EU migration, Transnational Justice and Reciprocity: Are member-states justified in restricting access to welfare rights for EU immigrants?¹

Dr. Dimitrios Efthymiou²

ABSTRACT

The paper examines whether restrictions on access to welfare rights for EU immigrants are justified on grounds of reciprocity. Reciprocity-based internationalism (RBI), as a particular variant of reciprocity-based approaches to justice, has recently put forward an argument that supports some robust restrictions on the basis of considerations of fairness. EU nationals who move to other member-states, we are told, do not necessarily and immediately contribute sufficiently to the provision of basic collective goods within the host member state, but only gradually, and after a sufficiently lengthy period of time. Therefore, restrictions on EU immigrants’ access to the welfare state (varying according to the degree and type of contribution to the host society) are justified. If RBI is right then not only some of the restrictions on access to welfare rights sought by the UK in its recent, and possible future, negotiations with the EU are justified but also the EU must reform its current practices to embed and enforce such restrictions. The paper challenges that view and argues that reciprocity-based internationalism relies on an ambiguous conception of contribution that cannot in practice deliver the restrictions advocated by it. Several strategies open to reciprocity-based internationalism are considered and found to be wanting. The paper, then, proposes a model of generalised reciprocity as a more parsimonious alternative to reciprocity-based internationalism and defends that view from a number of objections. It is argued that thinking about access to welfare rights on the basis of this model of generalised reciprocity is incompatible with the restrictions advocated by RBI and that therefore such restrictions should not have been demanded by the UK in the first instance nor influence the direction of future reforms of the EU.

¹ Following reciprocity-based internationalism we can distinguish between three domains of social justice: firstly, a national, or intra-national one, that applies among citizens, and permanent residents, of the same member-state and that usually involves transfers within that group; secondly, a member-state, or inter-member-state, domain, as an international sphere of justice that applies among member-states of the EU and that may involve transfers from some members-states to others; and thirdly a transnational one that applies among EU citizens as such and that may involve transfers from citizens, and permanent residents, of a particular member-state to EU immigrants in that state (as in the case of welfare benefits paid to EU citizens who reside in another member-state).

² Postdoctoral research fellow at ‘Justitia Amplificata’ at Goethe University Frankfurt. efthymiou@em.uni-frankfurt.de. I want to thank the following for comments, and questions, that helped me to improve this paper: Rainer Forst, Darrel Moellendorf, Andy Mason, Melissa Williams, Dorothea Gädeke, Nate Adams, Eszter Kollar, Antoinette Scherz, Brian Milstein, Isaac Taylor, Patti Lenard, Christian Barry, David Owen and Lisa Herzog.