

Strategy 4: Member states should collate better statistics on the free movement of persons

The collection of data on the free movement of EU citizens and their family members would encourage better evidence-based policy-making by the Member States as well as the EU.

It will be recalled that in April 2013, the Ministers of four EU Member States - the UK, Austria, Germany and the Netherlands - wrote to the Irish Presidency of the European Council on the matter of free movement of persons within the Union¹. The letter specifically concerned the issue of “benefits tourism”, namely the abuse of national welfare systems, and fraud, such as marriages of convenience. The measures proposed by the quartet include curtailing the right of newly arrived migrants to claim benefits and introducing bans on re-entry for those found to be abusing or defrauding the system.

However, the letter offered no concrete evidence to back up the claims of systemic abuse and fraud that would justify the specific measures advocated². While the letter decried the systemic abuse of free movement through marriages of convenience, only one of its Member State authors, namely the UK, systematically collates statistics on suspected sham marriages³. Aside from this sole exception, none of these countries collates any kind of reliable data on other forms of abuse of free movement rules.

Indeed the Commission’s open challenge⁴ to the quartet to produce evidence of the extent and scale of benefits tourism has been met with silence. The UK’s attempt to generate such evidence through its Balance of Competences Review⁵ ended in ignominy amid allegations that the Government was withholding the final report⁶ because it was too “pro-European”⁷ until it was eventually leaked to the BBC⁸.

What this saga illustrates is the absence of reliable data on the scope of free movement which can be used to inform policy decisions. While *ad hoc* studies have been published to show the impact that EU migration has had on welfare benefits in the EU as a whole⁹ and public finances in some Member States¹⁰ as well as at the local level¹¹, data needs to be collated in a more systematic way.

¹ A copy of this letter is accessible [here](#).

² [Benefit tourism warnings by Theresa May get short shrift from Europe](#), *The Guardian*, 29 April 2013.

³ See further European Migration Network, [Misuse of the right to family reunification](#), 2012.

⁴ [Benefit tourism claims: European Commission urges UK to provide evidence](#), *BBC*, 14 October 2013.

⁵ Home Office consultation, [Free movement of persons: review of the balance of competences](#).

⁶ [David Cameron shelves migration report amid lack of evidence](#), *Financial Times*, 14 January 2014.

⁷ [Immigration report changed for being too ‘pro-European’](#), *Daily Telegraph*, 18 July 2014.

⁸ [Immigration report ‘too pro-European’, Tories complain](#), *BBC*, 18 July 2014.

⁹ See ICF-GHK and Milieu (for the Commission), [A fact finding analysis on the impact on the Member States’ social security systems of the entitlements of non-active intra-EU migrants to special non-contributory cash benefits and healthcare granted on the basis of residence](#), 2013

¹⁰ As regards the UK, see Christian Dustmann, Tommaso Frattini and Caroline Halls (for the Centre for Research and Analysis of Migration, University College London), [Assessing the Fiscal Costs and Benefits of A8 Migration to the UK](#), 2013, and Christian Dustmann and Tommaso Frattini (for the Centre for Research and Analysis of

Member States are already obliged to collate data on the migration of non-EU citizens¹². A similar obligation to collate data on EU citizens and non-EU family members should likewise be imposed on the Member States.

Case study: A lack of clear EU-wide data on suspected marriages of convenience

One of the abuses often cited by EU Member States as justifying the imposition of further restrictions on the free movement of EU citizens concerns marriages of convenience, whereby an EU citizen enters into a sham marriage with a non-EU national for the sole purpose of enabling the latter to benefit from the free movement rules. However, not all EU countries systematically collate statistics on such abuses. According to the European Migration Network, only Belgium, Bulgaria, Cyprus, Estonia, Finland, Latvia, Poland and the UK systematically collate data on suspected marriages of convenience. However the data collated is not sufficiently disaggregated to distinguish suspected sham marriages which involve EU citizens from those involving nationals and resident non-EU citizens.

Sources: European Migration Network, Ad Hoc Query on Marriages of Convenience (August 2013) and Misuse of Family Reunification Study

The data should be as comprehensive as possible to allow for monitoring Member States' compliance with Directive 2004/38. The obligation to collate data should therefore extend to the numbers of registration certificates and residence card issued annually, rates of applications rejected as incomplete, the average time taken to process applications, the rates of refusals, revocations and deportations disaggregated by category¹³, and appeal rates including outcomes. Statistics should also be collated on decisions taken to withdraw or suspend EU rights in the context of suspected marriages of convenience and other abuses involving EU citizens, as well as appeals against such decisions and their outcomes.

Member States should also be obliged to keep data on the nationality of claimants of social security and welfare benefits. As a final point, Member States should also be encouraged to extend oversight mechanisms that apply to migration affairs which already exist in the Member States so that they also cover free movement¹⁴.

Migration), [The Fiscal Effects of Immigration to the UK](#), 2013; as regards Sweden, see Joakim Ruist (for the Centre for the University of Gothenburg), [The fiscal consequences of unrestricted immigration from Romania and Bulgaria](#), 2013; as regards Germany, see Herbert Brücker, Andreas Hauptmann and Ehsan Vallizadeh (for the German Institute for Employment Research) [Zuwanderer aus Bulgarien und Rumänien: Arbeitsmigration oder Armutsmigration?](#), 2013.

¹¹ Ernst & Young (for the Commission), [Evaluation of the impact of the free movement of EU citizens at local level](#), 2014.

¹² [Regulation 862/2007](#) on Community statistics on migration and international protection.

¹³ These would include refusals, revocations and deportations based on public policy, public security and public order, as well as those based on other grounds, such as citizens being a burden on the social assistance system and the abuse of free movement rights.

¹⁴ For example, in the UK, the [detailed regular reports](#) into the workings of the Home Office's Immigration Directorates produced by the parliamentary Home Affairs Committee of the House of Commons should be extended to cover EU residence cases.

The collection of data on the free movement of EU citizens and their family members would encourage better evidence-based policy-making by the Member States as well as the EU, rather than engaging in reactionary politics that panders to populist rhetoric about unsubstantiated claims of “benefits tourism” and “poverty migration”¹⁵.

These recommendations were formulated by the EU Rights Clinic’s Legal Supervisor, Anthony Valcke, at the occasion of the [2014 conference of the Fédération Internationale du Droit Européen](#) which focused on EU citizenship and the final conference of the [EUCROSS](#) project that examines the relationship between cross-border activities of EU residents and their collective identities.

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¹⁵ See further Elaine Chase and Martin Seeleib-Kaiser, [Migration, EU Citizenship, and Social Europe](#), Social Europe Journal, 2014.