

Two-tier EU citizenship: Disposable Eastern European workers during the COVID-19 pandemic

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Abstract

We argue that the (mis)treatment of Eastern European migrant workers during the pandemic revealed the existence of a two-tier EU citizenship, despite the political discourse of equality within the EU. We show that this two-tier citizenship system was generated by the combined effect of differentiated rights and of prejudicious practices applied to EE citizens. In terms of differentiated rights, we refer specifically to the implementation of transitional arrangements for up to 7 years following the Eastern enlargements in 2004 and 2007, which restricted access to the labour markets and welfare systems of the incumbent member states, de facto undermining the right to free movement for this group of EU citizens. In terms of prejudicious practices, we refer to the instances of exploitation, abuses, de-skilling, exclusion from public services and use of social rights that EE migrant workers have been well documented to experience. We show that the two-tier citizenship system reflects the unequal power relations between Member States and the internal political, economic and social hierarchy present within the European Union.

Keywords

citizenship, COVID-19, discrimination, Eastern Europe, EU, inequality, migration

When the pandemic lockdown entered into effect in early spring 2020, Western member states became exclusively protective of their citizens inside and outside their borders, blatantly disregarding the rights, safety and assistance of other EU nationals residing within their borders. Travel bans

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were implemented, borders were closed, strict physical distancing measures enforced and working from home encouraged if not mandated. All these measures, meant to ‘protect citizens and vulnerable populations’ (Wolff et al., 2020: 1135), were taken at the price of an economic down-turn that would have been impossible to justify to the citizenry for any other reason prior to the pandemic. Most countries went to great lengths to return their citizens stranded abroad, with Germany, for instance, repatriating over 65,000 nationals from outside Europe between March and April 2020 (Euronews, 2020), the Netherlands over 50,000 (NL Times, 2021) and Austria around 47,000 (Knolle, 2020). All the while, they provided little to no assistance to the many Eastern European workers who, because of the closure of borders within the EU, were stranded on their territories (e.g. in Austria (Erizanu, 2020)).

At the same time, while safeguarding their own citizens and maintaining border closures to contain the spread of the virus, these very same states were pressuring Eastern European governments into allowing workers to travel abroad (ETUC, 2020). Germany brought in about 80,000 workers from Romania at the peak of the pandemic in March and April 2020 to work in its asparagus fields (Bejan, 2020a), Austria disregarded border closures to bring in hundreds of Romanians to work in the fields (ETUC, 2020), the UK flew in up to 5000 Eastern European migrant workers for agricultural work (Mitaritonna and Ragot, 2020) and the Netherlands flew in Romanian workers to pick cucumbers and tomatoes (van Rooij, 2020). These and other member states facilitated the transport of thousands of Eastern European (EU) workers to their fields, abattoirs and factories with blatant disregard for their safety, without providing any protective measures such as masks or hand sanitiser, without enforcing social distancing rules and by circumventing intra-EU travel bans that were designed to keep the virus at bay.

And yet, to read the European Commissions’ new Social Rights Action Plan is to believe that Europe is ‘home to the most equal societies in the world’, a ‘unique social and economic model’ bound to bring ‘shared prosperity’ (European Commission, 2021: 5). The 20 principles grounding the new Action Plan build and expand on the founding values of the EU, those of human dignity, freedom, democracy, equality, rule of law and human rights, which underpin a Union that should be based on inclusion, tolerance, justice, solidarity and non-discrimination (European Commission, n.d.). These statements, however, preclude the fact that the European Union tends to be an unequal project that benefits certain core countries at the expense of periphery countries (Seers et al., 1979), a hierarchical dynamic that predates its formation (Antonucci and Varriale, 2020; Hall, 1986). This dynamic reflects differences in historical experiences of nation-building, especially juxtaposing the six original EU founders against the post-dictatorship Southern and the post-communist Eastern states (Dyson and Sepos, 2010), and the resulting differences in terms of economic development, geo-strategic interests and normative power. The COVID-19 pandemic brought to the fore these unequal power dynamics within the EU, which became particularly glaring in the way Eastern European (EE) migrant workers were treated in the fields, greenhouses and abattoirs of Western Europe.

We argue that this (mis)treatment of Eastern European migrant workers during the pandemic revealed the existence of a two-tier EU citizenship. We show that this two-tier citizenship system was generated by the differentiated rights that EE nationals were temporarily granted post-enlargement, and by the prejudicious practices that resulted from this differentiation. In terms of differentiated rights, we refer specifically to the implementation of transitional arrangements for up to 7 years following the Eastern enlargements in 2004 and 2007, which restricted access to the labour markets and welfare systems of the incumbent member states, de facto undermining the right to free movement for this group of EU citizens. In terms of prejudicious practices, we refer to the instances of abuses, exploitation, de-skilling, exclusion from public services and use of social rights (Engbersen et al., 2017) that EE migrant workers have been well documented to

experience. Importantly, we argue that the restriction of rights for EE migrant workers, however temporary, paved the way for and legitimised the implementation of prejudicial practices by essentially casting this group as second-class citizens. Lastly, we show that the differentiated treatment of Eastern European citizens, and thus the two-tier citizenship, reflects the unequal power relations between Member States and the internal political, economic and social hierarchy within the European Union.

The EU's internal East-West divide

There is an internal hierarchy within the EU, which manifests itself in the divide between a set of dominant, core member states who set the European agenda, drive the process and generally get their way, and the subordinate peripheric member states (Gottmann, 1980; Sepos, 2016). Norms and habits of solidarity are stronger among these core members, especially among the original six, who have in time developed and consolidated shared interests, discourses and geo-strategic positions and who share similar levels of economic development (Dyson and Sepos, 2010). The 2004 and 2007 Eastern European enlargements reinforced these internal hierarchies, with considerable implications for perceptions of power relations, influence and leverage between the incumbent and newer member states (Magone et al., 2016).

For a significant period of time during the 20th century, the iron curtain separated East and West not only physically due to restricted movement but also ideologically (Currie, 2008). Eastern Europe under the communist regime was considered the antithesis of what the EU stood for, an alien land with different values, laws, economy, education, ideology and culture (Linz and Stepan, 1996; Zielonka, 2006). Joining the EU represented a return to Europe (Havel, 2000) for these countries, an opportunity to enter an exclusive club that promised, among others, economic development and political legitimacy. For the incumbent member states, however, the two enlargements were perceived more like a 'missionary crusade' aimed at teaching the backward EE countries the superior Western ways of doing business and politics (Grabbe, 1999; Zielonka, 2006: 69). The enlargements were largely framed around this dichotomy between Western Europe and the inferior and exotic Eastern Europe (Botterill and Burrell, 2019; Buchowski, 2006), in a broadly orientalist discourse that assumed an essential difference between the two, and framed this difference as a lack of Europeanness (Kuus, 2004). The comparison between East and West still tends to turn into a comparison of the former against the latter, ascribing normality to the West with which the East needs to continuously catch up (Hörschelmann, 2001). To this day, Eastern European countries are generally not involved in the 'knowledge culture' of Brussels, and have little political clout, with Western states turning mostly to each other for policy input and rarely reaching out to Eastern Europe (Anghel, 2020). In fact, despite its professed mission of further solidarity with Eastern member states, Western member states periodically contemplate a 'multi-speed Europe' (Anghel, 2020: 200), in which 'moving in the same direction' may also be achieved by acting 'together, at different paces and intensity where necessary' (European Council, 2017), statements which reinforce the second-tier status of Eastern Europe.

Free intra-EU mobility was one key element in the process of ending this East/West division of the continent (Favell, 2008). It was expected that free mobility could contribute to economic convergence by optimally allocating resources and factors of production across member states, and to social cohesion through exposure and experience of other cultures and people (Ulceluse, 2019). Through free mobility, Europeans' understandings of community, membership and democracy were to be reconfigured, and the lives of other EU citizens and their claims to equal treatment, equal opportunity and fair play were to become part of their realities and of a shared legal as well as moral code (Kostakopoulou, 2014). And yet, in one of the clearest reflections of the EU's

internal hierarchies and uneven distribution of power, the enlargements did not immediately endow Eastern European migrant workers with the same rights as their Western European counterparts (Drnovšek Zorko and Debnár, 2021). Rather, the EU15¹ club decided to implement transitional arrangements, a series of labour market measures put in place to restrain the *potential* inflow of migrant workers from the EU8² and EU2³ accession countries (Ulceluse and Kahanec, 2019). All EU15 member states except for Sweden, Ireland and the United Kingdom implemented these measures for the EU8 countries, and apart from Sweden and Finland, all implemented them for the EU2 countries. In most EU15 countries, the arrangements remained in effect until 2011 and 2014, respectively, extensively shaping the economic opportunities of Eastern European migrant workers in Western Europe (Drnovšek Zorko and Debnár, 2021).

The creation of a two-tier EU citizenship system

During the transitional arrangements period, Eastern European (EU8/2) migrant workers had the right to travel and settle in the EU15 countries, but generally experienced limited access to their labour markets. This access was restricted through various national measures, including complex application procedures, proof of suitability, work permit requirements or quotas. Many countries differentiated between high and low-skilled individuals, or only removed restrictions from sectors experiencing acute labour shortages. Moreover, self-employed individuals were not subjected to transitional arrangements and could freely access the labour market of any member state, exemption which de facto created an incentive for EE nationals and employers to turn to self-employment in order to comply with the existing rules and regulations (Ulceluse and Kahanec, Forthcoming).

These differentiated rights led to the emergence of a differentiated EU citizenship (Juverdeanu, 2021) between East and West, and between the different worker categories among the Eastern European migrant workers themselves. More to our point, the transitional arrangements created a second, subordinated class of EU citizenship for the Eastern European migrant workers, whose normative framing and implementation by Western member states fostered a differential treatment that often conflicted with fundamental rights (Carrera and Faure Atger, 2009: 2). In effect, the transitional measures constituted discrimination based on nationality, contradicting the very tenet of the EU citizenship which states that no EU citizen in any member state shall be put in a position more disadvantaged than that of a national citizen, another EU citizen or a third country national (European Commission, 1992; Seubert, 2020; TFEU, 2007).

This discrimination represented the basis for, and legitimised the unequal treatment of Eastern European migrant workers in Western member states. Their status as second class EU citizens transformed them into a group of precarious migrant workers, temporarily admitted into the lowest sectors of the labour market, yet excluded from the workplace benefits and rights that usually come with stable work contracts and residency (Bejan, 2020b). Instances of fraudulent practices such as underemployment, underpayment, too long working hours, poor accommodation conditions and/or overcharges for accommodation, have been well documented (Brovia and Piro, 2020; DBG, 2020; Engbersen et al., 2017; ETUC, 2020; NOS, 2019; Stachowski and Fiałkowska, 2020; Ulceluse et al., 2021). Such practices provide no opportunities for upward mobility, meaning that many EE workers remain dependent on low-paid, temporary and flexible jobs in the secondary labour market (McCollum and Findlay, 2015).

The conditional access of workers from Eastern Europe to social security benefits and health-care protection in the West led to a rift in the geography of production and social reproduction in the Union that forced Eastern European migrant workers to separate their spaces of labour from their spaces of social reproduction (Hristova, 2020). Tasks of sustaining health, social networks and social security were relegated to the home country as individuals travelled home to see their

family but also to, for instance, get dental and medical care which they could not afford or did not have access to in the West (idem). By denying EE migrant workers' full access to the rights and benefits associated with employment, member states shirked the responsibility for their welfare when they fell on hard times (Currie, 2008). Furthermore, this second-class status impeded migrant workers' access to the symbolic category of *full Europeans* (Fox et al., 2012) and the corresponding socio-economic standing. As a result, cultural distinctions and racialised subordinations became common experiences among Eastern European migrant workers in the West (Favell, 2008), who experienced high rates of downward mobility (Johnston et al., 2015) and prejudice (Briggs and Dobre, 2014).

There is little doubt that these experiences should be seen as a direct consequence of the differential rights granted to EE nationals within the enlarged EU (Carrera and Faure Atger, 2009). In effect, rather than spreading 'the peace, stability and prosperity enjoyed in the West to the East and "reunify" the continent' (The Economist, 2001), the EU created a two-tier European citizenship, with Eastern EU citizens being considered less-than their Western counterparts. Nowhere was this two-tier European citizenship distinction more visible than in the treatment of Eastern European migrant workers during the COVID-19 pandemic.

Eastern European migrant workers during the COVID-19 pandemic

During the pandemic, Eastern European workers, fellow EU citizens, were not considered worthy of the protection of their host member states even when ensuring food security depended on their safety and wellbeing. For instance, in Romania, prospective migrant workers were huddled together in airports, crammed into airplanes and flown off to Western Europe (Bender and Ulceluse, 2020). Oftentimes, they had to wait hours before being picked up, sometimes without knowing their final destination (Bejan, 2020a). This choice of transportation was not arbitrary. Politically sanctioned air travel chartered exclusively for these Eastern European migrant workers was not subject to social distancing rule-enforcement, contrary to travel by bus which was subject to regular control at border checkpoints (Contescu, 2020). In effect, Eastern European migration during the pandemic was managed in a way that afforded economic benefits, but minimised social disturbances for Western countries. This lack of protection and care clearly conflicted with the Eastern European migrant workers' right to be treated equally and with dignity as fellow EU citizens. They were essentially treated as second-class EU citizens, for which these rules had no significance and to which these rules needed not apply as long as they did not affect the health and wellbeing of Western citizens.

From Germany to the Netherlands, Belgium, Spain, Italy and the UK, the lack of work or housing-related protective measures for Eastern European migrant workers, that is, the provision of masks, gloves or hand sanitiser, proper time-off during working hours or social distancing measures, was well documented. For instance, migrant workers were being shoved 14–15 at a time into eight-seat vans and transported to the fields (DW, 2020) or crammed together in small lunch canteens, tens at a time (Staniloiu, 2020). Furthermore, when borders closed and many Eastern Europeans became unable to return home, they were oftentimes forced to stay with their employer, who also provided housing, which opened them up for abuses. In order to keep their jobs and thus, their accommodation, migrant workers had to comply with longer working hours, less pay, no sick days or insalubrious working conditions (Bos-Karczewska, 2020; Klawitter et al., 2020).

And, yet, even when their treatment as disposable workers during the pandemic was being publicised in national and EU-wide media, member states did little to remedy the situation. While on paper some governments put together Commissions to investigate allegations of unprotected

working and living conditions, in practice enforcement was limited. For instance, in the Netherlands the fines for infringements were low enough as to have no deterring effect, and inspectors operated via the phone due to the COVID-19 restrictions on physical inspections (ETUC, 2020). In Germany, meanwhile, the government itself was preventing trade unions and advisory centres from reaching out to workers, making it impossible to assist them properly and to monitor the (dire) conditions they were facing (ETUC, 2020).

Last but not least, Eastern European migrant workers were vastly excluded from receiving social assistance or benefits such as unemployment, sickness, disability or survivor's pension or be subject to national COVID-19 related support schemes (Rasnača, 2020). Because of their contractual arrangements, the absence of labour unions in many of the sectors they worked, and when present, the lack of representation for Eastern Europeans and migrant workers more generally, many fell through the cracks of social support when the pandemic hit. For instance, in the Netherlands, the Dutch prime ministers' message that 'we will not let you down', did not include Eastern European migrant workers, who were not covered by the financial support offered by the state (Bos-Karczewska, 2020). In Germany, the majority of migrant workers were employed in short-term jobs (70 days, increased to 115 during the pandemic), which meant they did not qualify for health insurance and German social security guarantees (Edwards, 2020). In Ireland, the mostly Eastern European workers did not qualify for the Pandemic Unemployment Payment for workers made redundant because of COVID-19, the Irish Government's exclusionary decision motivated by the fear that expanding coverage meant that too 'many more workers would be able to access this payment' (ETUC, 2020: 10). These prejudicial contractual arrangements were in many ways a natural consequence of the differentiated rights granted to EE migrant workers post-enlargement, which helped pave the way for them being hired in precarious and exploitative jobs in the West.

Entrenching a two-tier EU citizenship?

What do these developments mean for the EU citizenship, that 'striking example of unity in diversity' (Bieber and Bieber, 2021: 163), and the future of Europe more broadly? Like other critical junctures before it, including the eurozone and migration crises of the past decade, the COVID-19 pandemic provided EU member states with ample opportunities to implement measures which in normal circumstances would have been difficult to justify. The way they chose to go about freedom of movement and the equal treatment of EU citizens can tell us a lot about the future of the EU citizenship, and the EU project more broadly, as their decisions during this period may be far more momentous than presumed.

In a crisis characterised by great uncertainty, as the COVID-19 pandemic certainly was, member states failed to remember calls for solidarity and a united Europe and reverted to old patterns of 'asymmetries of interdependence and bargaining power' (Schimmelfennig, 2018: 972). Many of them used the crisis to blatantly disregard the rights and needs of Eastern European citizens and to selfishly look after their own interests. The actions of Western member states led to an unequal and prejudicial effect on some countries and their citizens, 'especially the geographically peripheral ones such as the Baltic States, Bulgaria and Romania' (Russack and Blockmans, 2020: 3), and led to 'profound negative impacts on EU rights and freedoms' (Carrera and Chun Luk, 2020; European Union Agency for Fundamental Rights, 2020). These power asymmetries manifested, among other ways, in the pressuring of Eastern European governments to open their borders and send migrant workers towards the West (ETUC, 2020), in uneven entry restrictions, and in the mistreatment of Eastern European workers, fellow EU citizens. Concerning the latter, the European Commission explicitly urged member states to not differentiate between their own

nationals and resident EU-citizens when implementing public health measures (European Union Agency for Fundamental Rights, 2020), and yet the blatant disregard for protective measures for EE workers in the fields and abattoirs of Western Europe reflected an unjust and prejudicious treatment. Intra-EU mobility was framed in terms of a hierarchy of rights, a hierarchy of importance, in which EU citizens of the West were deemed more important than EU citizens of the East. Moreover, several Member States did not comply with the principle of non-discrimination on the basis of nationality by adopting entry restrictions for some EU citizens only, while not applying them to their own nationals or other EU citizens (Carrera and Chun Luk, 2020). Unsurprisingly, these measures disproportionately affected the very mobile workers from Eastern Europe.

In conclusion, the COVID-19 pandemic held a mirror to the state of our European Union community, and many of us did not like what it reflected back. The image we had of ourselves, of a Europe of equality and unity, was reduced to shambles. The pandemic revealed the ugly truth of utter disregard for the lives of a segment of EU citizens, that is, Eastern European workers, who were deemed disposable and could be sacrificed for the needs of Western countries. It showed us first hand that within the EU, formal processes of inclusion and equalisation coexist with exclusion and unequal inclusion processes in practice (Kostakopoulou, 2014). These practices have adverse implications for fundamental rights, the status of European citizenship, the principle of equality and non-discrimination as well as the very foundations upon which the European Community is rooted (Carrera and Faure Atger, 2009). Nine out of 10 Europeans still consider the EU important in providing equal opportunities and access to the labour market, as well as fair working conditions and social protection (European Commission, 2021). And yet, in its current form, the two-tier EU citizenship system mirrors the socio-economic and political inequalities between Eastern and Western member states. It also helps perpetuate a free movement regime in which core, wealthier member states profit from the free movement of labour without taking responsibility for safeguarding the rights of fellow EU citizens (Seubert, 2020). Such blatant disregard for human rights and deplorable working conditions should have no place in a Union guided by a common goal of social cohesion, unity and equality of its citizens.

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Notes

1. Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom.
2. Czechia, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia.
3. Romania and Bulgaria.

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