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Trust, Rights, and Inclusion in the European Union: A Case Study of the European Arrest Warrant and the Fundamental Status of EU Citizenship

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Abstract. This article focuses on the two core mechanisms of the European Union - the European Arrest Warrant (EAW) and EU citizenship, dissecting the gap between the idealized assumptions based on mutual trust and equality and the reality behind them. Research has found that due to the regression of the rule of law in some member states, the EAW system faces problems such as impaired judicial independence and an imbalance in the protection of fundamental rights. The Court of Justice of the European Union has shifted to the principle of conditional trust. However, in practice, EU citizenship shows selective inclusiveness. Factors such as economic status and race lead to uneven entitlement. The experience of Romanian caregivers during the COVID-19 pandemic is a case in point. The article advocates for establishing a trust review mechanism at the EU level, strengthening rights impact assessment, and promoting social policy coordination and other reforms to build a rights-based EU integration model and balance the efficiency of judicial cooperation and social inclusiveness.

Keywords: European Arrest Warrant (EAW), EU Citizenship, Rule of Law, Selective Inclusiveness

1. Introduction

The EU's integration and mutual recognition form its foundation. As it facilitates borderless freedom, its instruments, despite fostering movement and cooperation, have occasionally undermined rights and democratic norms.

There are two concerns which are typical of the paradox [1]. The European Arrest Warrant (EAW), designed to expedite cross-border cooperation in criminal justice through mutual recognition, relies on member states' trust, which critics argue must be earned by demonstrating respect for constitutional rights [2]. This paper examines EAWand EU citizenship, key EU mechanisms founded on mutual trust and equal access assumptions. These assumptions mask growing disparities in rights protection and social inclusion. The EAW, based on comparable fundamental rights standards among Member States, faces challenges due to rule of law divergences. EU citizenship's rights, like free movement, are unevenly distributed, favouring the economically secure and socially integrated, marginalising vulnerable populations. This paper

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critically examines the legal and political underpinnings of mutual trust and EU citizenship frameworks, arguing that assumed trust erodes fundamental rights. Analyzing Polish judicial backsliding (Art. 7 TEU impact) and Romanian care worker marginalization during COVID-19, it reveals how institutional and socio-economic inequalities undermine mutual recognition and universal citizenship, necessitating urgent reform.

2. The European Arrest Warrant and fundamental rights issues

2.1. Between efficiency and rights: the tensions of mutual recognition in the European Arrest Warrant

The EAW is intended to simplify and accelerate the extradition of criminals between European countries. By circumventing the traditional extradition processes, the EASSy creates a system of trust that is based on the assumption that all member states honor the EU's basic rights and legal principles [3]. However, his faith in his presumption can also lead to significant issues. The counterargum is that, if it is assumed that all of the Member States have a single, direct interpretation of the protections associated with the fundamental human rights of the law of the EU as well as the ECHR, then the EAW can be employed to take away these rights without necessitating the state's assistance of the ECHR [4]. Courts have increasingly refused to execute European Arrest Warrants that have a potential to violate the rights of the European citizen, such as a lack of judicial independence or the deplorable conditions in the prison. This is particularly true of states that are experiencing a democratic decline [5]. This shift is symptomatic of a growing awareness that without significant safeguards, blind mutual recognition can lead to serious inegalitarian abuses.

2.2. The role of the CJEU: from doctrinal trust to conditional recognition

The CJEU should determine the extent of mutual recognition. In its judicial role, it has sought to balance judicial cooperation with the protection of citizens' rights [6]. The CJEU assesses national hearings to ensure EU standard adherence. EAW trust erodes with Member State deficiencies, such as lacking procedural safeguards or human rights issues, necessitating mutual recognition reassessment. Mutual recognition should be applied with measured flexibility, requiring ongoing proof of respecting shared core principles. This approach replaces presumed trust between members with rigorous, continuous monitoring and dialogue to ensure adherence to human rights commitments [7]. Only then is the inviolability of the EAW guaranteed at the expense of abandoning individual protection of rights.

CJEU promotes unified legal standards, but national courts' diverse interpretations of the European Arrest Warrant cause procedural inconsistency. Harmonization via joint training and oversight can boost mutual trust and legal certainty [8].

2.3. Balancing mutual trust and human rights protection in the European Arrest Warrant system

The EAW system relies on mutual trust among member states. Concerns over human rights violations challenge its application. Courts are refusing EAWs due to rights infringement risks, necessitating scrutiny mechanisms like proportionality assessments and independent evaluations. Overly cautious approaches risk undermining judicial cooperation, while unchecked trust compromises rights. Balancing judicial collaboration and individual rights is a policy challenge. Strengthening dialogue, increasing oversight, evaluating justice systems, and ensuring legal

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remedies are critical. EAW framework reform must harmonize security, effectiveness, and human rights protection.

3. The 'fundamental status' of EU citizenship: selective inclusion and its implications

3.1. The promise of EU citizenship

EU citizenship, established by the Maastricht Treaty and detailed in TFEU Articles 20-21, grants Member State nationals a common legal status. This includes rights to free movement, residence, and protection against nationality-based discrimination within the EU. However, increasing evidence challenges this view: EU citizenship's functional advantages primarily benefit the healthy, mobile, and affluent [9]. In practice, the effective exercise of EU citizenship rights is closely conditioned by individuals' socio-economic mobility, financial resources, and educational attainment [10]. Furthermore, legal barriers in some Member States prevent certain groups, like economically inactive migrants, from fully exercising residence rights, reinforcing the exclusionary effect of EU citizenship.

3.2. Excluding the vulnerable: a critique of selective inclusion

The analysis posits that EU citizenship, while theoretically inclusive, exhibits material exclusion, favoring the economically mobile and structurally marginalizing elderly, disabled, and low-income demographics. For example, mobility within the Union is facilitated by the presence of resources. Access to residence, access to the labour market, and language proficiency are central determinants of being stamped as having the capacity to utilise EU citizenship rights fully. This structural exclusion contradicts the founding principle of equality in the EU, making citizenship rights dependent on socio-economic status rather than a universal right [11]. The fact that no policies enable non-mobile citizens only adds to this disparity. It creates a situation where only those able to migrate and integrate can enjoy the full rewards of EU citizenship.

3.3. The interaction between EU citizenship and economic rationality.

Critics argue that the EU's policy of differential inclusion is a neoliberal strategy, prioritizing economic integration and mobility, thus framing EU citizenship as a 'passport to prosperity' that primarily benefits those already advantaged in the global economy [12]. Research in this area has proven that the benefits accruing in EU citizenship are not equally distributed [13]. Highly educated EU citizens benefit more from intra-EU mobility, while those with lower socioeconomic status remain immobile and economically disadvantaged.

3.4. Legal and political responses to the gap

In resolving such problems, few policymakers and researchers have proposed examining the rights available under EU citizenship. According to them, the EU should be in such a manner that the citizenship rights are not made subject to economic prospects or personal mobility [14]. Such measures include social protection policies, aid for immobile citizens, and broad policies for vulnerable populations. The EU Charter of Fundamental Rights offers a basis for addressing unequal welfare distribution among EU citizens [15]. Reaffirming discrimination and equality principles allows the EU to advance universal citizenship rights. These changes are crucial for protecting individual rights and supporting EU economic integration. The difficulty is extending internal

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market benefits to disadvantaged groups without upsetting the economic principles that have guided EU integration for the past 50 years.

3.5. Institutional gaps and policy failures

While EU citizenship is theoretically global, there is, in practice, a barrier to entry that is financially detrimental to low income earners. Constitutionally, the right to residence and employment in another country is protected, but in practice, material autonomy is required in order to be able to migrate [16]. The economic autonomy requirements of most Member States are designed to prevent inactiveigrants from receiving benefits for economic hardship, except when proven. This de facto prevents low-income individuals from fully enjoying the rights of EU citizens [17]. Structural barriers, such as language limitations, lack of diploma recognition, or housing issues, prevent lower-income citizens from exercising their European citizenship rights. EU mobility support, qualification recognition, and streamlined administration should target underlying disparities. Without these reforms, EU citizenship advantages the mobile and wealthy, hindering equal access to rights [18].

4. Role of national and EU institutions

4.1. Case analysis

4.1.1. Reassessing mutual trust amid rule of law backsliding: the case of poland

Between 2017-2018, Poland's judicial reforms compromised judicial independence (Article 2 TEU), drawing EU criticism and Article 7 TEU proceedings. The CJEU found Poland's disciplinary regime incompatible with judicial independence, impacting cooperation; an Irish court refused a European Arrest Warrant (EAW) due to rule of law concerns. The 2022 Openbaar Ministerie ruling established a two-step test for EAW assessments: courts must assess systemic deficiencies and risks to fundamental rights, building on Aranyosi and LM rulings. This shifts from automatic mutual recognition, conditioning it on EU values (Articles 2, 6 TEU). Breaches in judicial independence undermine the EAW framework, requiring balanced cooperation and rights protection.

These changes mark a move from automatic recognition. Trust is now conditional on EU values (Articles 2, 6 TEU). Poland shows judicial breaches can hurt EAW legitimacy, requiring courts to balance cooperation and rights. Hungary faces similar issues. Bard and Kochenov say rule-of-law erosion impairs recognition. Martufi prioritizes rights, urging judicial discretion and safeguards to maintain EU judicial cooperation's legitimacy [19].

4.1.2. Citizenship and racialised/socialised exclusion: the case of romanian care workers during COVID-19

The COVID-19 pandemic highlighted structural inequalities in EU citizenship, especially for mobile, low-wage Eastern European workers. Romanian live-in caregivers in Western Europe, deemed "essential," often experienced precarious conditions, limited protections, and discrimination, revealing the shortcomings of EU citizenship in ensuring equality [18].

Romanian caregivers faced extended work hours, mobility constraints, and precarious employment, hindering labor rights and healthcare access in host nations. Pandemic border closures and emergency labor pacts worsened conditions, enabling employers to circumvent labor standards citing economic needs [16]. The care sector's reliance on migrant workers—often racialized, gendered, and economically vulnerable—underscores the unequal value placed on EU mobility.

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While elites benefit from free movement, lower-income Eastern European migrants face legal precarity and economic marginalization.

This case questions the notion that EU citizenship ensures uniform rights and treatment. It demonstrates how race, class, gender, and origin affect access to citizenship benefits. The CEPS STREAM report notes that Romanian and Bulgarian mobile workers often lack legal recourse and social entitlements despite their societal contributions. Romanian caregivers' experiences highlight a "two-tier citizenship regime" [18], where economic utility determines EU mobile citizens' rights. Despite formal EU citizenship promising equality, implementation is stratified, necessitating stronger social policy convergence, anti-discrimination enforcement, and rethinking EU mobility regimes to account for marginalized citizens' realities. Economic mobility alone doesn't ensure equitable citizenship; intersectional factors like race, culture, and social identity cause structural exclusion. This exposes racialization and class stratification in EU mobility regimes and social policy. Ray et al. [16] note race and identity's influence on EU integration exclusion, while Ulceluse and Bender [18] document cross-border labor migrants' vulnerabilities. Jacobsen and Karlsen [11] advocate comprehensive social inclusion policies, stressing citizenship must transcend legal formalism for genuine social equality.

4.1.3. Comparative analysis: structural and social dimensions of eroded trust

Poland's judicial reforms and the exclusion of Romanian care workers reveal how mutual trust and equal citizenship are eroding in the EU. The former involves institutional issues threatening judicial cooperation's legal basis, while the latter exposes socio-economic hierarchies undermining EU citizenship rights. The Polish case shows how rule of law decline destabilizes the European Arrest Warrant's mutual recognition, causing a shift from presumed to conditional trust. The Romanian caregiver case reveals everyday exclusions in EU mobility, where rights depend on economic utility, racial identity, and gendered labor [18]. Both cases highlight the inadequacy of formal equality due to structural asymmetries, necessitating a recalibration of mutual trust and citizenship that considers constitutional integrity and social inclusiveness. Addressing democratic regression and transnational social stratification is crucial for the EU's "Union of rights" to become a reality.

4.2. Moving forward: towards a rights-based EU integration

Addressing these multifaceted challenges requires a paradigmatic shift in the EU’s approach to mutual trust and citizenship—one that anchors judicial cooperation and integration firmly within a rights-based framework. This entails moving beyond presumptive trust to a model that explicitly prioritizes protecting fundamental rights and equality as preconditions for cooperation.

A key reform suggests an EU trust audit to monitor Member States' rule of law and human rights. This body would perform regular evaluations and release binding assessments for judicial decisions on tools like the EAW, linking cooperation to verified rights adherence. Complementarily, courts should implement rigorous rights impact assessments when deciding on mutual recognition requests, examining potential risks to due process, fair trial, and humane treatment standards. Such assessments align with the doctrine of rights conditionality, as Schilling-Vacaflor and Lenschow articulated, which argues that EU cooperation must be conditioned on compliance with fundamental rights obligations [14]. Craig and de Búrca's constitutional pluralism offers a framework for dialogue between national and EU courts. This pluralism recognizes coexisting legal orders, promotes accommodation, and protects rights, enabling a multi-level system that balances rights and integration. Intensified social policy convergence is crucial to eliminate barriers causing citizenship

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selectivity. Increased regional funding, harmonized education, and cross-border healthcare can equalize opportunities and reduce disparities in mobility and rights access. These steps can make EU citizenship real and reflect the Union's values. By linking institutional and policy changes, the EU can balance security, efficiency, and human rights. This ensures trust is based on rights, supporting fair and inclusive European integration.

5. Conclusion

In conclusion, the challenges to the European Arrest Warrant and the discriminatory nature of the privileges of EU citizens are reflections of tensions inherent to European integration. Balancing security and human freedom requires a mature response beyond firm formal legal commitment to answer to real socio-political realities at play in each Member State. The reform proposals, whether through judiciary authority consolidation or filling in of social policy loopholes, are not technical but paradigm shifts that can re-fashion human people's relationship to the Union. As Europe faces new challenges- digitalization to shifting geopolitics---protection of human rights and sustainable development have never been more critical. By adopting an effective integration model responsive to its pluralist members, the EU can strengthen its rule of law and build a stronger and more inclusive society.

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