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## The Freedom of Movement in Times of Neo-Militant Democracy<sup>1</sup>

**Book review: Monika Bator-Bryła, *Public Order and Public Safety – Free Movement of Persons: The Case Law of the CJEU*, Toruń 2019, pp. 239**

The implementation of austerity policies has triggered a wave of social mobilization in crisis-driven Europe. While the ruled has begun withdrawing their political support for the ruling, the ruling has started including the qualities of non-democracies in democratic systems. They have limited democratic rights and freedoms to protect themselves from political opponents and to maintain political stability. Thus, the governments have accelerated the transformation of the liberal model of democracy into a neo-militant type. Monika Bator-Bryła's "Public Order and Public Safety – Free Movement of Persons: The Case Law of the CJEU" falls into the body of scholarship on the restrictions of freedoms related to regime changes. This book focuses on the freedom of movement, which is important in light of the European migrant crisis as well.

In determining the volume goals, the author indicates "The purpose of this publication is, i.a., the analysis of the adaptation of national legal systems in connection with the case law of the CJEU [Court of Justice of the European Union – J. R.] in the area covered by the art. 27 sec. 1 of Directive 2004/38/EC and to a smaller extent the art. 45 para. 3 of the Treaty on the Functioning of the European Union, namely restrictions on the freedom of movement of European Union citizens and their families (employees, self-employed, service

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providers and recipients) justified by the protection of national interest and exploration of this phenomenon on the basis of implemented legal instruments under EU and Polish law” (p. 8). Bator-Bryła successfully fulfills the aim by describing in detail the legal aspects of the free movement of persons in the EU, including law basics. Nevertheless, a chapter on methodological aspects of the analytical approach or at least source section would be a highly welcome supplement to the volume.

The structure of the book is well-thought. It consists of four chapters: “Characteristics of the free movement of persons in the European Union”, “Restrictions on the free movement of persons”, “Enforcement of protection of national interests”, and “Applying restrictions in practice”. In Chapter 1, Bator-Bryła observes a notorious tendency to highlight the critical role of recognizing the basic rights of EU citizens stemming from the Treaty on the Functioning of the European Union, particularly in the decisions of the Court of Justice of the European Union. According to the author, the case law of the latter indicates that the authorities of the Member States fail to transpose the EU regulations into their own legal systems properly (p. 79). As Chapter 2 shows, settled case law recognizes the jurisdiction of national courts to pass judgment whether given behavior is a real and serious menace to public order and security as well as whether the introduced measures are appropriate to the degree of violation (p. 125). Chapter 3 discusses how the rights resulting from the freedom of migration are protected in the Member States of the EU. Bator-Bryła emphasizes that on the basis of individual decisions, the Court evaluates the correctness of national administrative practices and adjusting in internal legal regulations of Member States to the rules shaped in previous jurisprudence and legal regulations (p. 152). The Court also verifies to what extent national measures derogating from Treaty freedoms comply with fundamental rights (p. 152). The last chapter sheds light on the measures introduced against citizens of the EU and their family members (p. 155). It discusses the aspects and possibilities of bans on leaving, entry bans, and expulsion (p. 162).

To sum up, this publication is particularly informative about the freedom of movement restrictions, and as such, it may serve very well as both reference book and handbook. The students of international law and neo-militant democracy will substantially benefit from a highly informative description of the scope of free movement of persons in the EU, EU legal acts and judicature of the Court of Justice of the European Union, limitations on the free movement, the protection procedure over the limitations, bans on leaving, entry bans, and expulsion as the measures taken against citizens of the EU and their family members. Finally, researchers interested in the legal aspects of the restrictions will find the reference list as a comprehensive source of reading hints.