1. **Introduction**

EU citizenship is described by the EU institutions, including the Court of Justice of the EU (CJEU), as the fundamental status of the nationals of the Member States. Despite a formal entitlement to equal treatment, not all mobile EU citizens experience equality with nationals when they seek to obtain social assistance. Economically inactive EU citizens are one category of EU citizens who encounter many obstacles when they seek to access benefits in a host EU state (Lafleur and Mescoli, 2018). In this contribution we discuss the changing scope of EU social citizenship for this particular group of mobile EU citizens. The analysis is based on how EU states transpose and apply the rules on the free movement of persons and equal treatment and their consequences for the rights of economically inactive EU citizens. National practices inform the way in which mobile EU citizens experience their EU citizenship rights and their encounters with the welfare state. Comparative research into how EU states deal with the social rights of EU citizens plays an important role in understanding how EU citizenship takes shape on the ground via state practices. Our research into national legal and administrative practices relies on collaborating with national rapporteurs who are legal experts in EU law. It is in this capacity as national legal expert that we have worked closely with Professor Cristina Gortázar...
Rotaeche in several projects and benefited greatly from her expertise on the rights of EU citizens in Spain.

2. EU CITIZENS AND SOCIAL RIGHTS: A BRIEF DESCRIPTION OF THE LEGAL FRAMEWORK

EU citizens enjoy a right to move and reside in another EU state as per Article 21 TFEU, whereas Article 18 TFEU provides that in the host state EU citizens should not be discriminated on grounds of nationality. Directive 2004/38 sets out the conditions for the exercise of the right to free movement for EU citizens and their family members\(^1\). The right to move and reside in another EU state is conditional on either performance of an economic activity or on financial self-sufficiency and possession of comprehensive medical insurance. Recital 10 of Directive 2004/38 links the latter conditions to the desire to protect the social assistance systems of the EU states from EU citizens who are unreasonable burdens. Consequently, the legal category under which EU citizens exercise the right to free movement—worker, jobseeker, student or economically inactive—and the duration of their stay determine access to social rights in the host state and lead to differential inclusion in the welfare state (Articles 7, 16 and 24 of Directive 2004/38). For this reason, EU citizenship has been referred to as ‘market citizenship’ that benefits economically active persons who contribute to the EU’s internal market (Dale and El-Enany, 2013; O’Brien, 2016).

Demands for social assistance by EU citizens are demands for equal treatment with nationals of the host state. Initially, the Court interpreted the rights of economically inactive EU citizens by reading together EU citizenship with the principle of non-discrimination on the basis of nationality (Article 18 TFEU). To access social rights, the EU citizen had to be legally resident in the host state, but the basis of that residence was not limited to EU law. In *Martinez Sala*\(^2\), the legal basis was international law, while in *Trojani*\(^3\) it was national law. Moreover, the Court ruled that economically

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\(^3\) Case C-456/02 *Trojani*, ECLI:EU:C:2004:488.
inactive EU citizens could expect a certain degree of financial social solidar-
ity from their host state. This form of judicially constructed social solidarity that requires EU states to pay benefits to economically inactive EU citizens to meet their living costs is contested (Schmidt, 2022). EU states have sought to resist it and reverse it by interpreting the rights conferred by Directive 2004/38 in a restrictive manner (Mantu and Minderhoud, 2019). State efforts to limit access to their welfare systems for EU citizens take place within the context of Directive 2004/38 using ambiguous language when addressing the situation of economically inactive EU citizens making demands for social assistance and the Court’s evolving jurisprudence on this topic.

Firstly, Directive 2004/38 is clear on two issues: economically inactive EU citizens are not entitled to any social assistance in the first three months of residence (Article 24) and are entitled to social assistance after the acquisition of the right to permanent residence (Article 16). What happens in the in-between period, from three months and up to five years of residence, is less clear. Economically inactive citizens can move and reside in another EU state if they have sufficient resources and comprehensive medical insurance – Article 7(1)(b) Directive 2004/38. They retain the right to reside if they meet these conditions – Article 14(4)(2). EU citizens, if legally resident, enjoy equal treatment with nationals of the host state – Article 24(1). A recourse to the social assistance system of the host state should not automatically lead to expulsion – Article 14(4)(3). Codifying older jurisprudence, Recital 16 clarifies that ‘The host Member State should examine whether it is a case of temporary difficulties and take into account the duration of residence, the personal circumstances and the amount of aid granted in order to consider whether the beneficiary has become an unreasonable burden on its social assistance system and to proceed to his expulsion.’ The main issue is how to square the requirement of sufficient resources with requests for social assistance when the Directive fails to give a clear definition to ‘sufficient resources’ and fails to clarify when an EU citizen is an unreasonable burden for the host state (Minderhoud, 2016; Mantu and Minderhoud, 2019; Verschueren, 2015).

Secondly, after the adoption of Directive 2004/38, the Court of Justice interpreted the notion of legal residence as residence that meets the conditions set out in Article 7(1) of the Directive. It ruled that periods of residence completed based on national law but without meeting the conditions of Article 7(1) did not give rise to a right of permanent residence under the
Directive\(^6\). This interpretation has consequences not only for the acquisition of the right of permanent residence but also for entitlement to social rights in the first five years.

The *Brey, Dano, Alimanovic, García-Nieto and Commission v UK* cases illustrate how the Court’s jurisprudence on social rights starts to emphasise the concept of ‘legal residence’ and the need to protect the social assistance systems of the Member States from ‘abusers’ and ‘unreasonable burdens’\(^7\). This move has exclusionary effects for EU citizens who lack resources and make social assistance demands on the host EU state. In the *Brey* case the Court emphasised that Directive 2004/38 allows host Member States to impose legitimate restrictions in connection to social assistance benefits to Union citizens who are not workers so that those citizens do not become an unreasonable burden on the social assistance system of that Member State. The *Dano, Alimanovic* and *García-Nieto* cases concern the same provisions of the German Social Code that restrict access to social allowances to EU citizens who move to Germany either to seek employment (the situation in *Alimanovic* and *García-Nieto*) or to seek social benefits (the situation in *Dano*). According to the Court, in these cases a Union citizen can claim equal treatment with nationals of the host State under Article 24(1) Directive 2004/38 only if his residence in the territory of the host Member State complies with the conditions of Directive 2004/38. The Court gave conflicting answers to the question whether the host state had to perform an individual assessment to decide if the EU citizen asking for social assistance had become an unreasonable burden, or it could assume that he was an unreasonable burden based on the request alone. In *Brey* the answer was that there was still a need for individual assistance. In *Dano* the request alone was seen as evidence that the EU citizen lacked resources, therefore had no right to reside under Article 7(1)(b) and was not entitled to equal treatment. Most recently, in the *CG* case the Court has reaffirmed the requirement to be legally resident in line with Article 7 of Directive 2004/38 to benefit from equal treatment\(^8\).

3. **Member states’ implementation practices**

The rights that EU citizens enjoy are determined by their formulation in law but also by how EU law is transposed and applied by the EU states,

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\(^6\) Case C-424/10 Ziolkowska and Szeja, ECLI:EU:C:2011:866.

\(^7\) Case C-140/12 Brey, ECLI:EU:C:2013:565; C-333/13 Dano, ECLI:EU:C:2014:2358; C-67/14 Alimanovic, ECLI:EU:C:2015:597; C-299/14 García-Nieto, ECLI:EU:C:2016:114; C-308/14 Commission v. United Kingdom, ECLI:EU:C:2016:436.

\(^8\) Case C-709/20 CG, ECLI:EU:C:2021:602.
with the CJEU playing an equally important role in clarifying their scope. What happens at the national level in terms of transposition, application, and interpretation of EU citizenship rights shapes how mobile EU citizens experience their rights. In the research we conducted on Member State legal and administrative practices around the time of the Brey and Dano caselaw (2014-2016), we concluded that ‘asking for social benefits becomes a first step towards being considered by the administration as an unreasonable burden, which leads to the termination of EU residence rights’ and that ‘asserting and maintaining residence rights under Articles 7 and 16 of Directive 2004/38 is becoming problematic for certain categories of EU citizens and linked with the more restrictive position taken by some Member States in relation to accessing their national social assistance systems’ (Mantu and Minderhoud, 2019). To limit access to their welfare systems, EU states used both the ambiguity of Directive 2004/38 as well as the Court’s restrictive interpretation according to which access to social rights is mandated by legal residence.

Below we present results from recent follow-up research in selected Member States (Austria, Belgium, Denmark, Germany, Spain, France, Ireland, Italy, The Netherlands, Poland, Sweden) covering the time frame 2016-2020 on two issues: access to social assistance benefits for mobile EU citizens and their family members and residence rights and measures terminating or restricting residence (Mantu and Minderhoud, 2021 for the full report). We seek to understand how EU states have dealt with the Court’s jurisprudence on social rights in their national legal-administrative orders.

3.1. Legislating the exclusion from the welfare state

The CJEU rulings in the Brey, Dano etc cases ushered a restrictive interpretation, which some EU states already championed in their national implementation measures. Namely, an economically EU citizen who claims social assistance does not comply with the requirement of having sufficient resources; her right to reside should be terminated and she is not entitled to social assistance as a matter of EU law. Some of these EU states took legal steps to formalize further the exclusion of economically inactive EU citizens from social assistance prior to the acquisition of the right of permanent residence.

For example, in 2019 Austria introduced federal legislation that limits the grant of social assistance to Austrian citizens, refugees according to the Geneva Convention and long-term migrants who have resided lawfully for at least five years⁹. Before five years EU/EEA citizens, Swiss citizens and

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third-country-nationals are only entitled to equal treatment as long as this is mandatory due to provisions of Union law or international law and only after consultation has taken place with the competent migration authorities in each individual case\textsuperscript{10}.

By the end of 2016 and after the CJEU rulings in the \textit{Dano}, \textit{Alimanovic} and \textit{Garcia-Nieto} cases (all preliminary references from German courts), Germany adopted stricter social assistance legislation. Economically inactive EU citizens (including job seekers) are excluded from social assistance for the first five years of their residence in Germany. During the first two years of residence, EU citizens without a right to social assistance can get a once-only transitional allowance of four weeks to help them leave the country. The changes operated in 2016 opened the way to a disjunction between welfare and immigration laws since an EU citizen who has been staying in Germany for five years without the immigration authority having determined that s/he is obliged to leave the country is entitled to benefits without any further conditions\textsuperscript{11}. Thus, the five years of residence that give way to social entitlements (according to welfare legislation) do not necessarily have to be spent fulfilling the conditions of residence under Directive 2004/38 (immigration law). The gap between welfare and immigration law was closed by introducing an obligation for welfare authorities to report to the immigration authorities when EU citizens make welfare requests.

Even if, in some Member States (Belgium, Denmark, Sweden, the Netherlands) (a kind of) social assistance is provided in case of need, this has consequences for the right of residence. For example, the Netherlands use a so-called ‘sliding scale’ according to which during the first two years of residence any claim for social assistance is considered unreasonable and, in principle, will result in the termination of the residence\textsuperscript{12}. In Sweden temporary difficulties in being able to present one’s own resources shall not exclude the person from the possibility of temporary support from the municipality\textsuperscript{13} but this support is minimal where the EU citizen has no sufficient resources and no comprehensive medical insurance and is limited to emergency interventions and possibly money for the return journey\textsuperscript{14}.

\textsuperscript{10} Article 4 (1) Sozialhilfe-Grundsatzgesetz, FLG I No. 41/2019.
\textsuperscript{12} Dutch Aliens Act Implementation Guidelines (Vc) B 10/2.3).
\textsuperscript{14} The Swedish National Board of Health and Welfare, \textit{Vägledning för socialtjänsten i arbetet med EU/EES-medborgare}, Stockholm 2020, p. 25 f.
Where EU states have introduced new social benefits, they have sought to reserve (indirectly) to nationals by adding residence conditions (e.g., France, Spain, Italy). For example, in 2019 Italy introduced two new types of social benefits: the ‘reddito di cittadinanza’ (a minimum income scheme)\(^{15}\) and the ‘pensione di cittadinanza’ (a minimum income scheme for persons over-67 years of age), which can be seen as a kind of social assistance benefit\(^{16}\). Italian nationals, EU nationals and their TCN family members and long-term resident TCNs are entitled to these benefits if they meet a ten-year residence condition, of which the last two years on a continuous basis. The requirement does not discriminate on nationality, but the residence condition has been challenged legally on ground that it violates EU law\(^{17}\). In 2018, Spain changed its legislation on the National Health system and recognized the right to public funded health protection and health care to all persons in Spain independently of their legal status or nationality. It is unclear whether economically inactive EU citizens are covered by this protection and care as well\(^{18}\). In France, benefitting from health care coverage is conditioned by a three-month period of stable and regular residence, which is more easily met by French nationals than foreigners and EU citizens\(^{19}\). Moreover, the right to the coverage of health costs for insured persons who cease to have regular residence in France was restricted by the introduction of the condition that they must be resident for three months in France before they can benefit from the medical aid provided by the state (Aide médicale d’État AME)\(^{20}\).

3.2. Increased administrative surveillance for EU applicants for social benefits

Besides the inscription of exclusion from social rights into national laws, we document an emphasis on the systematic control of the situation of

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\(^{15}\) This is the translation that can be read in Council Recommendation of 20 July 2020, on the 2020 National Reform Programme of Italy and delivering a Council opinion on the 2020 Stability Programme of Italy, OJ C 282/74, para 17.

\(^{16}\) Law-Decree 2019 no 4, approved by Act 2019 no 26.


\(^{20}\) Decree No. 2020-1325 of 30 October 2020.
all EU citizens who ask for social assistance in several EU States (Austria, Belgium, Denmark, France, Germany and the Netherlands). Applying for social benefits brings the EU citizen on the radar of the local administration in charge of benefits but increasingly so also on the radar of the immigration authorities. This development carries the possibility of double exclusion, from welfare and from residence.

Belgium and the Netherlands already had a well-established system of close cooperation between the social assistance authorities and the immigration authorities. For example, in Belgium, the Immigration Office receives monthly data from the Belgian institutions which provide social security and social assistance benefits with details of all EU citizens who claim benefits. Although the Immigration Office claims that it carries out an individual investigation in each case, the verification of the existence of a right of residence appears to be carried out systematically in respect of all EU citizens and family members who claim benefits in Belgium. This practice of systematic data transfer arrangements is criticised as incompatible with Article 14(2) of Directive 2004/38 that prohibits the systematic verification of the right to reside (Valcke, 2020; Myria, 2016; Bailleux et al., 2015). Belgian NGOs have lodged several complaints with the European Commission on this issue.

The systematic control of all applicants for social assistance is made possible by the introduction of an information obligation for welfare authorities and in some cases the interlinking of databases. For example, the Austrian federal legislation that excludes EU citizens from social assistance also introduces a mandatory obligation for local authorities to consult in all cases the migration authorities to establish if an EU citizen has a right to receive social assistance. The compulsory involvement of the migration authorities in each individual case seems to contradict Article 14(2) of Directive 2004/38. Even if a particular person has received a ‘confirmation of registration’ (so called ‘Anmeldebescheinigung’, which is a declaratory confirmation of legal residence for Union citizens) or the right of residence is for other reasons not in doubt — for example, if the applicant is a worker who has a right to receive a supplementary payment — social assistance may only be granted after the migration authorities have been consulted.

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22 See also several complaints submitted to the European Commission by INCA-CGIL, ABVV-FGTB, the EU Rights Clinic and Bruxelles Laïque registered under CHAP (2014)3546; complaint submitted to the European Commission by the EU Rights Clinic under CHAP (2018)3481.
This systematic verification operates as an additional burden inevitably causing delays in the procedure of obtaining social assistance that does not affect Austrian citizens.

4. **FAILED ATTEMPTS TO ENLARGE THE SCOPE OF EXCLUSION FROM WELFARE**

The above-described restrictive approach to the social rights of economically inactive EU citizens has spillover effects for other categories of EU citizens. For example, Germany introduced in 2016 legal provisions that also excluded from social assistance EU citizens who derive a right of residence as the carers of the children of a former EU worker based on Article 10 of Regulation 492/2011. The right to reside for the carer of a child of a (former) EU worker is not conditional upon meeting sufficient resources or medical insurance but on the child pursuing education in the host state and one of the parents having worked there. The German legislator sought to overrule the German Federal Social Court that had decided that such persons are not covered by the provision in the social assistance legislation that excludes economically inactive persons from the receipt of social assistance for the first five years of their residence. According to the brief explanatory memorandum of the legislator, the case law of the Federal Social Court created additional burdens for the municipalities and social welfare agencies, and the new exclusion was in conformity with Directive 2004/38.

In October 2020 the CJEU ruled in the *Jobcenter Krefeld* case that the German provision was contrary to EU law. In this case the Polish father of two children pursuing education claimed social assistance in vain after he became unemployed. In its judgment, the CJEU ruled that children and parents who have a right to reside based on Article 10 Regulation 492/2011 can rely on the principle of equal treatment laid down in Article 7(2) of the regulation when claiming social advantages, even if the parent has lost the status of mobile worker. The derogation from equal treatment for jobseekers’ social assistance claims, which is laid down in Article 24(2) Directive 2004/38, does not apply to those who derive a right to reside from Article 10 Regulation 492/2011 even if they also derive a right to reside from Article 14(4)(b) Directive 2004/38. Verschueren observes relieved in his case report on the *Jobcenter Krefeld* judgment in the European Journal of Migration and Law that the discretion, as viewed by the Member States in earlier case

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23 Bundessozialgericht, Judgment of 3.12.2015, 4 AS 43/15 R.
law of the CJEU, to counter the so-called ‘benefit tourism’, turns out to be more limited than anticipated (Verschueren, 2021). The distinction, however, between who is to be considered economically active and economically inactive remains unclear, even after this judgment. He also added that recent research has shown that this ‘benefit tourism’ is not widespread at all. Union citizens who migrate within the EU do not primarily do this in order to improve their own standard of living through economic activities. Additionally, it was found that migrating Union citizens do not make more use of the social schemes in the host country than the own nationals, even less so. The Court’s ruling in *Jobcenter Krefeld* shows that the Court is unwilling to compromise on the more favourable treatment awarded to EU (former) workers in respect of social rights even where this treatment concerns their economically inactive family members who lack sufficient resources. The German legislator reacted immediately to this judgment by repealing its excluding legislation for this category of EU citizens26.

5. **Fundamental social rights and EU citizenship**

Besides the Treaty provisions on EU citizenship and equal treatment and the secondary legislation that sets out how these rights are to be exercised, mobile EU citizens can rely on the EU Charter of Fundamental Rights. In the Court’s jurisprudence on the social rights of mobile EU citizens, the Charter has played a minimal role. This is especially clear when comparing the social rights jurisprudence with the jurisprudence on EU citizens’ family reunion rights, where the Court refers to Article 7 and 24 of the EU Charter to interpret the scope of the rights that EU citizens have and the way the Member States must apply those rights27.

The Court’s failure to engage with the Charter has been criticised (Minderhoud and Mantu, 2017; Pennings, 2022; Verschueren, 2015). In the *Dano* case the Court refused to interpret the equal treatment question in light of the EU Charter despite the fact that the third preliminary question concerned the role of Articles 1, 20 and 51 of the Charter in interpreting the scope of social rights for economically inactive EU citizens. The Court ruled

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27 See for example, Case C-133/15 *Chavez-Vilchez*, ECLI:EU:C:2017:354 and the following cases detailing the rights of minor EU citizens in so-called Zambrano situations.
—rather controversially— that when the Member States lay down the conditions for access to social assistance benefits, they are not implementing EU law. Since the Charter does not extend the field of application of EU law and the EU states are not implementing EU law, the Court considered that it lacked jurisdiction to answer the question. This interpretation glossed over the fact that Article 34 of the Charter deals with entitlement to social security and social assistance. Article 34(2) EU Charter specifies that ‘Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Union law and national laws and practices.’

For the first time, the Court has made reference to Charter rights in the CG case, which concerns an economical inactive EU citizen who was refused social assistance in the United Kingdom (UK). Ms CG is a Dutch-Croatian woman and a mother of two young children, who moved to Northern Ireland in 2018. She had never carried out an economic activity in the UK. She experienced domestic violence and applied for Universal Credit, a UK welfare benefit. Since she had resided in the UK for less than five years at that time, to have a right to reside under Directive 2004/38 she would have had to show she had sufficient means of subsistence. In this case Ms CG’s right to reside was not based on the Directive but on the EU Settlement Scheme, which is national UK law, and grants EU citizens who have lived in the UK for less than five years a temporary right of residence of five years, which is not subject to a condition relating to means of subsistence. The UK welfare authorities rejected her claim to Universal Credit because the Universal Credit Regulation provided that persons with a residence permit under the Settlement Scheme were not entitled to this benefit. Ms CG claimed that this rejection was contrary to Article 18 TFEU since UK nationals in her situation were guaranteed those benefits.

The Court ruled that since Ms CG resided based on national law and not based on Article 7 of Directive 2004/38, she could not rely on Article 24 of the Directive to claim equal treatment with nationals in respect of Universal Credit. The Court added that the person concerned was a mother of two young children and had no means of supporting herself or her children. In such a situation, the competent national authorities may reject a request for social assistance only after they have ascertained that that refusal does not expose the citizen concerned and the children for which he or she is responsible to a specific and real risk of breaching their fundamental rights, as enshrined in Articles 1, 7 and 24 of the Charter. Article 1 of the Charter states that human dignity must be respected and protected.

28 Dano: para 92.
The host Member State must therefore ensure, according to the Court, that a Union citizen who has exercised his right to freedom of movement and has a right of residence on the basis of national law and who is in a vulnerable situation, can live under dignified conditions. Article 7 of the Charter recognises the right to respect for private and family life; and Article 24(2) requires the best interests of the child to be taken into account in all activities involving children. The question that the CG case raises is whether EU fundamental rights can counter and, if so, to what extent the restrictive tendencies that we document in our comparative analysis of national legal and administrative practices. Verschueren (2022) argues that by invoking the EU Charter, the Court has thrown a lifeline to vulnerable EU citizens who are refused social assistance. For now, it is unclear what this lifeline actually entails in terms of the benefits that the host state should award to a vulnerable EU citizen who fails to meet the conditions of Article 7(1)(b) of Directive 2004/38. Similar to the Dano case, the Court does not mention Article 34 of the Charter, which specifically addresses the entitlement to social security and social assistance, preferring instead to steer the answer towards respect for human dignity and the best interest of the child. The relationship between Directive 2004/38 and the Charter remains unclear when it comes to economically inactive EU citizens in need of social assistance. Does the EU Charter apply when the EU citizen is refused a right under Directive 2004/38 or does it apply only when the host state awards a national immigration status and the Directive is not applicable? Does this mean that the notion of legal residence means something in the context of Directive 2004/38 and something else in the context of the EU Charter? If so, can we speak of ‘legal residence’ having an uniform EU meaning?

What the Court does clarify is that it is unwilling to depart from the Dano interpretation whereby an EU citizen who lacks sufficient resources and does not reside legally based on Directive 2004/38 cannot invoke equal treatment based on Article 18 TFEU and Article 24 of Directive 2004/38 (Verschueren, 2022; O’Brien, 2021). On the off chance that the host state will not terminate the right to reside but award a national immigration status instead, after the CG case EU states must ensure that vulnerable EU citizens and their children can live in dignified conditions. We already mentioned that some EU states offer vulnerable and destitute EU citizens monetary help to return to their state of nationality. This was precisely one of the issues raised in the Dano case but ruled to be outside of the Court’s jurisdiction. In the absence of CJEU guidance of what the Charter can offer in practice, it remains to be seen how EU states will give effect to the notions of vulnerability and dignified conditions.
CONCLUSIONS

In this contribution we have shown how the interaction between the EU and national levels shapes the scope of EU social citizenship for economically inactive EU citizens. Our comparative analysis into the transposition and implementation of the rights of EU citizens at the national level reveals the complexities of forging transnational EU social rights and their consequences for the legal position of mobile EU citizens. The developments that our data reveal at the national level—cementing exclusion from social assistance, increased administrative surveillance and systematic verification—can be seen as consequences of the fight to reverse CJEU’s initial stance on EU citizenship as legitimate source of social rights for economically inactive EU citizens. National legislators and administrations have experimented (Mantu and Minderhoud, 2019; Shaw, 2015) with various forms of legal and administrative resistance to CJEU jurisprudence. The national resistance to the idea that mobile EU citizens can expect a certain degree of financial solidarity with nationals is reflected in the cases that made it before the CJEU. The Court has accepted this position, which has led to its stance on legal residence as the primary source of legitimacy for giving EU citizens access to social rights in a host state.

The EU citizen who moves to another Member State cannot rely on a full notion of solidarity anymore. The increasing lack of solidarity already noted in earlier reports (Mantu and Minderhoud 2019) is extrapolated the last years. The assets of the welfare state are more and more reserved to the own citizens of the individual Member States. In our view these developments are facilitated by the turn in the CJEU’s jurisprudence that limits entitlement to welfare for economically inactive EU citizens and emphasizes conditionality and legal residence as the main axes determining access to the welfare state. Based on the latest judgment in CG, the EU fundamental rights which have been so central to the work of Christina are now expected to function as a ray of hope for the most vulnerable and destitute of EU citizens. But we fear that the Court’s venture into the Charter in relation to social rights falls short of fulfilling the expectation that a citizenship status implies equality among its holders. As long as the Court does not refer in these cases in any way to Article 34 of the Charter, which is specifically addressing the entitlement to social security and social assistance, the position of the EU citizens stays precarious.

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