Transnational criminal justice instruments and the management of 'unwanted' EU nationals

An introduction

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Introduction: comprehensiveness and diversity

The assumption on which this edited collection is based may seem intriguing – if not puzzling. This book brings together discussions of several law enforcement and criminal justice devices that at first sight appear to be heterogeneous. Initially, the collection explores several EU law instruments aimed at enabling the cross-border cooperation of national criminal justice authorities in prosecuting and punishing criminal offences in cases where actors from different jurisdictions are involved. These legal arrangements are a critical part of the ambitious judicial cooperation agenda implemented by EU authorities in the past two decades, under the umbrella of the area of freedom, security and justice (see Title V of Part 3 of the Treaty on the Functioning of the European Union) (Fijnaut, 2019). The enactment of the European Arrest Warrant (Council Framework Decision 2002/584/JHA of 13 June 2002; hereinafter EAW) was an early and significant milestone in these cooperation efforts (Barbosa et al., 2022; Fichera, 2011; Klimek, 2015). The EAW has markedly altered the texture and operation of cross-border criminal justice in Europe, being widely and increasingly utilised in many jurisdictions (see European Commission, 2021).

Successful as the EAW has apparently been, it is only one of a long list of legal instruments aimed at boosting judicial cooperation in criminal matters (Klip, 2021; Mitsilegas, 2022). Legislative acts added to this list in recent years are, for example, the Directive (EU) 2016/1919 of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European Arrest Warrant proceedings (Contissa et al., 2022), and Regulation (EU) 2018/1805 of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders (Bernardi & Rossi, 2019; see also Schunke, 2017). In the framework of this law-making endeavour, there are some mutual trust-based procedures that show a close relation with the EAW. They pertain to a specific sphere of the EU justice agenda focusing on the detention and transfer of prisoners. More precisely, three Framework Decisions form this legislative sphere, namely Council Framework Decision 2008/909/JHA of 27 November 2008 on the transfer of prisoners (hereinafter FD 909), Council Framework Decision 2008/947/JHA of 27 November 2008

DOI: 10.4324/9781003254584-1

on the transfer of probationers and individuals sentenced to noncustodial penalties (hereinafter FD 947), and Council Framework Decision 2009/829/JHA of 23 October 2009 on the European supervision order and alternatives to pre-trial detention (hereinafter FD 829; Flore et al., 2012; Klimek, 2017; Marguery, 2018; Montaldo, 2020). These three legal instruments share a common, pivotal trait with the EAW, that is, they all result in the forced mobility of EU citizens.

As the title of this collection bears witness to, this forced mobility dimension is vital to grasp the consequences and implications of judicial cooperation tools in empirical terms. The empirical focus taken here provides evidence that the aforementioned EU law instruments have close proximity with the various forms of removal and deportation regulated by EU and national legal provisions. As is further elaborated in the chapters that follow, criminal justice arrangements and immigration law arrangements are combined in varied and changeable ways in different jurisdictions in coercively dealing with EU nationals (see also Brandariz, 2022).

Although this perspective is relatively new, there is no shortage of academic studies exploring these criminal justice and law enforcement instruments, especially the EAW (see e.g. Barbosa et al., 2022; Graat, 2022; Klip et al., 2022). However, the extant literature is manifestly unbalanced in this field. Forced mobility instruments have been mainly scrutinised from a legal viewpoint, chiefly owing to their prominence in the EU law domain. Despite their relevance, existing studies leave many aspects of these law enforcement phenomena unaddressed. For one, they provide little-to-no information on how EAW procedures and prisoner transfer procedures, as well as forced return measures, are being enforced on the ground, and what are their consequences for the daily lives of criminalised EU nationals. Since these legal procedures have long been transposed into national legal orders, this is a significant research lacuna. This collection contributes to filling this omission by examining forced mobility procedures from an empirical viewpoint, relying on fieldwork carried out in various jurisdictions. In this regard, the book brings fresh perspectives, by elaborating socio-legal, penological and deportation studies' view on the topics under exploration. These perspectives significantly supplement the legal analyses currently at the centre of transnational justice studies by providing a comprehensive exploration of forced mobility practices that examine the operation of measures targeting EU nationals from an innovative and fresh perspective.

In sum, this book aims to provide a comprehensive analysis of forced mobility practices, examining connections between legal and policy instruments that have been underexplored so far. In addition, it endeavours to bring diversity into this academic field. Various scholars have claimed that studies exploring the relationship between borders, citizenship and penalty have been almost exclusively focused on a handful of Global North jurisdictions (Bosworth et al., 2018; Van der Woude et al., 2017). Seeing this limitation as a significant shortcoming, the book's contributions are largely authored by scholars based in relatively peripheral European jurisdictions, which sometimes are overlooked in academic conversations.

In this regard, this collection is aligned with southern criminology proposals (Carringtonet al., 2016, 2019), which compellingly claim that current debates in

criminology and socio-legal studies could be significantly enriched by pushing the boundaries of global academic conversations, involving scholars from disregarded, peripheral regions. This proposal does not have a geographical nature. Carrington and her collaborators (2019: 184) highlight that "Southern criminology is not just a 'Southern' thing . . . it resonates well beyond any geographical divide". In fact, the southern criminology project has an epistemological ambition, since it has to do with the unbalanced economy of academic knowledge; in their own words, "the Southernising of criminology is one step in the journey toward the development of a robust transnational criminology that . . . enhance(s) the democratisation of knowledge, a journey toward cognitive justice" (Carrington et al., 2019: 188).

This collection unambiguously joins these efforts at democratisation of knowledge. Specifically, peripheral voices are pivotal in this case as the authors included herein map out the stratifications characterising belonging, citizenship and ultimately rights in Europe and Schengenland.

Go East!

Back in the mid-nineteenth century, the US publisher Horace Greeley popularised the slogan "Go West, young man" to encourage US residents to colonise the American West (Fuller, 2004). Not only then, but all throughout the last centuries, the West has frequently epitomised the notion of a promising land full of opportunities. It is also true for Europe. The perception of Central and Eastern Europeans about the European and American West was – and still is – linked with the notion of prosperity, success, and wealth. On the other hand, eastern neighbours are seen as less civilised, not developed enough, being part of the 'Wild East'. Thus, there is an attempt to escape from the 'East' – both geographically, and when it comes to emigrants, literally, that is, physically by migration (Melegh, 2006: 115–116). European forced mobility practices on the other hand head in the opposite direction, compelling EU citizens to go back east. In fact, forced mobility regimes in Europe and the transnational justice instruments explored in this collection cannot be grasped without thoroughly examining the vital part played in them by eastern EU citizens and eastern EU jurisdictions.

The legislative act regulating EU citizenship rights, the Directive 2004/38/EC, was passed on 29 April 2004. Two days later, ten countries (including eight Central and Eastern European states) became new EU Member States in the widest enlargement of the EU to date. EU expansion into the 'east' was further reinforced with the subsequent accessions of Bulgaria and Romania in 2007 and Croatia in 2013. However, these processes of formal inclusion into the political structures were not necessarily based on equality of the then 'new' EU citizens in access to the benefits of membership. The way in which the 2004 and 2007 enlargements altered power relations within the EU and impacted patterns of belonging and membership has been widely scrutinised (see e.g. Currie, 2008). The differential, probationary status given to new Member States was corroborated by various freedom of movement restrictions imposed on their citizens for some time in the mid-2000s to late 2000s (Hristova, 2008; Shimmel, 2006).

There are also quite visible traces of this peculiar status in the transnational justice and forced mobility procedures analysed in this book. Invariably, Eastern Europeans make up the lion's share of the EU citizens forcefully returned, as well as those targeted by transfer procedures and – to a lesser extent – by an EAW (except for Polish nationals as in Poland EAW is a key instrument in transnational judicial cooperation – see Klaus, Włodarczyk-Madejska and Wzorek in this volume). Consequently, the chapters contained in this collection bring to the fore the significance of the aforementioned legal practices for eastern EU jurisdictions and eastern EU citizens.

Echoing southern criminology scholars' claim regarding the figurative nature of geographical references, 'the East' appears to be somehow misplaced in a north/south divide. In fact, it is adrift between the south and the north (Klaus forthcoming), unveiling the constructed texture of these apparently binary notions. This 'being in-between' resonates with the contradictory representations of Eastern EUropean countries adopted and promoted by European elites, which see them concurrently as relatively untrustworthy Member States *and* increasingly pivotal pieces of the EUropean (geo)political and economic architecture.

In addition, there is no self-evident definition of 'the East' and 'Eastern European countries'. The division between the West and the East was created during the Enlightenment (Wolff, 1994), and its very purpose was to divide the 'enlightened' Western Europe from its wilder and 'barbaric' outskirts – as the westerners perceived those territories. That segregation deepened further during the communist regimes in the (former) Soviet Bloc and the Cold War. And despite many attempts of the Central and Eastern European societies and governments to see themselves and foremost be seen as a part of the West, the label of 'East' sticks hard and the Western countries and their citizens are not willing to give it up (Galasińska & Radziwinowiczówna, 2021; Melegh, 2006).

But beyond the authoritarian political regimes ruling them in the second half of the twentieth century, the 11 'new' EU Member States of Eastern and Central Europe now have little in common. More than three decades after the fall of the Berlin Wall, they differ markedly in social and economic indicators measuring, for example, the risk of poverty and social exclusion,[1] Gross National Income (GNI) per capita[2] and human development,[3] as well as in political aspects[4] and governance indicators.[5] Interestingly, national differences in economic performance and workforce needs have made these jurisdictions also diverge in terms of human mobility. While certain countries such as Slovakia are barely affected by immigration flows, others such as Romania and especially Poland[6] have become key countries of destination in recent years.[7] Curiously, Poland and Romania are the only two jurisdictions that have remained countries of emigration in recent years – although the significance in this regard is clearly declining in the Polish case.[8] All in all, only Croatia, Latvia, Lithuania and Romania had a five-year negative net migration rate from 2016 to 2020.

Despite this diversity and the economic development of many eastern countries in recent past,[9] the relevant national populations are the best evidence of the stratifications eroding EU citizenship and EU citizenship rights. In fact, these eastern

national groups, and particularly Romanians, Bulgarians and – to a certain extent – Poles have long been treated as second-class citizens (Gul-Rechlewicz, 2020; Juverdeanu, 2021; Ulceluse & Bender, 2022), and the legal and policy arrangements prioritising them as primary targets of forced mobility practices are part and parcel of these stratification efforts. Eastern Europeans are targeted by law enforcement agencies as a potential threat to the public safety and often face profiling by nationality. They are perceived by many law enforcement agencies as criminals and thus are much often stopped and searched, and vehicles with plates from those countries have come under greater scrutiny for allegedly crime-related reasons (Brouwer et al., 2018; van der Woude & van der Leun, 2017). All that leads to the conclusion that legal provisions enshrining EU citizenship rights and safeguards have manifestly failed to bridge the extra-legal cleavages giving shape to hierarchies of belonging and rights.

There is also an evident racialisation dimension underlying these processes. Despite their EU citizenship, Roma constitute a group particularly targeted by state coercion measures, including transnational justice practices and forced returns (De Genova, 2019; Fekete, 2014; van Baar et al., 2019). However, the scope of the racialisation processes operating in this sphere goes far beyond the Roma people. Discrimination patterns affect wider Eastern European communities, showing that there are various shades of whiteness, as the critical literature has insightfully contended (Aliverti, 2018; Bhui, 2016; Parmar, 2020). In fact, there is no way to understand racialisation processes in EUrope without taking into account the pivotal part that varied Eastern European populations have long been playing in those processes (Fox, Moroşanu & Szilassy, 2012; Franko, 2020). Still, racialisation has an intersectional texture in this context. In fact, the groups primarily targeted by the law enforcement practices explored in this collection are not only racialised because of being from Eastern Europe; they are also segregated due to their lower socio-economic class: they are relatively poor, uneducated or with lower levels of educational attainment, frequently have criminal records and carry out unskilled jobs away from their home country (Morgan, 2022; Brouwer et al., 2018).

There is no doubt that migration policy in general is highly class-selective and that people from lower socio-economic classes are less welcomed in the Global North (and West) and perceived by both societies and politicians as more 'problematic' when it comes to integration in host countries (Bonjour & Chauvin, 2018). The fact remains, however, that they constitute the vast majority of migrants globally. This is also true for the emigration from Eastern Europe to the former EU15 countries, which was primarily driven by the wish of improvement of economic situation of people who decided to move. Of course, not only people from the lower socio-economic classes emigrate, but regardless of their social position in the country of origin, in a host country many tend to join the lower-middle or working class. In some instances, life experiences such as the inability to cover the costs of accommodation and becoming homeless result in their joining the 'underclass' (Morgan, 2021: 25–26). And here the prejudice against the lower class (Garland, 2001; Schuilenburg, 2008) meets race/nationality, resulting in racialised responses which go beyond ethnicity or 'race'. They show "how hierarchies of whiteness and

class serve to reproduce social hierarchies by creating and maintaining internal borders between the more and less white" (Webster, 2008: 296).

This last point is particularly relevant to understanding of the biased practices operating in this field. The criminalisation practices affecting Eastern Europeans are vital in masking the stratification processes at play and in stripping racialised individuals of their EU citizenship rights and safeguards (Brandariz, 2021; Vrăbiescu, 2021). Drawing on the relatively ambiguous regulation of the Citizenship Rights Directive[10] (see e.g. Articles 27(2) and 33(1)), the risk and public security stigmas associated with criminal offending are allowing othering processes to prevail over EU citizenship protections.

Exploring the interrelation between transnational justice and forced mobility across Europe

The chapters forming this collection explore in more detail the aforementioned aspects of transnational justice and forced mobility practices. Beginning with the discussion of prisoner and pre-trial transfer procedures, Brandariz (Chapter 1) tackles the complex questions relating to the implementation of EU mutual cooperation instruments in the area of 'management' of 'offenders' under three legal instruments, namely FD 909, FD 947 and FD 829. Utilising data from a variety of statistical sources combined with policy and practice reviews, the author shows that – apart from a minority of EU Member States making use of FD 909 – the other two of those instruments lay largely dormant in the area of judicial cooperation. This, he further argues, potentially fails to improve the legal and material conditions of EU citizens serving non-custodial sentences or being held on remand outside of their country of citizenship. The chapter contrasts this under-utilisation of transfers in the context of the criminal justice process with an increasing use of deportations regulated by the EU Citizenship Directive, which, while designed in the legislation as an exceptional measure with high threshold of protection, has been gaining significant momentum in certain EU countries in most recent past. While all the instruments under review have been designed as measures to react 'against noncitizen offending', it is clear that deportations under the latter Directive are now akin to an immigration rather than criminality control device.

Continuing the topic of prisoner transfers, Ferraris (in Chapter 2) discusses the process of transposition of Framework Decision 909 in Italy, highlighting Italian authorities' attempted use of this legal device to create conditions to transfer foreign national prisoners *out* of Italy to deal with long-criticised overcrowding problems in the country's prison system. As the data presented in the chapter shows, these transfers have been particularly targeted at Romanian prisoners, constituting the largest group of 'foreign national offenders' in Italian prisons. The chapter lays bare the failure of both transposition and its practical implementation to achieve this aim, together with highlighting the disproportionate use of FD 909 to target one specific national group. Oancea and Ene (Chapter 3) provide an empirically evidenced critique of the notion of 'transfer for rehabilitation' and social reintegration, the stated aims of the FD 909. Based on research with prisoners transferred

from other EU states to serve their sentences in Romania, the authors outline the challenges faced by them in the overcrowded and under-funded conditions in the country's penitentiary institutions, which often lack the resources needed to support 'rehabilitation'. The authors also provide ample evidence of the damaging impact of transfers on family ties, progression within the prison regimes, and – ultimately – on chances of successful reintegration into society post-release.

Having looked at policy and practical implications of transfer procedures under what can generally be grouped as 'sentenced transfers', the next set of chapters focus on the analysis of the workings of the EAW. Arguably the best-known instrument of intra-EU law enforcement cooperation, the EAW has previously been scrutinised in legal commentary; however, questions about the fairness and 'just nature' of its implementation have been raised much less frequently. This section of the book, therefore, begins with Klaus considering the questions around *just punishment* and *justice* in EAW context (Chapter 4). He offers detailed theoretical exploration of those terms and their complex and often politicised meaning, expanding the discussion into the transnational context. The theory is then tested against the empirical evidence of experiences of decision-makers (judges), law enforcement officials and individuals transferred under the EAW to Poland from a variety of EU jurisdictions. In the course of the discussion, the chapter considers the gravity of offences for which people are transferred, the time it often takes between the offence and the EAW, and the reasons for which decision-makers in the Polish criminal justice system certify the issuing of warrants while also delving into their understanding of the meaning of justice in this context. Klaus concludes that in a system based on legalism, formalism and bureaucratic procedures, 'justice' is sacrificed in the transnational process of implementing the EAW.

In some contrast, Montaldo outlines in Chapter 5 what could be considered as resistance by the Italian law makers to the very idea of the EAW. The chapter starts with a detailed analysis of the Court of Justice of the European Union cases relating to the refusal grounds in the execution of the EAW. Recalling the initial transposition of the Framework Decision into Italian law in 2005, the author debates the significant departures in Italian law from the very idea of mutual recognition of judicial decisions and mutual trust, in particular by expanding the grounds on which the EAW could be refused by Italian courts. However, as the chapter shows, both the initial transposition and the subsequent reforms of the Italian implementing laws raised significant questions about discriminatory use of the EAW against non-Italian EU nationals, leading to a conclusion that it is used not just as a mutual cooperation instrument but as a measure of immigration control.

Staying within the broad theme of the implementation of the EAW as an instrument of mutual cooperation and trust, in Chapter 6, Włodarczyk-Madejska and Wzorek query whether the EAW is the 'rigorous, efficient and expeditious' way of enforcing 'cross-border proceedings in criminal matters' that it was initially designed to be. The chapter begins with the exploration of the notion of *efficiency* and how it can be understood in the context of the assessment of the EAW from this perspective. Indicators of *efficiency* are then tested against empirical evidence from a review of Polish court case files, supplemented with interview data from,

among others, law enforcement practitioners, judges, probation officers, prison and border guard staff, civil society experts and those directly affected by EAW transfers, the arrestees. Analysing the speed with which EAWs are issued, the accuracy of court rulings, offences for which EAWs are issued and cost of EAW, the authors conclude that while the EAW can be considered *efficient* on the metrics used, some changes – such as refraining from using the EAW for very minor offences – could be implemented to improve its utility.

Having looked at some of the technical aspects of the EAW, the next two chapters delve into what can be called the *lived experience* aspect of its implementation. First, in Chapter 7, Klaus, Włodarczyk-Madejska and Wzorek reflect on the effects of executing the EAW on the lives of Polish emigrants returned to Poland on foot of the EAW procedure. Poland continues to issue one of the highest numbers of EAWs in the EU due to the legalism identified by Klaus in Chapter 4. While those transferred under the EAW to Poland constitute around 2 per cent of all 're-emigrants', their experiences are not insignificant. The research on which the chapter is based showed that in making their initial decision to move abroad, most wanted their story of emigration to be a 'new start', often driven by the desire to improve their financial circumstances and life chances. Importantly for some, in the context of this book, their reason to move was linked to previous convictions and the need to escape both the stigma and pressures to reoffend. As such, emigration was often mentioned as path to desistance. For others still, however, the 'escape' was to avoid the criminal justice process, whether a court case or prison time. Whatever the reason to move abroad, transfer under the EAW interferes abruptly with lives both lived and planned, often engendering feelings of being a 'failed migrant' in front of family and friends.

The focus on *lived experience* continues in Chapter 8, where Martynowicz links prior disruption to family lives caused by EAW process in cases of Polish male prisoners in Northern Ireland to contemporary changes in residence status of EU nationals after UK's exit from the European Union. The chapter lays bare the often life-changing consequences of arrests and transfers of (in this case, male) family members on the whole family unit, often sustained financially and emotionally by the relationship with the arrestee. However, the chapter delves further into the potential consequences of 'criminal past' – including prior EAW transfers – for the future of secure residence of the affected individuals and their families, up to and including the threat of becoming undocumented under the post-Brexit immigration arrangements.

Finally, and as a fitting closing chapter, Nøkleberg and Gundhus provide a discussion of the *Schengen Agreement* as a European criminal justice instrument. Taking as a starting point the establishment of the Schengen area as one of free movement of people, goods, services and capital, the authors note that the cost of 'freedom' has been the securitisation of, in particular, the external borders of the Member States. The chapter also notes that the agreement does not limit the monitoring of intra-Schengen cross-border mobility; in fact, given the reintroduction of physical borders during the Covid-19 pandemic, the chapter asks whether the whole idea of 'borderless Schengen' is now in crisis.

Conclusion: re-erecting internal walls – an increasingly Saturnian Europe?

The EAW and other judicial cooperation devices have long been cherished as manifestations of the emergence of a cross-national model of criminal justice (König et al., 2021; Ouwerkerk, 2021). However, at least some of these legal measures, especially transfer procedures and forced returns, are also fuelling the re-bordering processes gaining momentum across Europe, against the backdrop of a devaluated EU citizenship status. The re-bordering character of the transnational justice and forced mobility measures examined in this collection reveal that they are part of far wider changes that are markedly altering sovereign relations inside the EU. In fact, several recent crises paved the way for new re-bordering arrangements to surface across Europe. Obviously, the Brexit referendum has been a watershed moment in the recent development of the EU project. Indeed, Brexit has had a significant impact on EU national populations living in the UK, and more precisely on Eastern European groups (Cambien et al., 2020, Mindus, 2017). With regard to transnational cooperation, however, the EAW was immediately replaced by its almost mirror instrument, a 'Surrender' process, introduced as a part of the EU–UK Trade and Cooperation Agreement, becoming available from 1 May 2021 (for more, see Martynowicz in this volume). There are some, but really small differences between those two legal institutions (more safeguards are in place in the surrender), but in general the purpose of both legal instruments is the same and their procedures are similar (Grange et al., 2021).

Having said that, the changes eroding the supranational ambitions of the EU project and leading to the re-erection of walls inside Europe go well beyond the Brexit conundrum. Even before the coronavirus pandemic, EU Member States were increasingly relying on the powers to temporarily reintroduce border control at internal borders pursuant to Articles 25 ff. of the Schengen Borders Code (Regulation (EU) 2016/399 of 9 March 2016) (Gülzau, 2021; Salomon & Rijpma, 2021). The number of cases in which those re-bordering measures were adopted rose from 34 between 2006 and 2014, up to 91 between 2015 and 2019. Needless to say, these powers were increasingly normalised in the framework of the pandemic, when internal borders were reintroduced 196 times in 2020 and 2021. In addition, while these exceptional measures used to be in force for hours or days in the 2000s and early 2010s, they have been enforced for months on end in the recent past.[11]

Metaphorically, there is a certain Saturnian dimension in these re-bordering efforts. Since at least the mid-2010s, cross-border cooperation has been superseded by competition and lack of solidarity in the field of border and mobility management policies. Recent deportation changes are a good evidence of this shift. Return measures targeting so-called Dubliners, that is, asylum seekers whose international protection applications must be assessed in a different EU country than that in which they stay pursuant to the Dublin III Regulation (Regulation (EU) No 604/2013 of 26 June 2013), have been gaining significant traction since the mid-2010s (Picozza, 2017). While they accounted for 8.41 per cent of the

deportations enforced in the EU in 2016, their share soared to 16.75 per cent in 2019 and to 29.3 per cent in 2020.[12]

In short, forced mobility arrangements scrutinised in this book, such as forced returns and certain transfer procedures, cannot be disconnected from other similar re-bordering strategies that are greatly contributing to re-erecting of internal borders inside Schengenland, thereby undermining the deeply democratic potential of a cooperative, borderless Europe.

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This edited collection traces its origins to two events. First, some of the chapters emanate from contributions presented by authors at an international conference titled 'Unwanted Citizens of EU Member States', which took place in Liverpool (UK) in August 2019. Generously funded by the British Academy under the project 'Polish migrants deported from the UK' (Grant No: VF1\101178) and organised under the auspices of Edge Hill University, the Migration Working Group North-West and the Institute of Law Studies of the Polish Academy of Sciences, the event brought together the three editors of this book and kick-started their conversations on the then much less known area of scholarly activity in border studies, the forced mobility of EU nationals *within* the European Union. Second, a very significant number of chapters in this book are based on findings of the research project titled 'Experiences of Poles Deported from the UK in the Context of the Criminal Justice System Involvement', which was made possible thanks to the funding by National Science Centre, Poland (under Grant No. UMO-2018/30/M/HS5/00816). As editors, we very much thank the funders, as well as the participants in the aforementioned research project and international conference, and especially the scholars authoring the book chapters for their contribution to this collective reflection on the intersection between transnational justice and forced mobility practices in current EUrope. It is our hope that the conversations about such mobility within 'Fortress Europe' in all its guises shall continue, aided by the empirical knowledge presented in this book.

Notes

1 Six eastern EU Member States had percentages of person at risk of poverty or social exclusion significantly lower than the EU average in 2021, especially the Czech Republic, Slovenia, Slovakia and Poland. By contrast, five eastern EU countries ranked above average, particularly Romania and Bulgaria (source: Eurostat. Income and living conditions database; https://ec.europa.eu/eurostat/web/income-and-living-conditions/data/database; accessed 2 November 2022).

2 Not a single eastern EU country had a GNI per capita – measured in purchasing power standard – higher than the EU average in 2020, although the Czech Republic and Slovenia were relatively close to that average. Bulgaria and to a lesser extent Croatia ranked very low in this regard (source: Eurostat. National accounts database; https://ec.europa.eu/eurostat/web/national-accounts/data/database; accessed 2 November 2022).

3 Human Development Index (HDI) data show that ten out of 11 eastern EU Member States had a very high development in 2021, with Slovenia, Estonia and the Czech Republic heading this group. By contrast, Bulgaria had the lowest HDI score of all EU countries and was included within the list of countries with high – rather than very high – human

development (source: United Nations Development Programme; https://hdr.undp.org/content/human-development-report-2021-22; accessed 2 November 2022).

4 No eastern EU jurisdiction was part of the selective list of full democracies published by The Economist' 2021 Democracy Index (see www.eiu.com/n/campaigns/democracy-index-2021/?utm_source=economist&utm_medium=daily_chart&utm_campaign=democracy-index-2021; accessed 3 November 2022). Although all of them are considered as flawed democracies, Estonia, the Czech Republic and Slovenia have scores far higher than those of Croatia, Hungary and Romania.

5 The World Bank's 2021 Worldwide Governance Indicators also show a significant gap between the high scores of Estonia, the Czech Republic and Lithuania and those of Romania and Bulgaria, which lag far behind other eastern EU jurisdictions in every governance indicator (see https://info.worldbank.org/governance/wgi/Home/Reports; accessed 3 November 2022).

6 Poland ranks sixth of all EU28 Member States in the number of immigrants received from 2016 to 2020, below Germany, the UK, Spain, France and Italy. Evidently, this position as country of destination has been further reinforced in the framework of the Russian invasion of Ukraine in 2022. Actually, according to OECD data Poland was ranked second (just beyond the US) as the country which received the biggest number of newly arrived seasonal workers in 2021 (OECD, 2022).

7 Eurostat. International migration and citizenship database; see https://ec.europa.eu/eurostat/web/migration-asylum/international-migration-citizenship/database; accessed 3 November 2022.

8 Romania and Poland ranked respectively fifth and sixth of all EU Member States in the number of emigrants from 2016 to 2020.

9 Ten out of 11 Eastern EU countries are clearly above EU average in terms of GDP growth from 2010 to 2019. Poland, Lithuania, Estonia, Romania and Slovakia have respectively ranked third to seventh of all EU Member States in this regard (source: Eurostat. National accounts database. https://ec.europa.eu/eurostat/web/national-accounts/data/main-tables; accessed 7 November 2022).

10 Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC.

11 European Commission; see https://home-affairs.ec.europa.eu/document/download/11934a69-6a45-4842-af94-18400fd274b7_en?filename=Full%20list%20notifications_27102022.pdf; accessed 7 November 2022.

12 Source: Eurostat. Managed migration database. Some EU countries have put particular efforts in targeting so-called Dubliners for intra-EU deportation in recent years, namely Denmark, Hungary, Sweden and especially Slovenia.

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