth1 : Social worker, Street team, Social services. Stockholm Municipality. 08.10.2015

Sth2 : Key administrator, Social Services, Stockholm Municipality. 26.08.2015.

Sth3 : Social worker, Social Services, Social assistance unit, Norrmalm/Östermalm districts. 01.04.2016.

Sth4 : Political/policy specialist regarding 'vulnerable EU citizens' Stockholm municipality. 02.09.2015.

Sth5 : Counsellor, Public Employment Agency, City/Norrmalm.

Sth6 : Social worker, Salvation Army. 18.09.2015.

Sth7 : Counsellor, Crossroads/City Mission. 26.08.2015.

Sth8: Legal expert, Crossroads/City Mission. 14.02.2017.

Sth9: Case worker, Migration Agency, Stockholm. 14.06.2016.

National level

Swe1 : Legal expert, Swedish Association of Local Authorities and Regions.
17.09.2015.

Swe2 : Legal expert, Solvit/National Board of Trade. 08.09.2015.

Swe3 : EURES Coordinator, Swedish Public Employment Services. 05.10.2015.

Swe4 : Lawyer, Swedish Trade Union Confederation.

Swe5 : Case worker, Swedish Tax Authority. 29.09.2015.

Swe6 : Assistant to the National Coordinator – Governmental report on vulnerable EU migrant citizens. 24.09.2015.

Appendix 4: FEAD and ESF-funded projects targeting EU migrant citizens in Germany and Sweden, 2016 (onwards)

Table 13: FEAD-funded projects targeting EU migrant citizens in Sweden

Name of project	Provider	Description
Make sense – Social inclusion for empowerment for vulnerable EU-citizens in Northern Sweden	Västernorrland municipal association [kommunalförbund]	Provide social- and health-oriented information and offer education such as family planning and the rights in their home country.
Digniti omnia – a more worthy life for all	Växjö pastorate	The project will focus on strengthening the participants' empowerment in four different areas: knowledge of their rights as EU citizens, digital communication skills, health and language (not clear what this means).
Better health	Partnership between the City of Gothenburg, Malmö and Stockholm, as well as several non-profit organizations.	Project targets women, offers course on reproductive health, birth control information and free health check.
Po dorm - mobile teams	Gothenburg City, Gothenburg Rescue Mission (NGO)	Using mobile teams working in the street environment and in temporary settlements, the project seeks to educate and empower mainly Roma EU-citizens living in vulnerable conditions and to create a dialogue between them and the other stakeholders in the street environment. Focus is on security, safety and conflict resolution.
Being healthy – the rights of poor people in Sweden	Doctors without borders, Sweden	Project offers practical health-promotion support. Strengthened opportunities to benefit from their right to health.

Source: ESF-Sweden (2017)

GERMANY

Table 14: FEAD–funded projects targeting EU migrant citizens in Berlin and Hamburg

	Name of project	Provider	Description/Focus
BERLIN	-	Amaro Foro	Migrant Counselling.
	PERSPEKTYWY	Klick e.V.	Social counselling for homeless persons, Polish and Russian language.
	EU FIT IN – European Families’ integration in Neukölln	District Authority Neukölln together with Nachbarschaftsheim e.V.; AspE e.V. Kleiner Fratz gGmbH	Counselling for persons from EU member states in precarious life circumstances, in questions regarding early support of children in the ages 0-6 years. Support for the structural opening of pre-schools and family support offers.
	StreetBer, Gangway	e.V. Social street work in Berlin	Mobile social counselling, street workers, focus on EU citizens.
	Arrival and participation – Counselling for new families in the District Friedrichshain-Kreuzberg	Regional Arbeitsstellen für Bildung, Integration und Demokratie	Social counselling for newly arrived EU citizens, with focus on Rumanians and Bulgarians.
	New ways- Bridges for EU citizens.	<i>südost Europa Kultur e.V.</i>	Bridges for EU citizens from Southeast Europe to societal orientation and participation in Lichtenberg district, Berlin. Street work, social Counselling, chaperonage, counter discrimination.
	Guide out of marginalisation: Counselling, Recognition, Encouragement	<i>Diakonisches Werk Berlin Stadtmitte e.V.</i>	Social counselling for homeless persons, focus EU citizens.
	Homeless support for newly immigrated Europeans in Berlin Mitte	<i>Verein für Berliner Stadtmission</i>	Social counselling for homeless persons in Polish, Bulgarian, English, Spanish language, street work, homeless day centre.
	MOBI. Berlin	<i>Caritasverband für das Erzbistum Berlin e.V.</i>	Migrant Counselling with focus on Southern and CEE European citizens. Additional focus on Roma.
	Ankommen – Llegar – Chegar – Arrivare	<i>Die Wille gGmbH</i>	Counselling and support to claim support from the regular social system for all newly arrived EU citizens.
	InNeNa – In new neighbourhood	<i>Bezirksamt Reinickendorf von Berlin</i>	Improve access to early schooling and care for immigrated children from other EU member states.

	Frostschutzengel plus	<i>GEBEWO – Soziale Dienste – Berlin gGmbH</i>	Mobile social counselling working in the low-threshold care in Berlin. Focus on CEE EU citizens.
	Arriving together in Wedding. Parents and Children learn Berlin everyday life	<i>Kulturen im Kiez e.V.</i>	Newly arrived families from other EU member states. Special focus on children. Support of parents' access regular social system, and childrens' access to care and early schooling.
Hamburg	step.in – beratung mobil	<i>Freie und Hansestadt Hamburg - Behörde für Arbeit, Soziales, Familie und Integration</i>	Street work, social counselling in Romanian and Buglarian.
	Information and orientation for marginalised migrants from Bulgaria and Romania.	<i>Behörde für Gesundheit und Verbraucherschutz Hamburg</i>	Health counselling in Bulgarian and Romanian, focus on STDs, pregnancy, AIDS.
	ABB-Service	GM Jugendhilfe GmbH	Street work, social counselling EU citizens from South-eastern Europe.
	Get perspectives in Europe. A model project for newly arrived EU citizens in precarious life situations in Hamburg.	<i>Diakonisches Werk Hamburg</i>	Social counselling in Polish, Bulgarian and Romanian, chaperonage.

Source: BMAS, 2017b

Table 15: ESF-funded projects targeting EU migrant citizens in Berlin and Hamburg

	Name of project	Provider	Description
Berlin	CARRIERA	AYEKOO – employment and education, e.V.	Person-oriented case management, individual language support, sensitise institutions to Diversity Management tools.
Hamburg	Service point - freedom of movement of workers	Work and Life, DBG.	Employment related counselling for EU citizens, especially from eastern and southern Europe.

Source: BMAS, 2017c [accessed 29.08.2017]; BASFI, 2017

Appendix 5. List of required documents to apply for different benefits from Jobcenter, Berlin.



Erforderliche Unterlagen für einen Arbeitslosengeld II Neuantrag (Hauptantrag)

- Antragsformulare (inkl. Anlagen) ausgefüllt und unterschrieben
- Personalausweis / Pass (aller Mitglieder der Bedarfsgemeinschaft)
- Geburtsurkunden der Kinder
- Meldebescheinigung (aller Mitglieder der Bedarfsgemeinschaft)
- Aufenthaltstitel
- Arbeitsgenehmigung für neue EU-Bürger (Kroatien)
- Heiratsurkunde
- Scheidungsurteil
- Erklärung, ob nur räumlich oder dauerhaft getrennt
- Schulbescheinigung(en)
- Immatrikulation / Exmatrikulation / Beurlaubung
- Attest über den voraussichtlichen Entbindungstermin / Mutterpass
- Nachweis über Krankenversicherung (Versichertenkarten, vorläufige Mitgliedsbescheinigung)
- Beitragseinstufung der gesetzlichen Krankenkasse (bei freiwilliger Krankenversicherung)
- Beitragseinstufung der privaten Krankenkasse, Nachweis über die Höhe des Basistarfes, Bankverbindung der Krankenkasse
- Rentenversicherungsnummer (Sozialversicherungsausweis)
- aller Mitglieder der Bedarfsgemeinschaft ab dem 15. Lebensjahr
- Einstellungsbescheid des vorherigen Jobcenters
- Zustimmung zum Umzug (des vorherigen Jobcenters)

Kosten der Unterkunft und Heizung

- Mietvertrag (Bezugsfertigkeit, Heizungsart, Gebäudefläche), Untermietvertrag (Zimmergröße, Größe der mit genutzten Räume, Warmwassererzeugung, Heizungsart), Nutzungsvertrag
- aktuelles Mietänderungsschreiben / aktuelle Mietzusammensetzung (Nettokaltmiete, Betriebskosten, Heizkosten)
- aktuelle Energieabrechnungsrechnung bei Heizkosten (Gas / Strom)
- genaue Aufschlüsselung über die Zusammensetzung der Untermietpauschale (hierzu bitte das Ergänzungsblatt zur Anlage KDU ausfüllen)
- Nachweis über die Aufteilung der Mietkosten innerhalb der WG (wenn es außer Ihnen noch einen anderen Hauptmieter gibt)
- Gesamtgebäudefläche des ganzen Hauses (siehe letzte Betriebs- und Heizkostenabrechnung)

Einkommen der letzten 3 Monate

- Arbeitsvertrag, Ausbildungsvertrag, Praktikumsvertrag
- BAföG-Bescheid (Bewilligung/Ablehnung/Aufhebung)
- BAB-Bescheid (Bewilligung/Ablehnung/Aufhebung)
- Gehaltsnachweise/Verdienstabrechnungen der letzten drei Monate
- oder Einkommensbescheinigungen vom Arbeitgeber
- Kündigung des Arbeitgebers / Kündigungsbestätigung des Arbeitgebers
- Rentenbescheide (Zusatzrente, Halbwaisenrente, Witwenrente, Erwerbsunfähigkeitsrente, Bescheide über Grundsicherungsleistungen nach dem SGB XII)
- Wohngeldbescheid
- Bewilligungs- / Einstellungsbescheid Asylbewerberleistungen
- Krankengeldbescheid / Mutterschaftsgeld
- Arbeitsunfähigkeitsbescheinigung des Arztes / Aufenthaltsbescheinigung Krankenhaus
- Bescheid Elterngeld
- Vaterschaftsanerkennung, Unterhaltstitel (Urkunden, Urteile, schriftliche Vereinbarungen über die Höhe des Unterhalts) / Bescheid der Unterhaltsvorschusskasse (Beantragung / Beendigung)
- Kindergeldbescheid / aktueller Kontoauszug über die Höhe des Kindergeldes
- Zufluss des letzten Einkommens bei Ende der Beschäftigung (Kontoauszug der Lohnzahlung oder Barzahlungsquittung)
- Aktuelle Rentenauskunft Ihres Rentenversicherungsträgers
- schriftliche Erklärung zu wann die Unterhaltszahlungen Ihrer Eltern eingestellt werden/ wurden

- 2 -

Postanschrift
Jobcenter Berlin Friedrichshain-
Kreuzberg
Rudi-Dutschke-Str. 3
10969 Berlin

Besucheradresse
Rudi-Dutschke-Str. 3
10969 Berlin

Bankverbindung

BA-Service-Haus
Bundesbank
BLZ 76000000
Kto.Nr. 76001617
BIC: MARKDEF1760
IBAN: DE5076000000076001617
Internet: www.berlin.de/jobcenter/friedrichshain-kreuzberg

Öffnungszeiten

Mo, Di, Fr 8:00 - 12:30 Uhr
Do 8:00 - 12:30 Uhr
Do 12:30 - 18:00 Uhr

nur für Berufstätige

mittwochs geschlossen

Sie erreichen uns
U6 Bahnhof Kochstraße

Freiberuflichkeit und Selbstständigkeit

- Anlage EKS - Selbsteinschätzung für die nächsten 6 Monate
- Einnahmen-Überschuss-Rechnung der letzten 6 Monate
- zuletzt ergangener Steuerbescheid / bei neuer Freiberuflichkeit: Nachweis über Erteilung einer Steuernummer
- Bescheide über Existenzgründungszuschüsse (nicht älter als 1 Jahr)
- laufende Honorarverträge / offene Rechnungen / Forderungen
- Kontoauszüge der letzten 3 Monate bis aktuell (vollständig & lückenlos) vom Geschäftskonto
- Gewerbeanmeldung / Gewerbeabmeldung
- Nachweis über wiederkehrende Betriebsausgaben mit Fälligkeit (z.B. Raumkosten, betriebliche Versicherungen, Arbeitsverträge / Gehaltsabrechnung von Angestellten usw.)

Leistungen nach dem SGB III (Arbeitslosengeld I)

- Bescheid über die Höhe des Arbeitslosengeld I
- Beendigungsschreiben Arbeitslosengeld I
- Ablehnungsbescheid Arbeitslosengeld I (Agentur für Arbeit)
- Bescheid über Sperrzeiten
- Schreiben für den Grundsicherungsträger über Erstattung der Vorleistung des JC FK nach §104 SGB X
- Erklärung, dass kein Anspruch auf Arbeitslosengeld I besteht (beigefügt)

Vermögen im In- & Ausland

- Kontoauszüge der letzten 3 Monate (vollständig & lückenlos) von allen Girokonten im In- & Ausland sowie von allen Unterkonten und Kreditkartenkonten
- Umsatzanzeige der letzten 3 Monate bis aktuell und Nachweis über den aktuellen Stand vom PayPal-Konto oder ähnlichen Diensten
- Nachweis über den aktuellen Kontostand sowie über Zinsen für das letzte Jahr der Sparbücher, Sparkonten, Tagesgeldkonten
- Bausparvertrag, aktueller Kontoauszug
- Lebens-, private Renten- und Unfallversicherungen mit Prämienrückgewähr (Versicherungspolice & Nachweis über den aktuellen Rückkaufswert, die Versicherungssumme und die Höhe der bisher eingezahlten Beiträge [muss vom Versicherten angefordert werden], ggf. Nachweis über einen bestehenden Verwertungsausschluss)
- Wertpapiere (Aktien, Fonds, Depotauszüge usw.)
- Eigentum und Immobilien (Grundbuchauszug, Nachweis über den akt. Verkaufswert, Kaufvertrag, Wohngeld, Schuldzins)
- Zulassungsbescheinigung Teil I (Fahrzeugschein) Einstufung der Kfz-Versicherung
- Riesterrente (Nachweis über Höhe der Beiträge und Nachweis, dass es sich um eine staatlich geförderte Versicherung handelt, ggf. Nachweis über Stilllegung der Beiträge)

Erklärungen

- Erklärung, wovon zuletzt der Lebensunterhalt vor der Antragstellung bestritten wurde (letzte 3 Monate)
- wahrheitsgemäße Erklärung für EU-Bürger

Angaben zu Verwandten im gemeinsamen Haushalt (§ 9 Abs. 5 SGB II)

- Nachweise über Einkommen, Vermögen, Gesamtmiete und Zahlungsverpflichtungen der Verwandten

Arbeitspaket

- Ausgefüllte/s Arbeitspaket/e zur Führung ihres Bewerberangebotes und der erwerbsfähigen Mitglieder der Bedarfsgemeinschaft