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## **Borders in the future: Policing unwanted mobility through entry bans in the Schengen area**

### **Abstract**

Despite their prominent role in the Return Directive and the constitution of the common European border regime, entry bans and their role in the governance of unwanted mobility remain largely unexamined in migration research. Entry bans accompany removal decisions for non-compliant or criminalised non-citizens, applying by default in the whole Schengen area, excluding EU citizens and legally residing third-country nationals, who receive national bans. In this article, drawing from my research on the immigration detention system in Finland, I discuss how entry bans sanction and irregularise movement mainly inside Europe, complicate non-citizens' regularisation, and affect their mobility strategies. Despite also being intertwined with crime control in Finland, national entry bans seem largely ineffective in preventing unwanted mobility inside the Schengen area: many Estonian citizens, in particular, are detained and removed from Finland several times a year. Notwithstanding the Europe-wide effect intended in the Return Directive, national entry bans issued alongside Schengen bans reintroduce borders inside Europe. Furthermore, by prolonging the duration of removal orders for years, entry bans establish individual borders that may be faced in the future.

Keywords: borders, deportations, entry ban, migration management, Schengen area

## Introduction

The EU Return Directive established the Europe-wide framework for the enforcement of return decisions, voluntary returns, and immigration detention in 2008. The Directive also aimed to give a European dimension to national return measures by extending the scope of entry bans to cover all Schengen countries. While states have imposed national entry bans to prevent the return of unwanted non-citizens, albeit with limited success, the entry bans integrated with the Schengen Information System (SIS) would enable prevention of the return of targeted non-citizens into the whole Schengen area. In addition to sanctioning and deterring reimmigration, Schengen entry bans seek to encourage voluntary returns through the threat of additional sanctions in the case of non-compliance during removal procedures. Despite establishing a common Europe-wide framework for migration policies, the Member States have a broad remit to incorporate the directives in their national legislation, resulting in varying policies and practices.<sup>1</sup> For example, many EU countries issue entry bans for removals based on criminal law sanctions (EMN 2014), or some even alongside voluntary departure (EPRS 2020: 76). Furthermore, in addition to Schengen bans, the Member States still issue national entry bans for EU citizens, as well as third-country nationals who have residence permits in another Member State that is not cancelled. National entry bans prohibiting entry only to the state in question are recorded in national registers, illustrating the double structure – the common directives and frameworks on the one hand, and the varying national practices on the other – characterising European migration policies.

Despite its prominent role in the Return Directive, there is scarce official information on actual entry ban policies among the EU Member States. Nevertheless, the imposition of entry bans has become common practice as a part of the tightening of immigration policies: 527,099 third-country nationals had an alert regarding entry refusal or their stay in the Schengen Area in 2019 (eu-LISA 2020). Notwithstanding the important theoretical work on the European border regime (e.g. Balibar 2002; Bigo 2002; Mezzadra and Neilson 2013; Rigo 2005) and the digitalisation of border controls (e.g. Broeders and Hampshire 2013; Brouwer 2008; Scheel 2018), the significance of entry bans for both deportable non-citizens and the governance of migration has received limited attention. In fact, Schengen entry bans have been mainly discussed in connection with the criminalisation of migration, drawing on detailed legal analysis of the Return Directive (Baldiccianni 2009; Mitsilegas 2015; Majcher 2019). Di Molfetta and Brouwer (2020) have published one of the few empirical studies focusing on entry bans, demonstrating how foreign prisoners facing removal in the

Netherlands regarded them as unjust punitive sanctions (see also Hasselberg 2016). Additionally, recent publications have addressed problems with the protection of non-citizens' personal data (Majcher 2020) and the "messiness" characterising data management in everyday police work (Vrăbiescu 2020). One reason for the scant attention to the topic is the assumed insignificance of entry bans: for example, Collyer (2012: 291) suggested, "Previous removal would almost always prevent an individual subsequently obtaining a visa so the re-entry ban is irrelevant."<sup>2</sup> While the consequences of the Schengen entry bans for future legal mobility may differ due to varying acceptance rates for visas among third-country nationals, entry bans can affect deportable migrants' mobility strategies and the construction of "voluntariness" (Cleton and Chauvin 2020) during removal procedures, whereas the entry bans materialise concretely in refusal of entry or in detention and removal, if banned non-citizens are caught after return. In addition to varying national policies and enforcement practices, national entry bans targeting the movement of legal residents inside Europe further complicate wider conclusions on the relevance of entry bans in the governance of migration.

This article aims to fill gaps in migration literature by examining the significance of entry bans for deportable non-citizens, drawing from multi-sited empirical research on the immigration detention system in Finland. While it is recognised that deportation is not an event but a process, whose consequences last long after implementation (e.g. Hasselberg 2016; Peutz 2006), removals also encompass concrete temporal and legal extensions beyond spatial relocation through entry bans. Consequently, entry bans issued for either on the basis of non-compliance during the removal process or as an additional sanction for deportable offenses prolong the duration of removal orders – and individuals' deportability (de Genova 2002) – for years and establish individual borders for banned non-citizens that can actualize in the future. The article is situated in the framework of critical migration and border research, discussing at first the role of entry bans in the governance of migration, building on the existing research and then introducing the entry ban policies in Finland and the analysed data. The empirical analysis is based on discussions with detainees, demonstrating how entry bans irregularise movement mainly inside Europe, complicate non-citizens' regularising efforts, and also affect their mobility strategies. While Schengen bans are more consequential for future mobility due to the controlled external borders, national entry bans likewise reintroduce borders for both EU citizens and legally residing third-country nationals inside Europe. Therefore, rather than strengthening the common European border system, national entry bans issued alongside Schengen bans contribute to the fragmentation of the European legal space.

Considering the scarce knowledge on the topic, I hope this article provides insights for further discussion on entry bans.

### **Entry bans as forward-looking governance of migration**

The establishment of the Schengen Area was a pivotal moment in the constitution of the European border regime: the introduction of the area of free movement in Europe and the abolishment of the internal borders between the signatory states resulted in the emergence of common external borders and the introduction of common visa policies. The securitisation of migration and, in particular, prevention of assumed security threats related to irregular migration and cross-border criminality have dominated the development of the common European migration policies from the beginning (Bigo 2002; Brouwer 2008). Already before the Return Directive, Bigo (2002; 2008) introduced the concept of a “Ban-opticon” to highlight the shift of border controls towards selective surveillance practices and the differentiation of mobilities. Europe-wide digital databases have been the cornerstone of the governance of migration and the establishment of digital borders, providing the necessary technology to identify irregular and banned migrants during different phases of their migration process (Broeders 2007; Brouwer 2008; Sontowski 2018). In addition to irregular migration, European migration policies – for example, the Dublin Regulation defining the country in charge of asylum application – assume circulation of migrants in the European space (Karakayali and Rigo 2010). Similar to visas issued by one Member State enabling access to the whole Schengen area, national removal measures have also acquired a European dimension; as Rigo (2005) has highlighted, non-citizens defined as “undesirable aliens” and a threat to the public order in one state will be considered accordingly by any signatory state, as removal orders can be enforced by another Member State without a new decision. Schengen entry bans policing unwanted mobility represent a structurally equivalent instrument to the common visa system – or its reverse, as they sanction remigration for years and can be enforced by any Schengen country.

Despite the investments in the common European border regime, immigration enforcement policies and practices vary considerably across the Member States (Leerkes and Van Houte 2020; Brandariz and Fernández-Bessa 2020). Additionally, inconsistent practices in recording entry bans have hampered common European policies: while the digital databases enable efficient information-sharing, adding entry bans into the SIS was not compulsory until the end of 2018. The deterrence effect of entry bans remains difficult to

estimate, as banned non-citizens are likely to resort to irregular routes. Indeed, only a minority of refusals of entry at the external borders have been related to entry bans: more than half of the around 21,000 third-country nationals refused entry at external borders based on a SIS alert in 2018 were Albanian and Ukrainian citizens. During recent years, around 400,000 third-country nationals staying “illegally” have been detected in Europe, including potentially thousands of returning migrants subject to entry bans. (Frontex 2020.) The EU migration statistics cover only third-country nationals, overlooking the fact that the Member States issue national entry bans for EU citizens and other legal residents in Europe. In particular, the enforcement of national entry bans remains complicated due to the absence of formal border controls in the Schengen area, although the national authorities can carry out police checks at internal border areas (see van der Woude and van der Leun 2017). However, as Balibar (2002: 84) has pointed out, the control of mobility has been detached from the territorial borders and takes place increasingly wherever and whenever people are obliged to prove their identity. In practice, controlling national entry bans is likely to be connected with identity verification in public and immigration services, crime control, (cr)immigration checks, and other internal border control measures involving racialised and gendered practices (Fabini 2019; Parmar 2020; van der Woude and van der Leun 2017).

Entry bans demonstrate the temporal dimension involved in the governance of migration (e.g. Rigo 2005; Mezzadra and Neilson 2013) by establishing borders for individuals that can be actualised in the future, for example, at embassies when applying for a visa, or at external borders or inside Europe, if returned. The digitalisation of border controls and an increasing amount of data collected on moving populations (Broeders 2007; Brouwer 2008) have resulted in the emergence of individual or personalised borders (Weber 2006). Whereas borders follow non-citizens for years in the national space through different temporary and precarious legal statuses, borders also persist for deportees after the implementation of removal by sanctioning their future mobility back to deporting countries or the whole Europe through entry bans. Respective to the differential inclusion and the hierarchisation of rights concerning permanent residency, family reunification, and access to welfare state services and labour markets (Mezzadra and Neilson 2013; Könönen 2018), the border regime also produces *differential exclusion* due to the temporal and geographical variety among the entry bans, depending on the ground as well as the legal status of targeted non-citizens.<sup>3</sup> First, the duration of entry bans can be from one year to “until further notice”; for foreign offenders, the length of the entry ban correlates to the severity of the offense. Second, the scope of entry ban varies from the whole Schengen area to a particular Member

State for EU citizens and third-country nationals who have applied for asylum or have a residence permit in another Member State. In fact, non-citizens can have even several national entry bans in different EU Member States at the same time, consequently being “illegal” in some countries and legal in others (Könönen 2020). National entry bans reintroduce internal borders for some non-citizens inside the European space, contributing to the fragmentation of the European legal space and legal subjectivities (Rigo 2005).

Notwithstanding the varying immigration enforcement practices, the legal production of deportability and “illegality” through the strict and differentiating entry and immigration policies forms the basis for the governance of migration. Entry bans enable the border regime to extend its legal grip in time and establish a particular legal relation of inclusive exclusion (Agamben 1998) for deported non-citizens, instead of abandoning them outside the national and European legal order. The selective enforcement practices targeting some deportable irregular migrants are often connected with the production of flexible and disposable labour in Western countries (de Genova 2002). Due to the facilitation of crime-related removals and the increasing convergence of immigration and criminal law enforcement, or “cimmigration” (Stumpf 2006), entry bans as additional sanctions for deportable offenses also serve the aims of crime prevention. As an instrument to deter presumably “dangerous” mobile populations from returning (see Campesi and Fabini 2020), entry bans in particular target deprived young male “criminal immigrants” (see Di Molfetta and Brouwer 2020), who are involved in informal or illegal activities and have skills to cross borders clandestinely (e.g. Andersson 2014). While many EU Member states have criminalised violations of entry bans in order to reinforce their deterrence effect (EMN 2017; Waasdorp and Pahladsingh 2016), criminal sanctions for “immigration crimes” are usually invoked only when removals cannot be enforced (Aliverti 2013) or they are not considered effective measures, for example, in the case of national entry bans (see Liebling et al. 2021). Regardless of criminal law sanctions and the enforceability of removal decisions, entry bans enable the authorities to detain returning banned non-citizens as an administrative measure, therefore providing an important instrument for policing unwanted mobility and enforcement of the social order.

### **Entry ban policies in Finland**

The Finnish Alien Act defines entry bans as measures “prohibiting entry into one or more Schengen States for a fixed term or until further notice”, without explicitly distinguishing between national and Schengen entry bans. National entry bans limited only to Finland

concern EU citizens and third-country nationals who have legal residence status in another EU member state, as well as asylum applicants returned under the Dublin Regulation. The overall number of entry bans accompanying removal decisions has been above 3,000 annually, accounting for around one-third of all annual removal decisions (EMN Finland 2020). Entry bans are issued mainly in connection with deportable offenses or a failure to return voluntarily within the given period (normally 30 days) after removal decision. Additionally, entry bans are issued if residence permit applications are rejected due to “circumventing the entry regulations” (e.g. marriage of convenience), or asylum applications are considered “manifestly unfounded” and rejected without substantial investigation in expedited processing. The length of an entry ban for non-compliance is normally two years, whereas entry bans accompanying crime-related removal decisions for third-country-nationals vary from one year to “until further notice”, roughly correlating to criminal sanctions. However, individuals’ social ties, duration of residence, and family ties, in particular, can affect the issuance and the scope of their entry ban, depending on the overall assessment. The border guard and the police can issue entry bans for third-country nationals who have been in the country less than three months, provided that the entry ban will not exceed two years. The National Immigration Service makes the removal and entry ban decisions in all other cases; for EU citizens, the national entry bans require that they be considered as endangering public order, public security, or public health, and they are limited to a maximum duration of 15 years. Entry bans can be cancelled by a separate application due to changed circumstances or if the non-citizen can prove to have left the country voluntarily.

Finland’s geographical location in Northern Europe has implications for legal and irregular migration routes, including migrants subject to an entry ban. Despite Finland having the longest territorial EU external border, irregular migration from Russia has been very limited due to the relaxed visa policies. According to Schengen visa info (2020), Finland granted close to 800,000 visas for Russian citizens in 2019, with the St. Petersburg Finnish embassy being the “busiest” of all the Schengen embassies. Only dozens of refusals of entry at the external borders have been based on entry bans, probably owing to awareness of the visa requirements and strict entry controls among Russian citizens; removal decisions revoke the Schengen visa by default. Instead, the number of non-citizens subject to an entry ban apprehended inland is considerably higher, over 400 annually: the majority were Estonian EU citizens but including many Gambian citizens with legal residence statuses in Italy or Spain, and Belarusian citizens and persons belonging to the stateless Russian minority in Estonia (EMN Finland 2020). Most had a national entry ban to Finland and arrived in the country

from another EU member state, yet they were eventually caught in connection with criminal investigations or other contacts with authorities and were consequently detained based on warrants issued by the police for banned non-citizens. Notwithstanding the relatively modest scope, over 400 apprehended banned non-citizens account for close to one-fifth of the effective removals controlled by the police annually. However, the numbers of removals based on entry bans can be higher due to the multiple categorisations in complement of the removal statistics. Then again, in contrast to “the deportation gap” concerning the difference between removal decisions and effective removals (see Gibney 2008), the statistics involve a “deportation excess” due to repeated removals of the same persons, in particular, Estonians who are detained and removed from Finland even several times a year.

While the relevance of the threat of entry bans for promoting voluntary returns remains difficult to estimate, violations of entry bans are straightforwardly connected to crime control in administrative reports, according to which violations of entry bans “reflect international itinerant crime” (EMN Finland 2020: 36). However, the threshold for entry ban and removal orders for third-country nationals is relatively low in Finland, as they can be based only on police reports or summary penal orders without criminal sentences. For example, the high number of removals among West Africans are connected to tight drug policies: even a single drug use offense can result in an entry ban. Violation of the entry ban was criminalised in Finland in 2018, imposing “a fine or up to one year of imprisonment” as a penalty. However, there is no information on the criminal sanctions for entry ban violations, being in effect since 2019, although the proposal apparently targets Estonian EU citizens, in particular.

## **Data and methods**

The empirical analysis in this article focuses on the relevance of the entry ban for deportable non-citizens based on my multi-sited research project in the immigration detention and removal system in Finland. The number of detention orders has been somewhere over 1,000 annually, mainly issued by the police to ensure the implementation of removal. While I also conducted interviews with detention unit workers, lawyers and other involved actors, and followed the judicial review process supervising the legal grounds and the extension of detention at the district courts, here I draw on the discussions with detainees during my fieldwork in the two detention units. The ethnographic fieldwork was conducted mainly in 2016 and comprised more than 100 informal interviewees with detainees during 75 visits in total. Discussions with the research participants addressed their previous migration histories



in Finland and elsewhere, their current struggles, and their views and experiences of the detention and border system. During my fieldwork, I constantly informed detainees of the research project as well as the confidentiality and voluntariness of participation, and confirmed verbally their consent to use anonymised accounts in my research.<sup>4</sup> The detainees' accounts are based on my field diaries and recounted as accurately as possible, considering the need to ensure anonymity and make minor revisions due to informal spoken language. Additionally, long-term residents' and Estonian detainees' accounts were translated from Finnish into English.

As a part of the research, I analysed the detention records from 2016 that were extracted from the police database. The detention records included information on detainees and the grounds for detention, as well as their previous migration histories and the removal procedures in varying detail. While the specific legal grounds of detention are mainly related to the risk of absconding, identification, or crime control, the entry ban was mentioned in the individual reasoning for the detention orders in 238 cases (Table 1). The number could be even higher, considering that more than 400 non-citizens subject to an entry ban have been caught inland during recent years. In most cases, the detained returning non-citizens had initially received national entry bans based on criminal offenses. Again, the majority of the non-citizens detained were Estonians, of which around 75 percent had an effective national entry ban to Finland; more than one-third of the detained Estonians were held at least twice in 2016. A minority of detainees had a Schengen entry ban issued by Finland or another EU Member State, often detained at the external borders. The detention records also revealed careless practices in data management across the Member States in some cases (see Vrăbiescu 2020), such as not removing the SIS alert despite the issued residence permit.

Citizenship	Detention orders							
	Total	Entry bans	Ordered by		Type of entry ban		Issued by	
			Police	Border guard	National	Schengen	Finland	Other EU country
Estonia	172	131	127	4	131	0	131	0
Romania	126	10	8	2	10	0	10	0
Gambia	66	13	7	6	11	2	11	2
Iraq	63	6	4	2	4	2	4	2
Russia	48	4	4	0	4	0	4	0
Morocco	41	3	2	1	0	3	1	2
Belarus	36	8	8	0	0	8	8	0
Somalia	36	3	2	1	3	0	3	0
Nigeria	35	5	2	3	1	4	1	4
Algeria	29	4	4	0	2	2	3	1
Stateless	29	12	11	1	12	0	12	0
Albania	18	9	5	4	0	9	6	3
Senegal	16	7	5	2	6	1	6	1
Latvia	14	7	7	0	7	0	7	0
Other	729	17	16	1	13	4	14	3
<b>Total</b>	<b>1059</b>	<b>239</b>	<b>212</b>	<b>27</b>	<b>204</b>	<b>35</b>	<b>221</b>	<b>18</b>

Table 1. Distribution of detention orders involving entry bans in 2016.<sup>5</sup>

While I learned only afterward the full extent of the entry bans in the detention and removal system, several detainees did bring up problems caused by entry bans during my fieldwork, whether concerning their current struggles or future aspirations. All the following accounts are from detained men, reflecting the fact that they accounted for 87 percent of all detainees as well as almost all detention orders related to entry bans in 2016. In addition to racialised and gendered practices in crime and border control measures, the gendered bias in the data implies that predominantly male migrants continue moving back to and around Europe despite enforced removals and entry bans. Notwithstanding minor annual variations, the data from 2016 provides a statistically representative overview of immigration enforcement practices in Finland. However, the data does not provide comprehensive information on the role of entry bans in promoting a voluntary return, as those complying with the removal orders also avoid pre-removal detention. In proportion to total numbers, Estonian detainees were underrepresented among my research participants owing to their short detention times,

on average less than two days. Based on thematic analysis of the discussions with detainees concerning entry bans, the following sections are divided into three main common themes: irregularising remigration, complicating regularisation and adjusting mobility strategies.

### **Irregularising movement inside Europe**

During my fieldwork in the immigration detention units, I encountered several detainees *again*, after their removal, as they had returned to Finland and were detained once more due to having effectual entry bans. These repeatedly detained non-citizens were mainly Estonians, but also included other EU citizens and East European nationals, as well as visiting West African nationals who had a residence permit in Italy or Spain. In particular, Estonian detainees brought up the problems caused by entry bans as many had been working in the construction industry for years, or had partners or children in Finland. While banned non-citizens can stay irregularly for long periods in Finland, provided that they avoid authorities and public services, national entry bans also render EU citizens as irregular migrants and entail a risk of immediate detention and removal, if apprehended. Indeed, detained Estonians were often caught in connection with criminal investigations, traffic control, or other encounters with police before long. Recurrent removals and detention caused logistical challenges for their employment and everyday life, as one explained:

I have worked at construction sites for years. But this is really annoying, because I need to get back to work on time. I called my boss already that maybe I cannot be working tomorrow, but he understands the situation. I hope I can take the ferry in the evening; I asked the police to just deport me as soon as possible.

Repeatedly deported Estonians are perhaps even a more illustrative – although less dramatic – example of what Khosravi (2016) has called “deportation as a way of life” in reference to young Afghan men, whose lives remain marked by deportations. Indeed, many Estonians had been removed from Finland several times a year; one reported being removed more than *twenty* times in total. In practice, some Estonians lived permanently in Finland despite receiving entry bans based on criminal sentences. For Estonians, in particular, the deterrence effect of a national entry ban is rather non-existent, as they can quickly return to Finland due to the absence of formal border controls and the frequent and affordable ferry connections

between Helsinki and Tallinn, causing annoyance to the police. At the time, the violation of entry bans resulted only in a fine, although its collection from irregular and penurious non-citizens might have been impracticable. Another Estonian man, who had lived around eight years in Finland and had served a prison sentence, told he had even taken “the same ferry back to Helsinki”:

I have screwed up my life. I know I have done mistakes but nothing too bad. I have appealed against the ban, but it doesn't matter that much, because I can come back here anyway. So, the removal is like a free return ticket. My daughter lives here in Finland, so of course I want to see her.

In addition to EU citizens, national entry bans reintroduce internal borders inside Europe for third-country nationals who had a legal residence status in another EU member state. This was the case for West Africans, whose detention and removal were often related to minor drug offenses, mainly possession or selling a few grams of marijuana. As almost all detained West Africans had a residence permit in Italy or Spain, they were removed to those respective countries instead of their country of citizenship; in addition, they received only a national entry ban to Finland. Similar to EU citizens, West Africans were eager to be “deported as soon as possible” and return back to Milan or Barcelona. However, many detainees did explicitly oppose the entry ban or its length, as indicated by a West African man whom I met again in the detention unit months later:

Why they gave me this ban, I haven't done anything wrong, but I got the ban to Finland! I am fine with removal, just send me back to Italy, no problem. But now they say I cannot come back here for two years. I don't understand why. I have friends here. I want to come visit them.

Indeed, during my fieldwork as well as at the court hearings I followed, many detainees stated that they do object to the entry ban or its length, regarding it as an excessive sanction even if agreeing to return (also Di Molfetta and Brouwer 2020). While removal is often regarded as a double punishment after criminal sentences (e.g. Fekete and Webber 2010), entry bans constitute an additional sanction for non-compliant or criminalised migrants, extending the ramifications of the removal orders. Moreover, the police can issue entry bans and enforce

removals *without* criminal sentences for temporarily visiting third-country nationals in Finland, as another West African man underlined:

The police gave me charges for drug selling, when I just happened to be in a park. And they gave also a two-year ban to Finland. Is this how the system works in Finland? The police said the trial will be in some weeks, but I will not be here. I have very bad experiences in Finland. They stopped me already at the airport. They said I have a ban to Finland, but I have never been here before. They checked my fingerprints, and said sorry, it was a mistake.

As suggested in the account above, border control and crime control involve racialised and gendered practices that target young migrant males in particular. In addition to West and North Africans, many detained Eastern European nationals likewise regarded immigration detention and entry bans as a racialised practice. While the enforcement of national entry bans is intertwined with crime control in Finland, the police practise ethnic profiling in connection with immigration checks, police patrols, and traffic control, which predominantly concern young men belonging to racialised minorities (Keskinen et al. 2018). In addition to causing sudden disruption to non-citizens' plans and everyday life, entry bans also complicated their regularisation efforts.

### **Complicating regularisation**

Compared to EU citizens and legally residing third-country nationals, returning migrants subject to Schengen entry bans face greater risk of apprehension immediately in arrival due to entry controls at the external borders. In addition to the entry bans issued by Finland, the Schengen borders defined by other states – whether Germany, Italy or France, for example – can be materialised in Finland as well. In contrast to non-citizens with national entry bans, non-citizens with a Schengen ban were detained mainly at external borders as they tried to enter the country with borrowed or counterfeit documents. The entry bans were difficult to discern for detainees with diverse individual migration histories, as one West African detained at the airport explained at first:

It's confusing. The border guard said I have been here before and I have a ban to Finland. Yes, the passport was not mine. I bought it. The border guards took my

fingerprints three times, but they mixed me with someone else. I have lived in Spain for years, and then I was deported once. I was about to apply for asylum, but I don't what is going to happen now.

However, this individual probably did have a Schengen ban – or possibly several national entry bans – as he later revealed having been removed from other Nordic countries earlier. In addition to new asylum applications, entry bans are likely to have negative effects for residence permit applications based on intimate relationships, which appeared to be the main regularisation strategy among detained non-citizens (see Ambrosini 2012). Authorities tend to interpret marriages contracted in informal positions as an attempt to circumvent the entry requirements; in fact, having children might be the best proof of existing social ties in the country because non-registered relationships, informal residency periods or unofficial employment are not counted. Moreover, the police can deport non-citizens despite their pending applications based on prior removal orders and effectual entry bans. Existing family relations and children were the main reason for many detainees to return to Finland, as was the case for a North African man who had returned despite the Schengen ban:

I don't understand why they rejected my permit application and deported me, even if I have a child here. I said to the police that if they deport me again, I will come back here again, they know that. I said to them we would all save a lot of money if they would just give me the papers.

Removals and entry bans endanger non-citizens' right to family life, despite the fact that existing family relations are supposed to be taken into account when considering the issuance of entry bans and their length. Moreover, family members can provide their own responses to the entry ban and removal decisions, which can leave foreign men in a vulnerable position, for example, in the case of relationship disagreements. Entry bans prevent visiting of family members for years and can consequently break family relations that could otherwise provide a basis to reapply for a residence permit. In particular, long-lasting Schengen entry bans accompanying deportation decisions for foreign offenders who had lived most or all of their adult lives in Finland and had family members, spouses, or children in the country exacerbated the pains of removal and appeared as an end to their family life (Hasselberg 2016; Di Molfetta and Brouwer 2020), as a Middle Eastern man highlighted:

I cannot come to Finland for years, even if my family is here. The police said that they can go to visit me there, but it is very difficult for them, even dangerous. I am afraid that I won't see my children ever again. If it was only me, I could manage this, but now I cannot even think about the next day.

Notwithstanding the more severe implications of Schengen entry bans for third-country nationals, national entry bans caused also problems for the settlement of EU citizens. In practice, the entry ban is the only instrument to “illegalise” EU citizens entitled to free movement in the Schengen area, because the registration requirement for over 90 days of residence is practically impossible to control (see Queiroz 2018). Although a national entry ban did not seem to cause considerable problems for Estonians' employment in the construction industry, likely due to their informal working arrangements and their good relationships with fellow Estonian supervisors, it does also exclude EU-citizens from public services and the formal labour markets. Therefore, the system pushes banned non-citizens into “illegality”, as a Romanian man who had lived for almost ten years in Finland and deported more than ten times recounted:

This is maybe my ninth time in detention, I don't remember anymore, too many times. But this system pushes you to do illegal things. You have to enter illegally because of the ban. It's not possible to get work. I cannot get registered or get social benefits. I am at a dead-end, I don't want to live like this. I just want to have a normal life, to be with my kid and my wife.

Entry bans not only complicate regularisation and keep non-citizens in a state of deportability (de Genova 2002), but they compel reliance on informal employment or criminal activities for income. By returning, banned non-citizens risk getting into a spiral of accumulating administrative sanctions or even receiving a prison sentence, once caught. In addition to new criminal offenses, violations of an entry ban or “illegal” employment can result in the extension of the ban. Notwithstanding detainees' varying situations, the threat of Schengen entry bans, in particular, affected detainees' strategies and remigration plans as they tried to adjust their mobility accordingly.

### **Adjusting mobility strategies**

Notwithstanding that most detainees have an enforceable removal decision, the police continue to negotiate with detainees on the implementation of removal in pre-removal hearings, where they discuss the option of a voluntary return and make risk estimations on the need for escorted removal (Könönen 2021; Cleton and Chauvin 2020). While many detainees had already received entry bans based on non-compliance or criminal offenses, those with pending decisions could avoid the entry ban by opting for a “voluntary return”. For example, this was the case for dozens of South Asian asylum seekers caught at the northern border-crossing site on their way to Sweden, as they had not received their asylum decisions. In addition to financial support, the future possibilities of legal movement also played a role in their decisions to return voluntarily, as one of them explained:

It is good to keep the records clean. Maybe I will have some options in the future to come back to Europe, you never know. But I think it is good to have options. Maybe I want to come visit here and need to apply for a visa.

Therefore, avoidance of Schengen entry bans can be a significant factor in opting for a voluntary return in the prospect of inevitable removal, although the issue remains largely unaddressed in deportation research. Despite preventing the issuance of a visa for the period of validity, entry bans and removals as such do not exclude the possibility of obtaining a Schengen visa afterwards. The relevance of entry bans is dependent, of course, on non-citizens’ remigration aspirations, which in turn are connected with their social ties in the country of residence, on the one hand, and their situation in the country of removal, on the other. Therefore, the Schengen entry ban can be irrelevant for those who neither have intentions nor realistic opportunities to return to Europe. Nevertheless, the threat of an entry ban can shape non-citizens’ regularisation strategies as well. For example, an Eastern European man who had returned “voluntarily” from Finland earlier reflected on his options as follows:

When I got the negative [decision], I returned with the IOM [the International Organisation for Migration] because otherwise I would have got the ban. I still got problems there, I cannot live there. If I apply for asylum and get a negative again, I might get the ban. That’s why I am thinking to apply for a work permit but it costs like 500 euros. But my boss wants to help me. He knows I am a good worker and wants me back to work.



Of course, not all detainees had information on the immigration system or the resources to consider future prospects; for example, some detainees awaiting removal to conflict areas or otherwise precarious circumstances were distressed about the impending removal.

Notwithstanding diverging vulnerabilities and masculine border culture that embraces skills in irregular migration (e.g. Juntunen 2002), deportable migrants' previous experiences in irregular border crossings also seemed to shape their attitudes towards removal and entry ban. In particular, many North African as well as East European veteran migrants (see Andersson 2014) did not appear to be anxious about the removal and the Schengen entry ban or related stigmas, as they claimed to have networks and accessible ways to return quickly back to Europe. Then again, a middle-aged Albanian man was distressed not only about the removal but also the Schengen ban after several unsuccessful asylum applications in different countries:

The police are gonna deport me to Albania, maybe next week. And I got two years ban from Schengen, so Schengen is finished for me, Europe is finished for me. What can I do now? I have problems in Albania, now also problems with the immigration system here. Where can I go now?

While the lasting effects of deportations are usually related to deportation stigmas and post-deportation vulnerabilities (Schuster and Majidi 2015; Peutz 2006), it is precisely through entry bans that the border regime temporally extends its legal grip beyond the implementation itself. In this respect, it was highly interesting that some detainees talked about their removal orders *in years*. For example, one Estonian said, "I have deportation for 10 years" when explaining his recurrent removals – illustrating the temporal duration of removal. Similarly, a deported South Asian citizen planning to come back to Finland to apply for a visa sent me a message asking, "How long will my deportation last?", referring to the duration of his Schengen entry ban. While Schengen entry bans entail more severe ramifications for future mobility, national entry bans also caused frustration among detainees, as was the case for one Estonian man:

I am getting really pissed off about this. I thought the ban was over but now they gave me a new one! Maybe I should find work elsewhere, in other countries. I

am a professional construction worker. There is always a need for good workers. I have a friend in Australia. He could help me to get work there.

While the end of a national entry ban restores mobility rights for EU citizens with respect to the country in question, recurrent removals and detentions may lead some to change their plans, provided that they have other options. EU citizens and other legal residents have the right to move to other Member States in the Schengen area as well, although they may have several national entry bans in different countries. For example, one young Romanian man shared that he had national bans in France, Germany and Sweden at least, and “maybe elsewhere, I don’t remember”. Notwithstanding different opportunities for movement and diverging vulnerabilities, the aforementioned examples demonstrate that many non-citizens are aware of the entry bans, which affect their current struggles as well as their future plans.

## **Conclusions**

In this article, I have discussed the significance of entry bans for deportable non-citizens, drawing on multi-sited research on the immigration detention system. In addition to the type of the entry ban, deportable non-citizens’ aspirations for return varied depending on their social ties and (informal) economic opportunities in Finland or elsewhere in Europe, and their situation in the country of removal, including available routes and related costs for movement. Compared to Schengen bans and risky and expensive options for return from most third countries, the deterrence effect of national entry bans appeared to be rather non-existent due to the absence of formal border controls. However, detained non-citizens subject to a national entry ban were caught inland in connection with criminal investigations, traffic control, or other police operations, involving potentially racialised and gendered practices (see Keskinen et al. 2018). In particular, Estonian EU citizens are repeatedly detained and removed from Finland based on an effectual entry ban (or new offenses possibly extending the ban), constituting particular irregular migration dynamics between the countries. However, other EU citizens, East European nationals and legally residing West Africans were detained again as well, due to entry bans accompanying crime-related removal orders. Notwithstanding the significant differences for future mobility, national entry bans likewise prolong non-citizens’ deportability and complicate their regularisation (for example, based on intimate relationships) in the deporting country. Despite detention units providing limited information on the role of entry bans in promoting voluntary return, at least some detainees tried to avoid

an entry ban as they sought to keep open their future options. Furthermore, the fact that many detainees explicitly opposed the issuance of entry bans or their length, even if accepting removal, demonstrates the relevance of the entry bans for non-citizens.

Due to a lack of information on entry ban policies, and as well as significant differences in migration patterns and immigration enforcement practices in the EU countries (Leekers and van Houte 2020), there is need for future research and empirically grounded analyses to better understand the relevance and functions of entry bans in different contexts. Enforced removals do not necessarily entail the end for movement: alongside precarious or dangerous circumstances in the country of removal, existing family relations and (informal) income opportunities are significant reasons for return regardless of the type and grounds of entry bans. In addition to individual aspirations, the significance of Schengen entry bans in promoting voluntary return and deterring irregular return is contingent on access to legal migration routes. Although it has been suggested that entry bans are irrelevant as previous removals or criminal records would preclude obtaining a visa again (Collyer 2012; Turnbull and Hasselberg 2017), third-country nationals from “safe” third countries (such as Russia) may very well get a new visa after the expiration of the Schengen entry ban. Considering the location of the main irregular migration routes in the Mediterranean Sea, entry bans may play a more important role in controlling movement across the territorial external Eastern borders. Then again, the Schengen bans issued by Finland or other Northern European states can be actualised elsewhere – for example, in Italy or Germany – long after an irregular return. Furthermore, national entry bans contribute to irregularising movement inside Europe by introducing individual borders for legally residing third-country nationals as well as EU citizens, whose struggles remain largely unexamined in deportation research (Brandariz and Fernández-Bessa 2020; Könönen 2020). In practice, the enforcement of entry bans is likely to be intertwined with the different forms of internal border and crime control measures involving racialised and gendered practices (Parmar 2020; van der Woude and van der Leun 2017). Ultimately, entry bans accompanying removal decisions for non-compliant or criminalised non-citizens represent “the punitive regulation of the poor” (Aliverti 2013), targeting presumably problematic and “dangerous” populations (see Campesi and Fabini 2020), in particular young and deprived male migrants who are involved in informal or illegal activities in the absence of alternatives.

The findings of this research indicate the emergence of a particular group of banned migrants, who are subject to recurrent removals and detention due to entry bans, and for whom deportations are indeed “a form of life” (see Khosravi 2016). Banned African and East

European veteran migrants represent a distinct masculine border culture that embraces skills in “border games” (see Andreas 2009), as well as informal or illegal means of income, diverging from the general perception of victimised and suffering irregular migrants awaiting removal to precarious conditions. Banned migrants can fall into a spiral of accumulating administrative sanctions, as they risk detention, removal and the extension of their entry ban when returning – or a prison sentence, as the criminalisation of violations of an entry ban entails new “immigration crimes” and carceral sanctions (see Aliverti 2013; Liebling et al. 2021). Notwithstanding deportable migrants’ diverging vulnerabilities, being “banned” by the EU Member States can also entail a state of indifference concerning immigration regulations, which seem to exclude them permanently from legality as their deportation orders can last for years, or even until further notice. Indeed, banned migrants’ accounts revealed ambiguity towards the border regime, reflecting the etymological origin of the word “banned” in Romance languages, meaning “both ‘at the mercy of’ and ‘out of free will, freely’, both ‘excluded, banned’ and ‘open to all, free’” (Agamben 1998: 110). In the absence of legal options, banned migrants are forced to take irregular routes, obtain counterfeited documents or invent other creative solutions for “appropriating mobility” (Scheel 2018). Recently, for example, Finnish police apprehended a man who had returned repeatedly, despite the Schengen ban, by acquiring new official passports and visas with different names and date of births – nine times (YLE 2020).

The prevalent role of entry bans in the Return Directive and the issuance of national entry bans indicate the potential temporality of removals and the probability of remigration. Therefore, entry bans recorded in the digital databases provide an important instrument for policing unwanted mobility beyond the external borders, enabling a quick removal or other punitive measures wherever banned non-citizens are identified. While supposedly promoting voluntary returns and deterrence of irregular migration, entry bans exacerbate the well-known paradoxes inherent in the European border regime by prolonging deportability and complicating regularisation for increasing number of people. Consequently, the measures taken in the name of management of migration contribute to irregularisation and the criminalisation of migratory movements, and also reintroduce borders inside Europe.

## Notes

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<sup>1</sup> For example, the Return Directive does not stipulate the length of entry bans, other than their being subject to individual assessment and that they “shall not in principle exceed five years” (Art. 11.2), and it leaves their imposition in other cases for the consideration of the Member States.

<sup>2</sup> While Turnbull and Hasselberg (2017: 151) presented a similar conclusion regarding deportable foreign offenders, the United Kingdom could only impose national entry bans due to its special provisions in the European border regime.

<sup>3</sup> Here, I use differential exclusion in a different way than “the differential exclusion model” introduced by Castles (1995).

<sup>4</sup> For the research on the detention units, I obtained a research permission from the Helsinki Social Services and Health Care Division and the detention unit directors, whereas the National Police Board granted the permission for the detention records.

<sup>5</sup> The “stateless” category includes the Russian minority in Estonia.

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