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Free Movement for Whom, Where, When? Roma EU Citizens in France and Spain[1]

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EU citizenship is often regarded as the culmination of a process whereby the transnational mobility of "workers" has led to the granting of rights to "humans" qua citizens, with both legal scholars and ethnographers emphasizing its normative significance in this respect. Challenging such a narrative, this study sets out to highlight the contingent nature of a post-national EU citizenship, with reference to the lived experiences of migrant Roma. As a first step, we highlight the conditionality within EU law associated with the granting of rights to those enacting EU citizenship by residing within EU territory beyond their own member state. In a second step, we highlight the variable ways in which such conditionality is deployed in different national contexts, with reference to the frameworks in France and Spain. While the former has deployed these conditions in a manner that has excluded EU citizens, particularly migrant Roma, the latter—at least for a time—was more permissive in its granting of rights to EU citizens than EU law required. However, in a third step, we suggest that the lived experiences of migrant Roma in these two national contexts have not been as different as the legal differences suggest. Drawing on ethnographic fieldwork on Romanian Roma in two municipalities near Barcelona, we demonstrate the ways in which a local politics of exclusion is legally possible, even within an ostensibly permissive juridical framework of citizenship. We highlight how the ambiguity of a multilevel citizenship not only opens up possibilities for multifaceted forms of exclusion, but also for various forms of resistance, both within and beyond a juridical citizenship framework.

The mobility of individuals within European space has been inextricably linked with the development of EU citizenship (Guild 2004; Maas 2007; Aradau, Huysmans and Squire 2010). To paraphrase the oft-quoted lines of Swiss author, Max Frisch, while in the second half of the twentieth century, the European economy

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required mobile *workers*, it was *human beings* who began to move in ever greater numbers in European space (cited in Koikkalainen 2011). And the humanity of these workers is something that national and European courts and governments have often been unable to ignore, leading to the gradual granting of rights to mobile individuals and families over time. The formal establishment of an EU citizenship at Maastricht in 1992 was in many ways the culmination of this process, yet at the same time established the basis for the further expansion of rights (Kostakopoulou 2005). Coupled with the enlargement process, free movement has eroded geographical (especially post-"Schengen"), political and even cultural borders within Europe. Since 2014, EU citizens have been able to formally study, work, or live anywhere they wish within 31 countries (EU 27 plus Iceland, Liechtenstein, Norway, and Switzerland). It is perhaps not surprising, then, that according to a Eurobarometer (2009) survey, when asked "What does the EU mean?" 42% of respondents answered that it means primarily "freedom to travel, study, and work anywhere in the EU."

Certainly, free movement is intrinsically linked with the integrative, postnational, or cosmopolitan promise of the European project. Indeed, most EU citizens regard mobility within the European Union as good for integration (European Commission 2010). And free movement has been an emancipatory experience in many ways for many EU citizens, as documented for instance in Favell's (2008) excellent ethnography of the experiences of educated, and mostly highly skilled, mobile European citizens. These "Eurostars" from the EU-15 have, in many cases, easily accessed the rights commensurate with their citizenship and recount largely positive experiences of movement and residence beyond their "home" member states. Moreover, evidence from the European Internal Movers Social Survey (EIMSS) suggests that many movers within the EU-15 are motivated not solely, or even mainly, by economic factors, but rather by family and quality of life factors (particularly relevant for retirees; Koikkalainen 2011). Movement for these citizens has, in many respects, exceeded the economic logic associated with the early days of the European project, even if it is not automatically associated with the emergence of a European sensibility or the transcendence of a national one (Favell 2008). And from the perspective of recipient member states, nationals of other EU member states no longer have to be workers in order to be accepted into their national communities.

In this study, we seek to challenge a teleological story of the relationship between mobility and EU citizenship, by focusing on the lived experience of a group of citizens very different to those analyzed by Favell. We similarly focus on the microrealities of EU citizenship in practice, but we turn to the experiences of a traditionally marginalized and excluded group of mobile EU citizens—mobile Eastern and Central European Roma living in France and Spain. In many ways, the counterpoint, or "other," to Favell's "eurostars," these Roma have been framed as "eurovillains," a "menace" (Stewart 2012) or "shadow" citizens (Cresswell 2006) in the European context, whether in their "home" nations or in their would-be "host" nation-states. Notably, one quarter of Europeans admit to being uneasy with the idea of having Roma for neighbors, and in 2009, one in five Roma claimed to have been the victim of racially motivated crime at least once during the previous 12 months (Eurobarometer 2008). The mobility or residence performed by these citizens is consequently frequently restricted; notwithstanding their citizenship, at times, it is a question of *restricted* (or even *forced*) not *free* movement. In other words, an ostensible "legality" is often ignored or reversed in the context of an emergent and ambiguous multilevel regime of citizenship, and such reversals may not be unambiguously illegal.

Describing the experiences of this group, we demonstrate that, notwithstanding the formally unitary and nondiscriminatory nature of the rights commensurate with EU citizenship, movement and residence beyond the nation-state is far from

the same experience for all EU citizens, and even for the marginalized Roma, it is not the same in all *places* and at all *times*. In short, we demonstrate that the granting of rights commensurate with EU citizenship is conditional on the "desirability" of individuals (Maas 2013a:93) and such conditionality is *contingent*; it is variable in EU *space* and *time*. In this respect, we contribute to a growing body of literature which has problematized citizenship and its unproblematic association with membership within a nation-state. This is a literature which has highlighted the ways in which even within citizenship contingent hierarchies of belonging emerge, often associated with the granting or withholding of political, civil, and social rights (Sassen 2006; Nyers 2011). It is a literature which has also recognized the increasingly complex, multileveled dimensions of a citizenship, no longer geographically reducible to the nation-state (Maas 2013b; Parker and Toke 2013). More generally, it implicitly draws upon, and contributes to, a literature on the ambiguities of a multilevel contemporary liberal government. Such work enunciates the various ways in which, both within and beyond the juridical status of citizenship, such government identifies ideal and non-ideal, virtuous and delinquent subjectivities—often to exclusionary or "securitizing" effect—and the ways in which these characterizations may vary in place and through time (Foucault 1991, 2008; Huysmans 2006; van Munster 2009; Chauvin and Garcés-Mascareñas 2012; Parker 2013).

The argument unfolds over three sections. The first describes some of the ways in which EU citizenship has been discussed in the prevailing literature, highlighting the aforementioned tendency to describe it as a reality that is crystallizing over time. We note that even as growing numbers of mobile Europeans have been granted citizenship, EU law means that rights commensurate with that status, including the right to reside, can be granted conditionally. Moving in a second step to adopt what might be termed a multilevel governance approach to citizenship, we demonstrate that such conditionality, while it is rendered possible in EU law, is negotiated and applied variably in EU space. We describe the legal transposition of the free movement or "citizenship" directive in France and Spain and its impact upon mobile Roma, highlighting how the governance of EU citizenship—and movement and residence—may be highly variable between member states and in different localities. Of particular note was Spain's 2007 adoption of a far more permissive approach than that required by EU law and than that adopted by most other member states, including France. However, in a third step—and drawing on ethnographic field research conducted on the "everyday" experiences of mobile Roma EU citizens in the Barcelona area—we consider how a generally permissive regime of access to rights has not led to significantly different lived experiences for migrant Roma. Indeed, a complex and dynamic "moral economy" of inclusion and exclusion (Chauvin and Garcés-Mascareñas 2012) is at play, even within the context of EU citizenship. We conclude by reflecting on the temporal and spatial contingency of citizenship and the possibilities of resistance by vulnerable and marginalized groups.

Mobility and EU Citizenship

Mobility may be a right that today we automatically associate with citizenship in general and EU citizenship in particular, but one does not automatically follow from the other. As Cresswell (2006) notes, in his fascinating account of mobility and citizenship in the United States, the Supreme Court debated the right to mobility for citizens in relation to a number of cases during the twentieth century. In the case of *Edwards v. California* (1941), Fred Edwards was convicted by the state of California for the crime of bringing an "indigent" relative into the state. In the context of the Great Depression, the movement of the unemployed eastward to California had prompted a widespread moral panic and assisting

such movement had been outlawed in the state legislature. While ruling in favor of mobility, the different rationales adopted by the Justices are interesting to consider for current purposes. Some argued that mobility of the unemployed ought to be permitted on the basis of their *potential* as commercial actors or workers—essentially as factors of production—while others argued that, although not mentioned in the constitution, such mobility was, more simply, an inalienable right associated with citizenship. The case illustrates that citizenship is not necessarily constitutive of unrestricted rights of mobility and residence, even within nation-states.

Conversely, mobility is *not necessarily* constitutive of citizenship and an expanding set of rights associated with that status, as has sometimes been claimed in relation to the European Union and its antecedents. This is not to suggest that those accounts pointing to the development of important rights as a consequence of practices of free movement in Europe are historically inaccurate. Rather, it is to challenge a progressive teleology often implicit in such accounts and point to the political contestation, conditionality, and potential reversibility associated with both mobility and transnational rights. In other words, while we do not contest that "free movement is the bedrock upon which the entire construction of European rights has been built" (Maas 2007:5), we suggest that both "bedrock" and "construction" may be shakier than some accounts would acknowledge and complacency with respect to either would be a mistake.

The teleological story of citizenship that we question is one that is told in much of the prevailing legal literature and which mirrors various statements of the Commission and ECJ on the "fundamental status" of EU citizenship. It is a story which regards EU citizenship as a category that is tentatively being constructed and is slowly crystallizing, such that member state nationals and their family members, wherever they reside in EU space (at "home" or in a "host" member state), will ultimately be treated on an equal footing; in other words, free of discrimination. It is a story which often follows the assumptions of a broadly functionalist teleology of European integration. According to such a teleology, the mobilities associated with a market integration are understood to be constitutive of social interactions across borders. With the helping hand of various EU "commitment" institutions, such as the ECJ, it is seen as possible that these social interactions might evolve beyond economic self-interest and develop into something akin to a public sphere, but now at a postnational or cosmopolitan level. From this perspective, mobility has constituted postnational citizenship and citizenship has, thereafter, facilitated further mobility.

It is certainly true that in recent years the act of mobility has become ever easier due to the implementation of the 1985 Schengen agreement in 1995, which has effectively erased many land borders and allowed for easier passage at internal virtual borders such as airports. And the introduction of the formal status of citizenship, in 1992, has permitted the further evolution of European-level rights associated with residence. Article 21 TFEU states that "Every citizen of the Union shall have the right to move and reside freely within the territory of the member states, subject to the limits and conditions laid down in this Treaty and by the measures adopted to give it effect." The emergence of citizenship undoubtedly marks a clear rhetorical break from the notion of the free movement of an individual as a *worker-cum-factor-of-production* and has allowed for further ECJ activism which has to some extent—and particularly through the invocation of antidiscrimination provisions—further delinked access to rights from economic conditionalities (Kostakopoulou 2005). The evolution of the category of citizenship has culminated in the right to free movement for EU citizens being enshrined in Article 45 of the Charter of Fundamental Rights and in Directive 2004/38—the so-called "citizenship directive"—on "the right of citizens of the Union and their family members to *move* and *reside* freely within the territory of the Member

States." This directive ensures that those who reside for less than 3 months can do so relatively unhindered and without any obligation to register, subject only to not posing a threat to "public policy, public security, or public health." Those residing for more than 5 years are to be unconditionally granted virtually all of the rights accruing to nationals.

For some, EU citizenship is being freed not only of its economic logic of mobility, but mobility more generally. Kochenov (2011), for instance, notes that recent ECJ case law hints at the creation of a "real" EU citizenship which is not dependent upon mobility at all and gives content to the EU citizenship status of those who have not moved across national borders in EU space. Perhaps seeking to address perverse cases of "reverse discrimination"—whereby nationals of a member state enjoy access to fewer rights than non-national EU citizens—the ECJ has recently issued judgments which seem to render permissible the invocation of postnational citizenship rights, even in situations where no movement has occurred (Kochenov 2011). That said, ECJ rulings, taken together, have been sufficiently ambiguous to render premature any declaration of the uncoupling of EU citizenship from mobility. Given the implications of such an uncoupling for member states' ability to control their own settlement policies—and therefore populations—it seems likely that this is a direction of travel that will continue to be politically resisted.

More generally, the nondiscrimination invoked by many legal scholars may not be practiced as widely as an analysis of citizenship case law suggests. Indeed, echoing Creswell's above-mentioned analysis, Maas (2013a:109) notes that the rights of the mobile citizen are contested and contingent, "even in unitary states, [where] local or regional authorities may develop administrative practises which discriminate between residents of one part and another part of the overarching jurisdiction." In the decidedly "non-unitary" EU context this is certainly the case. With recent waves of enlargement, transitory measures have been imposed on new member states, meaning that EU citizens from those member states have been effectively and legally discriminated against when seeking to access labor markets or to reside in certain Western European countries. This is EU-sanctioned discrimination on the basis of nationality. And such discrimination is often reflected in public opinion. Moreover, the 2004 Directive does contain a residual, but practically important, economic conditionality for mobile EU citizens seeking to settle in EU space beyond their own member state for longer than 3 months. An individual can be lawfully obliged by member state law to fulfill one or more of the following conditions: (i) be a worker or self-employed person; (ii) have sufficient resources not to become a burden on the social assistance system of the "host" member state; (iii) be enrolled in education; or (iv) be a family member of an EU citizen satisfying one of the other conditions (see Article 7; EEC 2004). Thus, possibilities for continued discrimination are present in EU law and can have important consequences for the rights and lived experiences of EU citizens. As elucidated in the following sections, with reference to the experiences of mobile Roma EU citizens, such consequences are, however, mediated in variable and changing ways at various levels of government.

National Governance of EU Citizens: France and Spain

EU citizenship is governed at multiple levels. As Maas (2013a:98) notes, "EU law promises individuals some degree of access to entitlements throughout the EU, but member states continue to control the welfare programs that give content to citizenship." Thus, member states are obliged to grant access to rights to EU citizens in accordance with the principles of nondiscrimination set out in the aforementioned directive—in other words, EU citizens should for the most part enjoy the same rights as noncitizens. However, this results in the granting of very dif-

ferent sets of rights in different ways in national and subnational contexts given the very different national, and sometimes subnational, models of welfare capitalism in member states. Moreover, the conditions on who can access such rights—enunciated within the directive and described above—are not directly applicable in member states and therefore do not have a unitary effect throughout the European Union. In other words, it is necessary for member states to choose *which* of these conditions they will transpose into national law and *how* they will interpret them within national law. In practice, differences in welfare models coupled with differences in the conditions of access to rights in different member states mean that the rights associated with EU citizenship "on the ground" are extremely variable.

The interaction between these levels is a dynamic one, with the EU level—certainly the ECJ—tending to push for the extension of nondiscrimination, and member states *sometimes* resisting these moves and asserting their autonomy to limit access, particularly to parts of their welfare systems. The above-mentioned conditionalities associated with the rights granted to mobile EU citizens could be read as a compromise between supranational and national positions. However, the perspectives of member states within this framework have not been consistent or, in the case of individual member states, stable over time. This increases the potential for EU citizenship to be experienced very differently in place and across time. The cases of France and Spain discussed in this section are illustrative, respectively, of a restrictive and (relatively) permissive approach to the governance of EU citizenship at the national level, and demonstrate the potential spatial variability of EU citizenship. In particular, we consider the legal implications in both cases for Roma EU citizens.

Mobile Roma in France

Deportations of mainly Romanian Roma from France were widely mediatized in the Summer of 2010, when the French government pursued a policy of explicitly targeting migrant Roma for deportation (Parker 2012). During this period, the Roma, along with other groups of immigrants, were presented as an existential threat to the "republican order," ostensibly as part of Sarkozy's crack down on "gangsters," "traffickers," and "delinquents." The explicit targeting of Roma, rendered visible in the televised dismantling of their makeshift homes, was a clear transgression of European Union and French laws on discrimination and led to outspoken public critiques from, among others, Commission Vice President and Justice and Fundamental Rights Commissioner, Reding (2010), who stated that "[t]his is a situation I had thought Europe would not have to witness again after the Second World War." In response to EU pressure, the French authorities removed discriminatory language from the administrative circulars that had been issued to local "prefects," instructing them to target Roma camps. Under threat of Commission infringement proceedings, they undertook to incorporate legal safeguards for EU citizens into national law and the debacle seemed to draw to a close.

The new law[2] was the framework within which the French authorities undertook to ensure a correct transposition of directive 2004/38 following the events of 2010. In conformity with the directive, the law subjects all deportation orders to an individual assessment of a citizen's personal circumstances. The law permits a deportation order (*obligation de quitter le territoire français—OQTF*) to be issued where an EU citizen's stay in France is considered an "abuse of rights" because they are adjudged not to meet the conditions required to stay for more

[2] *Loi (no. 2011-672 du 16 juin 2011) relative à l'immigration, à l'intégration et à la nationalité* [Law on immigration, integration, and nationality].

than 3 months; namely, and in apparent accordance with the directive, where they are deemed to be in the country "for the purpose of benefitting from the social assistance system" (Article 39).

Moreover, also in apparent accordance with the directive, the law introduces the possibility of issuing a deportation order to foreigners, including EU citizens (*arrêté préfectoral de reconduite à la frontière*—APRF), who are deemed to pose a threat to public order (Articles 63 and 65). The French law identifies a series of crimes which may justify a prefectoral deportation order (APRF). These include "exploitation of begging and illegal land occupation," particularly significant for Roma given their recourse to these "crimes" as survival strategies in the absence of either work or the possibility of claiming social assistance. The inclusion of illegal land occupation is particularly alarming as it has not usually been regarded as a public order question in France (Human Rights Watch 2011). Such a legal provision seems consistent with Sarkozy's fight—conducted in France from the national center (Legros and Vitale 2011)—against "illicit" or "savage" camps and their designation as zones of "*non droit*." Indeed, vulnerable Roma populations will inevitably engage in economic activities which this law has designated as delinquent and such delinquency will constitute the pretext for eviction, social exclusion, and deportation.

One can certainly cast doubts on both the compatibility of this law, and its implementation, with the directive. Offenses characterized as a breach of public order do not seem to meet the necessary threshold specified in the directive which states that such offenses must represent a "genuine, present, and sufficiently serious threat" to a fundamental interest of society. Moreover, judgments to issue an OQTF on the basis of economic conditionality have frequently been made on the *mere assumption* that individuals will, due to difficult circumstances, make recourse to the social assistance system. According to Human Rights Watch (2011), this is not in conformity with guidance that has been issued by the Commission with respect to the implementation of such conditionality, which suggests that social assistance has to have actually been claimed before it can be invoked. Indeed, in a number of instances, OQTFs and APRFs have been overturned by local administrative courts on, *inter alia*, grounds of a lack of individual assessment and a rejection of the principle that illegal occupation of land automatically qualifies as a threat to public order.

In accordance with this restrictive legal framework, on the ground little has changed for Romanian and Bulgarian Roma since 2010. It is notable that camp evictions and deportations have been ongoing under a new government led by President Hollande, despite his criticism of Sarkozy's policy during the presidential election campaign in 2012 (Jolly 2012; Amnesty 2013). Amnesty International reported that 2013 saw a sharp increase in the number of forced evictions of Roma.[3] Such evictions have left numerous Roma families without any form of shelter or housing provision. Notably, these policies have not required the explicit discrimination which was apparent in 2010. Indeed, an exclusive politics of deportation does not require the "securitizing" and discriminatory rhetoric of a President Sarkozy, but is possible within the parameters of a more mundane bureaucratic liberal politics (van Munster 2009; Parker 2012).

Such "securitizing" language returned more recently. In September 2013—ahead of local elections in early 2014—Hollande's popular Interior Minister (and, since April 2014, Prime Minister), Manuel Valls (dubbed by some "the leftist Sarkozy"; von Rohr 2013) used outspoken rhetoric in defending a policy of eviction and deportation. He pointed to a fundamental culture clash and contro-

[3]"Forced eviction" is a legal term referring to an eviction carried out without proper legal safeguards, such as considering alternative housing provision for evicted populations or properly consulting those concerned prior to eviction (Amnesty 2013:11).

versially claimed that the majority of Romanian and Bulgarian Roma simply could not be integrated (BBC News 2013). Again, the issue of Roma had become a national ("existential") issue, with parties across the political spectrum competing to take the hardest possible line on the "problem" of Roma camps. Again the European Commission criticized the rhetoric. However, as of early 2014, over 3 years since infringement proceedings were first threatened, such proceedings had still not been brought against the French government.

At times, France has shown some willingness to operate within the parameters of EU law but, importantly, even within these rather unclear parameters, it has been possible to target Roma populations. At other times, France has shown an apparent disregard for the directive. The French case and the lack of a legal response from the Commission point to the possibility of member states adopting policies which are more restrictive vis-à-vis EU citizens than EU law strictly permits. As discussed in more detail below, the economic crisis (coupled with the ending of transitional arrangements for Bulgarian and Romanian EU citizens in 2014) has in a number of national contexts created a tension between the right to free movement commensurate with EU citizenship and the desire of certain member states to control their own entry and residence requirements. However, as the case of Spain suggests, these two agendas are not always in tension.

Mobile Roma in Spain

The Spanish government adopted a very different approach to the question of EU citizenship and free movement in general, and to the question of migrant Roma in particular. As the deportation of Roma from France was hitting the headlines globally in 2010, Spain was heralded in some quarters as an exemplar of good practice with respect to the treatment of Roma (Cala 2010; Daley and Minder 2010). Possessing a large and well-established population of Spanish Roma (Gitanos) Spain has, particularly since the 1980s, developed a policy framework that seeks to incorporate Roma into economic and social benefits regimes and thereafter offer targeted assistance to enable equal access to education and work (Rodriguez 2011). While the successes of such policies should not be overstated and marginalization is still present (San Román 1997 [1994]), the situation of Spanish Roma is, in general terms, better than that of Roma in many other national contexts. The region of Catalonia, the focus of the next section, has been particularly active in its attempts to integrate Roma populations and tackle their social exclusion. Moreover, the Catalan parliament has recognized the historical persecution of Roma in Spain and the genocide perpetrated against this minority.

The favorable comparisons with France made by some international press to some extent confused the issue by comparing the treatment of foreign Roma in France with the treatment of domestic Roma in Spain. Nevertheless, there has been an apparent desire in Spain to extend its (*relatively* generous) policies toward domestic Roma to migrant Roma EU citizens. Comparing the recently published Spanish and French National Action Plans for Roma Integration—produced in the context of the EU's National Roma Integration Strategy (European Commission 2011)—it is notable that the Spanish plan explicitly sought to extend its policy architecture to migrants, whereas the far less systematic French policy framework was directed almost exclusively toward its national "traveler" population, the "gens du voyage."

More generally, and more significantly for the purposes of this study, Spain was initially far more permissive with respect to the interpretation of the directive on the free movement of EU citizens. Indeed, unlike most EU member states (the other exception being Estonia), it chose not to transpose into domestic law the conditionality pertaining to "sufficient means"; in other words, the

requirement that an EU citizen be employed, self-employed, economically independent, or a student in order to reside beyond 3 months, did not exist in Spanish law (European Commission 2008; Milieu, Ltd. 2008). Indeed, Article 1 of the relevant law stated, quite simply, that "[a]ll EU citizens residing in Spain pursuant to the provisions of this Decree shall have equal treatment with respect to Spanish citizens within the scope of application of the EC Treaty."[4] This was consistent with its legal framework pertaining to legally resident foreign nationals, which granted rights equal to citizens to all such individuals.[5]

In a sense, then, we can say that Spain seemed to implement a notion of EU citizenship that was *more developed* that envisaged by the European Union, certainly within the free movement directive. An EU citizen could move to Spain and be granted substantive rights indefinitely as long as they were not regarded as a threat to public order or health. Although there is an obligation to register in the *Registro Central de Extranjeros* within 3 months of arrival (which also implies the issuing of a NIE—*Número de Identificación de Extranjeros*), Union citizens only had to prove their identity, nationality, and legal proof of *de facto* residence in order to reside and enjoy rights in Spain beyond this time. Moreover, while Spain also adopted transitional arrangements with respect to Bulgarian and Romanian nationals, it decided not to extend these beyond 2008. Although, as discussed below, this situation changed again in July 2011, the policy granted access to labor markets for individuals from these countries for an 18-month period.

In Spain, these national laws are implemented locally and the granting of rights is managed at regional and municipal level, leading to some variability throughout Spanish territory. Perhaps, this devolved management is one of the reasons why, unlike in centralized France, immigration in general, or the question of migrant Roma in particular, has not been politicized in the same way at the national level. In the particular case of Catalonia—the focus of the following section—inter alia, education, social housing, and a minimum income scheme are managed at this regional level and accessible to immigrants in accordance with the above-mentioned national law as long as they are registered residents (and in the case of the minimum income scheme, registered for at least 1 year). In particular, these rights have theoretically been accessible as long as an individual is registered in a municipal census (*Padrón Municipal de Habitantes*), which municipalities are legally obliged to keep for statistical purposes.[6] As in France, local registration (in Spain, "empadronamiento") is key to accessing rights commensurate with citizenship, although in the Spanish case, the criteria to register are far less stringent given that the municipality is in theory supposed to use the process to record the presence of all those residing in its territory, no matter their legal status. To register an immigrant, including EU citizens, generally requires an ID card or passport and proof of address, which in theory can also include "substandard" or informal housing.[7]

[4]*Real Decreto (240/2007, de 16 de febrero) sobre entrada, libre circulación y residencia en España de ciudadanos de los Estados miembros de la Unión Europea y de otros Estados parte en el Acuerdo sobre el Espacio Económico Europeo* [Royal Decree on entry, freedom of movement, and residence in Spain of citizens from EU Member States (EU MS) and other states part of the Agreement on the European Economic Area].

[5]*Ley Orgánica Ley Orgánica (4/2000, de 11 de enero) sobre los derechos y libertades de los extranjeros en España y su integración social*, [Organic Law on rights and liberties of foreigners in Spain and their social integration].

[6]Law 7/1985 (local government law) establishes the process of "empadronamiento" as compulsory for any person living in Spanish territory. It defines the padrón as an administrative register of all the people living in a municipality. Law 4/2000 (see footnote 3) states that town councils will register in the padrón all foreigners that normally reside in the municipality.

[7]A 1997 resolution states that substandard housing (slums, huts, etc.), and even a public space, is valid addresses for purposes of registration in the padrón. Social Services (or other authorities) should identify and certify such addresses.

Overall, then, we can say that Spain adopted a permissive approach to the conditionality associated with EU citizenship in contrast to France's restrictive approach, described above. Indeed, EU citizenship in Spain was more akin to national citizenship in the sense that it was accompanied by the granting of a full set of rights, including social and economic rights, which were not, in law at least, conditional on the economic status of an individual. Certainly, the legal situation in Spain for marginalized EU citizens such as Roma has been more favorable than the one encountered in France, where a systematic policy of exclusion has been driven from the center. Thus, in many ways, a comparison of these two contexts serves to illustrate the ways in which EU citizenship is interpreted and can consequently be experienced, in quite different ways in different EU spaces.

However, any judgment with respect to the normative superiority of Spanish policy ought to be tempered for three reasons. First, it could be argued that an inclusive legal policy of the sort adopted in Spain could have a corrosive effect on the substantive content of welfare rights granted in this national context and that France has adopted a restrictive policy, in part, to protect its own welfare state. Indeed, it has been argued that the expansion of access to welfare rights for non-national EU citizens might contribute to pressures on member states to reduce their content (and cost) more generally. This potential for a "neo-liberal" EU to produce outcomes which are "more human but less social" (Menéndez 2009) is important to consider in assessing the broader normative potential and limits of a multilevel EU citizenship (Höpner and Schäfer 2012) or, indeed, its ostensibly cosmopolitan identity more generally (Parker 2013). This relates to broader debates about the difficulties of reconciling a "widening" and liberal Europe with a "deepening" and social Europe.

Second, and more importantly for the purposes of this study, while we might suppose that the different legal conditions would make for very different lived experiences for Romanian Roma residing in France and Spain, this is not necessarily the case due to a range of local laws and practices which interact with national and EU law. Turning in the next section to consider the "everyday" lived experiences of Romanian Roma in a local Spanish context, we argue that there may be more subtle mechanisms at play through which migrant Roma are excluded. Such exclusions at a local level became particularly notable from 2007 and can be linked, among other factors, to the economic crisis—specifically a housing crisis—which started to unfold in Spain at that time. Indeed, it is notable that just as the national government was deciding in 2009 to formally open up its labor markets to Bulgarian and Romanian EU citizens, at the local level, the economic crisis was already beginning to impact on bureaucratic practices in ways that would adversely affect the most vulnerable among this group—mobile Roma. For this group, the *formal* opening of Spanish labor markets was, as noted above, largely an irrelevance.

Third, it is important to recognize that the relatively permissive national level Spanish policy has not remained so. Indeed, as of 2012, national level policy had caught up with exclusive local practices. In 2011, the national government reimposed transitional measures on Romanian and Bulgarian citizens and these remained in place until 2014,[8] with the European Commission giving its consent for the move in recognition of "the dramatic employment situation and the very complex financial situation" which emerged in the context of the crisis.[9] Even

[8] *Instrucción DGI/SGRJ/5/2011, de 22 de julio, sobre régimen de entrada, permanencia y trabajo de los trabajadores por cuenta ajena de los nacionales de Rumanía y de sus familiares.* [Instruction DGI/SGRJ/5/2011 on entry, permanence, and work regimes for salaried workers of national citizens from Romania and their relatives].

[9] Commission Decision of August 11, 2011 authorizing Spain to temporarily suspend the application of Articles 1 to 6 of Regulation (EU) No 492/2011 of the European Parliament and of the Council on freedom of movement for workers within the Union with regard to Romanian workers (2011/503/EU).

more radically, in 2012, Spain further reversed its permissive approach, introducing into national law the economic conditionality for EU citizens contained in the 2004 directive.

Local Governance of EU Citizens: Everyday Exclusion in Catalonia[10]

A group of a few thousand Romanian Roma currently live on the outskirts of Barcelona, predominantly in the municipalities of Badalona and Santa Coloma de Gramanet, traditional immigrant areas bordering the Barcelona municipality. Most of these Roma originate from the Romanian towns of ăndărei (Ialomi a) and Murgeni (Vaslui), although Roma from other points of origin are increasingly present.[11] The former constituted a first wave of migrant Roma dating to the formation of the Schengen area in 2002, whereas the majority of the latter group arrived after Romania's entry to the EU in 2007 (although, notably, before the 2009 removal of barriers to the labor market). The living conditions of these Roma are variable, with a small number working in regular employment and living in good standard housing and others unregistered, living without access to rights and often squatting in overcrowded conditions or in improvised makeshift accommodation. In general, the conditions of those who have been in Spain the longest are better than those experienced by more recent arrivals, and the former group generally emplace themselves as higher status vis-à-vis the latter. Those who have been present for longer periods have tended to more effectively access some social benefits, build their social network across different European countries and start to reinvest remittances in their towns of origin. While both have adopted marginal economic survival strategies, the ăndărei group has tended to beg, clean windscreens, or sell goods on the street (lighters, handkerchiefs, "La Farola" magazine) although these activities have decreased in recent times. Meanwhile, the Murgeni still tend to work in scrap metal collection or beg for money in Barcelona city center. The majority of Romanian Roma live in flats, which were accessible in these areas in a segmented and often irregular rental market ruled mainly by citizens of Pakistani origin. These individuals had been able to access cheap credit in order to "buy-to-let" property during the Spanish property boom of the 1990s and early 2000s.

As noted above, registration in the municipal census (*padrón*) constitutes a locally managed gateway to social and economic rights, such as access to the Public Health System and enrollment in public schools. While such registration should be a relatively straightforward process for all immigrants, and municipalities are supposed to register all immigrants residing in their territory regardless of living conditions, it is notable that this has not been the case for many Romanian Roma in Spain (FRA 2009), including in these municipalities in Catalonia. Indeed, as the Catalan Ombudsman (2008:143) has noted in a critical report, there are significant divergences in the registration practices of municipalities and "there is a clear lack of criteria when registering nationals from countries who have recently joined the EU." For instance, in Santa Coloma de Gramenet, and in contravention of the national legal framework, registration with an EU identity card (in the Romanian case, *Buletin de identitate*) has been in some cases initially denied and a passport demanded.

[10]Discussion of the Spanish local context is based on ethnographic fieldwork with Romanian Roma—mainly based on participant observation and open interviews—conducted in different waves over a 7-year period (2006–2013) in the Barcelona Metropolitan Area (focusing on the areas highlighted in this paper), as well as in some short stays in origin towns in Romania. The approach was mainly horizontal and nonmediated by other institutions, focusing on everyday lived experiences. An attempt was made to observe a diverse range of contexts and situations, but with a particular focus on the most socioeconomically excluded segments of the population.

[11]Particularly Bacesti (Vaslui) and Calvini (Buzău).

The issue of overcrowding has been the other pretext for preventing registration. This is an issue that was severely exacerbated by Spain's own "subprime" housing crisis which began to unfold around 2007 (Lopez and Rodriguez 2011:20). As those renting flats to Roma—themselves usually immigrants—began to struggle to make mortgage repayments, they often sought to pass on these costs to the disoriented, newly arrived Roma in the form of higher rents. This in turn led to families increasingly living together. As the Ombudsman (2008:143) notes, "faced with the need to find a solution for cases of overcrowding [in accordance with a 2007 law enacted by the Catalan Parliament] municipalities have recently begun to use the register as an instrument for dealing with [them]." Thus, for instance, in Santa Coloma de Gramanet and Badalona, it is possible to register a maximum number of people per apartment, and some municipalities have removed individuals from the register when they have been discovered in overcrowded dwellings. Sometimes, Roma have failed to register even where there are fewer than the maximum in an apartment because previous occupants have not removed their names from the register. This interlinking of overcrowding and empadronamiento has created a situation whereby Santa Coloma de Gramanet and Badalona municipalities do not register individuals living in precarious conditions, notwithstanding the aforementioned legislation which states that they should be registered and provided with assistance.[12] In fact, the lack of empadronamiento has prevented Romanian Roma from accessing most social assistance measures. Moreover, in some cases, and above all when a situation is perceived as "urgent" or unsustainable, one of the few local "humanitarian" interventions in relation to such families is the offer of payment of travel expenses to return to Romania (a policy which has also been pursued in France, but in a more centralized way).[13] Thus, rather than leading to an effective intervention from social services, the attempt to register at an address which is at its limit in terms of capacity has in some cases triggered the sharing of information with other services, including the local police.

Indeed, police eviction of Roma populations has been deployed by these municipalities on the pretext of overcrowding (and public health grounds) in what appears to be an effort to push "the problem" out of municipal territory. For instance, one family was displaced and forced to resettle on 12 occasions in a 6-month period in 2007–08, and ten of these displacements were caused by police interventions with little or no involvement from social services (Lopez Catalan 2012). During this period, the family lived in either overcrowded flats, makeshift improvised camps or abandoned buildings, moving from one municipality to the next, often in an almost circular fashion. This and other such examples are indicative of the way in which registration has—contrary to its intended use—been deployed as a *de facto* settlement control strategy and led to the forced urban mobility of these EU citizens. Ironically, the local authorities have often cited such mobility as the reason for not investing time and money in this population. As in other contexts the imaginary of cultural nomadism is, *willfully*, confused with a forced mobility by those actors forcing the mobility.

As in France, nonregistration has served to reinforce precarity for these Roma and thus a reliance on survival strategies such as begging, viewed as "delinquent." In the case under consideration, these highly visible strategies have come to be seen as a blight on the pristine tourist areas of Barcelona. They have rein-

[12]Barcelona municipality is an exception in this regard and has traditionally articulated protocols to certify and produce a *Padrón sin domicilio fijo* (without stable address). Although it has evolved in recent years from a relatively straightforward process to a more bureaucratic and slow one, it has allowed some to register despite a lack of proper housing.

[13]A French government circular of December 2006 created a system of "humanitarian aid for return" (ARH—Aide de retour humanitaire) targeted at facilitating the return of those EU citizens in deprivation—in practice 90% of these have been Roma (see Parker 2012).

forced negative stereotypes—promulgated by a willing media (Lopez Catalan and Aharchi 2012)—as well as a general desire to eradicate the "problem," epitomized in the development of legal frameworks which impose tough sanctions on marginal economic activities.[14] Moreover, in the particular local areas under consideration, a local politics has explicitly highlighted the Roma issue, taking advantage of the difficult social situation in these areas. For instance, in the context of a 2010 regional election campaign, the local branch of the *Partido Popular* (or *PP*, Spain's right-center party) sought to portray Romanian Roma as a threat to local public order and health, a strategy which led to improved electoral results. One particular *PP* pamphlet published pictures of such Roma above the words "insecurity," "filth," "delinquency" and stated that "we do not want Romanians." And the party even attempted to draw a direct comparison with the situation in France, a local PP councilor proclaiming that, "... the situation is comparable. There are the same problems of co-existence and security ... Here we do not have Roma camps like in France, here the situation is worse ... They are spread throughout several neighbourhoods of the city, making life impossible for neighbours" (cited in Oliver 2010).

In summary, we see in this local Spanish context far more similarities with the French case than a consideration of the national legal frameworks pertaining to EU citizenship would suggest. Indeed, in many ways, the municipal Catalan local politics mirrors the national policy in France. While in Spain there has not been a national policy of expulsions, and the issue has not been portrayed as an existential threat to the nation (as Sarkozy did in 2010), there nevertheless have been expulsions from municipal areas and the issue has been exploited politically at a local level. Moreover, limitations to access to basic rights at a regional and local level contribute to migrant Roma's precarity and, as in the French case, their very poverty has been exploited to render them "delinquent." Perhaps, most importantly, the lived experiences of Roma may not be as different as the variable national governing frameworks vis-à-vis EU citizenship imply. In both contexts, Roma pursue precarious economic survival strategies that are often designated "delinquent" or "illegal"; the threat of forced eviction looms in both contexts and there is an absence of engagement with social services in a manner commensurate with their status as citizens (or, indeed, vulnerable people!).

Of course, it could be argued that this implies an infringement at the Spanish local level of enlightened, national-level, legal principles pertaining to EU citizenship and mobility, just as in France, the national government fails to faithfully implement an ostensibly cosmopolitan EU level law. However, exclusion occurs *within* a complex and politicized multilevel web of laws. In the above, we have noted the ways in which local laws on overcrowding, begging and so forth serve to justify particular bureaucratic practices and the way in which such laws interact with, and are legitimized by, local level politics. It is a matter for political debate and legal judgment as to whether such laws and practices are in conformity with vague conditions in the EU directive pertaining to public order, security, and health.

[14]For instance, in January 2006, a legal framework, the Civic Ordinance of Barcelona (2006), was approved—other municipalities followed later—including some articles regarding marginal economic strategies in public spaces. Its preface states that: "This law intends to preserve ... the right of citizens to walk the city of Barcelona without being bothered or disturbed in their will ... It intends to protect people that are in Barcelona from ... insistent, organized, intrusive or aggressive, direct or indirect begging." The main content (and the associated fines) affecting the marginal economic strategies that Romanian Roma currently use were as follows: "coactive begging" (120€), "windshield cleaning" (between 750 and 1500€), and begging "directly or indirectly with minors or people with disabilities" (between 1500 and 3000€). According to the ordinance, most of these fines can be substituted by involvement with social services.

While this analysis suggests that EU citizenship is no panacea for vulnerable EU citizens who move in EU space, it is important to qualify our argument with the caveat that we are not suggesting that mobile Roma EU citizens are simply the passive recipients of economic and legal structural forces beyond their control. To do so would be to replace a progressive liberal teleology with a historical materialist one. While we do not have space to elaborate a detailed discussion of resistance herein, we would contend that possibilities for resistance exist both *within* and *beyond* the framework of citizenship and the law. First, the evolution of EU level policy and law has itself clearly eased the physical movement of poor and vulnerable persons across borders in EU space. It has also created ambiguities and tensions at various levels of governance which might be exploited not only by government, but also by disenfranchised groups. Within such a multilevel law, Romanian Roma, and those working for and with them, might contingently claim rights which safeguard their economic and social well being and/or their economic freedoms and mobility (Parker 2012; see also, van Baar 2013). In the localities considered herein, NGOs have successfully worked with Roma to ensure access to rights such as healthcare and education.

Second, practices which appear to reject citizenship or "the normal" might also be conceived as strategies of resistance by groups such as Roma. Indeed, those who perceive themselves as the target of an exclusionary sovereign politics may be inclined to make themselves invisible or "illegible" to government (Scott 1998, 2009). This is a strategy that Roma (and, indeed, "illegal" immigrants) have long adopted. In the localities considered in this section, the responses of Romanian Roma to their denial of rights have included: the wholesale rejection of supposedly compulsory registration processes or interference from social services; squatting in repossessed bank-owned apartments; and the pursuit of marginal economic activities of the sort described above in ways which attempt to evade detection by the authorities. Such practices create dilemmas for government at various levels. They are clearly undesirable inasmuch as they are perceived to undermine the beloved public order—through overcrowding, makeshift squatting, petty crime, and so forth. To the extent that exclusionary policies and stigmatization paradoxically exacerbate the very public order issues that they set out to address, a liberal government must temper such policies with attempts to "integrate" and render "legible" those it conceives as "delinquent."

Conclusion

The governance of mobility and rights is subject to a moral economy which is politically contingent and variable in time and space. As Chauvin and Garcés-Mascareñas (2012) have noted, this is a moral economy which may permit "illegal" immigrants in Spain and elsewhere to be afforded rights to the extent that they are regarded as virtuous members of the society in which they reside through, for instance, working in formal sectors and paying taxes. As they also note, however, this is an inherently precarious situation for migrants, because the very visibility that their inclusion requires can at any moment be deployed against them at the sovereign whim of the state and lead to the withdrawal of rights and even deportation.

In this study, we have told a similar story with respect to ostensibly "legal" immigrants. First, we noted that considerations of moral and economic propriety are relevant to the governance of mobile EU citizens, for whom the very right of *free* movement can become displaced by the sovereign logic of exclusion and *forced* movement. This is not simply the prerogative of the sovereign state in conflict with an ostensibly cosmopolitan European Union; the conditionality enshrined in EU law remains significant in terms of the granting of rights of mobility and residence to EU citizens in host member states. In particular, EU

law allows member states a significant margin to make judgments with respect to the "desirability" or propriety of non-national EU citizens seeking to reside on their territory. Second, we highlighted the spatial variability in this moral economy. In the French case, EU conditionality has been used (and probably abused) to aid and abet a policy of exclusion and deportation in relation to "delinquent" mobile Bulgarian and Romanian Roma (see also Parker 2012). In the Spanish case, EU conditionality was not initially transposed into national law and Spain offered an ostensibly generous location for vulnerable EU citizens, including foreign Roma, falling into this category. However, with changing economic conditions Spain aligned its framework with the restrictive possibilities afforded by EU law.

Finally, drawing on fieldwork conducted with Romanian Roma communities near Barcelona, we noted that even in the ostensibly permissive Spanish context, the rights commensurate with citizenship were variably granted or withheld at a local level. The collapse of the Spanish housing market was central in exacerbating the overcrowding issue at the local level, which in the case of Romanian Roma served as the pretext not for a "social" intervention, but for local politicization and stigmatization and the denial of registration and commensurate rights. At the local level, as at other levels of governance, such exclusionary governance is not a necessary function of economic conditions, but contingent also upon a combination of local bureaucratic practices, the political climate, and local level resistance by and with marginalized Romanian Roma.

In highlighting the governance of EU citizens at multiple levels and focusing on a particularly vulnerable group of such citizens, we have sought to problematize juridical conceptions of EU citizenship which regard it as a teleological, progressive unfolding. An analysis of national and local realities demonstrates the ways in which the rights ostensibly afforded to mobile EU citizens are granted or withheld based on shifting "dividing practices" or "moral economies" at multiple levels. While EU citizenship is a potentially useful tool in the armory of previously disenfranchised irregular or "illegal" migrants, it is certainly no panacea for the most vulnerable mobile citizens of EU member states.

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