



**BEUCITIZEN**  
BARRIERS TOWARDS EU CITIZENSHIP

## 'Introduction of Cross-Cutting Themes'

*'Further Conceptual Elaboration of the Original Research Design'*

**Edited by Sandra Seubert (GUF) and Frans van Waarden (UU)**

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### **Introduction of Cross-Cutting Themes: Further Conceptual Elaboration of the Original Research Design**

Edited by Sandra Seubert (GUF) and Frans van Waarden (UU)

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## **Executive Summary**

D2.1. provides further elaboration of the original research design and informs about ideas for the final Volume II of bEUcitizen. It is closely connected to task 1 of work package 2: specifying various concrete tasks for the different work packages and formulating overarching questions suitable to provide substantive cohesion and integration of the overall project. The elaboration of 10 cross-cutting topics (to become chapters in the “horizontal” book, D2.3.) is a first step towards this goal. Discussing these cross-cutting topics is supposed to feed, infuse and inspire the work done in the different work packages and to build cross-cutting connections between them. Themes 1-10 merge into a valuable overview of the multi-faceted research on (EU) citizenship. They access the main issues of EU-citizenship and citizenship in general from different angles and different disciplines. Taken together these contributions help to identify barriers towards EU citizenship and ways to overcome them. Each Theme formulates questions how it might feed and be fed by further information and findings in the other work packages.

D2.1. is mainly meant for internal use. Its functions are firstly to inform about preliminary ideas, eventual contributions to planned final results and secondly to make out some more of less specific guiding questions that connect the work done by the single researchers in every different work package to the project as a whole. This task implies a normative yardstick, a clear picture of what would be a ‘good’ EU citizenship practice. Elaborating on such a normative yardstick is a meta-topic that cuts across the range of cross-cutting topics presented in this working paper.



## 1. Introduction

- By Frans van Waarden (Utrecht University)

The general aim of WP2 is to provide **substantive** coherence and **integration** of the project by **'bridge building'** between theory and empirical work; between the literatures in the disciplines involved in our citizenship debate: law, philosophy, social and political science and history; and between the work done in the different work packages.

At the same time this WP has an element of a **synthesis**. The concrete findings of the work in the various other work packages will in this WP be integrated at a higher level of abstraction, by taking elements of those WP products to be fed into some of the central philosophical issues in the theoretical debates about citizenship.

The aim is also to build bridges between WPs and participants. We want to avoid that the project falls apart in many different subprojects and scholars each doing their own thing in a little far corner of the project. Thus we aim to further substantive integration and homogeneity, by creating a real 'community of scholars'. This task will be *our own forum* where we will practice 'citizenship'. All participants should consider themselves 'citizens' of our project community, each with their own duties, but also rights.

In substantive terms we want to build bridges between the abstract general theoretical work done in legal and political theory regarding citizenship to the more concrete and specific cases in legal and empirical studies done in the other work packages. After all, the challenge in science is to move back and forth between the abstract and the concrete, translating abstract concepts and arguments in specific cases and events, vice versa perceiving the more general and abstract principles, problems, and arguments in concrete cases.



We aim to do so by further elaborating various theoretical and conceptual issues around Citizenship during the project. These discussions and studies are meant to feed, infuse, and inspire the work done in the different work packages and to build cross-connections between them. In turn the conceptual work should also be fed by questions, problems, hypotheses, subjects, ideas, and findings from the work done in the different work packages. And eventually summarized in a main concluding conference, where also contributions from the other WPs will be presented and discussed, and in a main concluding book in which several more cross cutting themes will be elaborated, building upon findings of the other work packages.

The need to react to input from the other work packages requires a certain flexibility in programming and makes it difficult to plan this work package now already in detail. There has to be some room for modifying the program in response to issues, needs, questions, ideas, or findings from the other WPs.

Nevertheless, there are a number of topics which are central in the past and present citizenship debates, which are very relevant to our project, and which provide a starting point for the program of this WP. They are mentioned as provisional subtasks under the description of work.

This first deliverable of WP2 introduces these topics, which are - once fed by further information and findings from the other work packages - to become the subject of a chapter in the concluding 'horizontal' book volume of the whole project.

Therefore, it is mainly meant for internal use, i.e. it is in first instance addressed to all the other participants of our project. Its functions are: to inform them about preliminary ideas for these eventual contributions to the planned final result; about the topics and concepts to be addressed there, and the questions to be posed and hopefully eventually answered more precisely, to ask some more or less specific questions to the whole project team, e.g. regarding issues to be addressed also in their WPs, or information from their WPs that could be useful for writing the chapters to the horizontal volume.





In summary: to plan ahead to eventually being able to write an inspiring and successfully uniting horizontal volume

Therefore, this deliverable contains chapters, written by the participants of the WP2 core-group, which provide:

- a. an elaboration of the topics to be addressed in the concluding 'horizontal' volume,
- b. an introduction in the existing relevant literature for that topic: concepts and typologies used, their history, questions asked, hypotheses developed, research findings until now, etc.,
- c. some references for further study,
- d. where relevant an elaboration of these issues for the different topics of the other WPs (history, types of rights, types of groups),
- e. what specific research in other WPs could yield 'food' for the respective cross-cutting chapter,
- f. any specific questions or requests (for attention to topics or questions, for information, data, references) to those other WPs, whose answers could yield useful contributions to the drafting of the chapter in the horizontal volume.

The contributions of the different authors differ in style, structure, elaboration, referencing (footnotes or bibliography), and length, but we have refrained from streamlining those. For one, this is to leave the different authors for the time being in their own right. And some of the differences are differences in styles between disciplines. But we have also done so because this document is primarily meant, as said, for internal use.



## 2. Overview of the topics

Topic	Author(s)
1. Introductory Reflections on Citizenship from Political Philosophy	Sandra Seubert (GUF, Frankfurt/M)
2. The evolution of Citizenship Rights over Time	Marcel Hoogenboom and Maarten Prak (UU, Utrecht)
3. Rights in the Market versus in the Polis	Frans van Waarden (UU, Utrecht)
4. Citizenship, Equality, and Work	Hartley Dean (LSE, London)
5. Citizenship as a Balance between Rights and Duties	Jan Komarek (LSE, London)
6. Effects of Shifting Borders on Coherence of Communities and Identities	Vit Hlousek (MU Brno) and Viktor Koska (UNNIZG, Zagreb)
7. Citizenship Rights, Welfare State, and EU	Trudie Knijn (UU, Utrecht)
8. A 'Rights Revolution' in Europe?	Christoph Strünck (Uni-Siegen)
9. EU-Citizenship: Model to other Regions and Vice Versa?	Mónica Ferrin and Francis Cheneval (UZH, Zürich)
10. EU-Citizenship and Prospects for Cosmopolitan Citizenship	Sandra Seubert and Daniel Gaus (GUF, Frankfurt/M)



### **3. Theme 1: Introductory Reflections on Citizenship from Political Philosophy**

- By Sandra Seubert (GUF, Frankfurt am Main)

Let us start the reflections on the function of this WP from the title of the project: *Barriers towards EU-citizenship*. What are barriers and why do they matter? Why is it important to remove them? Why exercising EU-citizenship rights?

There is a practical aspect in these questions and a normative one. The practical aspect surely was one motivation why the Commission sent out the call: Taking the status quo of citizenship rights in the EU as a starting point, one might ask why people do not make more active use of their rights. Do they lack information? Are there bureaucratic hindrances? Do some (are all) of them do not have the necessary social and material resources? The normative aspect of the questions is conceptually more demanding. How is the status quo of citizenship rights in the EU to be evaluated? What would be a good, a successful use of rights? In how far is citizenship related to the active use of rights? What meaning do rights have in the concept of citizenship anyway?

It soon becomes obvious that by pushing the questions in this direction we are touching fundamental problems of current democratic and citizenship theory. It is self-evident that every Work Package at a certain time will relate to the normative aspect of the question in one or the other way. It is hard to analyse the shortcomings of a “citizenship reality” without any reference to a “citizenship ideal”, without asking what the promises and prospects of citizenship in general and EU citizenship in particular are. Developing such a “citizenship ideal” is related to the question what kind of political entity the European Union is supposed to be or to become, what the dynamics and directions of its developments are. We cannot and we should not avoid the systematic integration of



these normative reflections in our project and we somehow tie them up in this WP 2.

There are two extremely important and interesting positions in the project proposal. The first refers to the *multilayeredness* of the European Union. It is supposed to be the first and largest barrier to the exercise of citizenship. This might indeed be the case but not only because the European Union competes with other local, regional and national communities and identities. Again, multilayeredness might be related to practical or to normative barriers. The concept of multilayeredness still doesn't answer the question of what kind of polity we are dealing with. The European Union is considered to be a federal *polity* but not a federal *state*. Some call it a "supranational polity in the making" (Bauböck 2007), others insist on its multilateral character (Bellamy 2008, Cheneval 2009). What then are the appropriate standards by which to judge this political entity? A certain normative indeterminacy seems unavoidable and it affects the conception of EU citizenship in a profound way.

This becomes obvious in the debate about how far EU-citizenship offers any effective rights of its own directly or if it only borrows them and is derivative from national citizenship. As is well known, EU-citizenship is restricted to citizens of a member state and the Treaty of Maastricht insists that it must complement and not replace national citizenship. Nevertheless the Treaty also envisages a certain developmental perspective (Art. 22 EC, Besson/Utzinger 2008: 191) and the ECJ strongly supports this dynamic by its active case-law. The court has constantly developed e.g. the social dimension of citizenship by combining the right of free movement and residence with the prohibition of discrimination on grounds of nationality thus gradually turning EU citizenship into a source of rights of its own.

It will be the task of several WPs to analyse this dynamic in more detail. What should be made clear though at this initial point, is the systematic problem behind the term "multilayeredness": there is a disaggregation of law, constitution, state and democracy going on,



and a search for a new reconfiguration. Reflections on the future of EU citizenship will have to relate to different possible paths of this reconfiguration.

The other very important hypothesis of the project proposal refers to the *multidimensionality of rights*. Citizenship is constituted by rights, but the exercising of rights might be hindered by the existence of other rights that intervene and reduce these rights. How can this be the case? This hypothesis is provocative: It raises doubts about the compatibility of market freedom and political freedom (which is one of the corner stones of liberal democracy) and implies the question, if the four freedoms of the EU single market have the potential to undermine democratic citizenship. Is it possible that European Citizenship – according to the Commission “the corner Stone of political integration” – be its own and most serious barrier?

That would be really paradoxical. Of course, the answer to this question is again dependent on the empirical analysis of how the different rights are exercised, if and how they clash, what role the judiciary plays in this process etc. But it is also dependent on the different normative paths different theories of democracy and citizenship offer. It would certainly be too much to extensively map the theoretical landscape here. Just let me point out two different positions about the concept of citizenship that might be of interest for us, and highlight a few confrontations and convergences about paths of European integration.

### **3.1. Concepts of citizenship**

The first position states that citizenship is to be constructed as a *bounded concept*. That means citizenship always refers to a membership status: membership in a group. What is indispensable then is a “we-perspective” for social and political integration and equally unavoidable are procedure of inclusion and exclusion to distinguish one group from another (Habermas 1992). There are differences about whether this we-perspective is supposed to be a



precondition for or rather a result of political participation. But anyway, it is generally agreed upon that the concept of the nation and nationality played a key role, at least historically, in successfully generating such a we-perspective. If the we-perspective of the nation-state is diffusing then the EU has to reach out for a substitute.

The second position focuses on the universal aspect of citizenship. In principle, so is the statement, citizenship ultimately is to be conceived of as *unbounded*. It is always in struggle, an always unfinished process of overcoming exclusions, including ever more categories of persons and even non-persons (citizenship rights of non-human animals, Nussbaum 2006). From this perspective the concept of modern democracy is linked to the idea that the individual as such and not as a member of a pre-existing group, can claim rights. The nation state used to monopolize the protection of these rights, but this is no longer the case. Sure, political rights are the core of citizenship rights but the institutionalization of these rights has created and always creates anew unjustified boundaries (“the foreigner”, Honig 2003). This perspective brings forward an interpretation of democracy that revolves around the idea of individual rights and is no longer in need of presupposing a strong community – some argue not even in need of the idea of a demos any more. It is only the claim for an equality of rights that breaks up the communitarian logic inherent in every appeal to a sovereign ‘people’ as a collectivity (Colliot-Thélène 2011: 196). The ultimate claim that moves the dynamic towards inclusion is the “right to have rights” (Arendt 1951: 177). Rights are the medium necessary for individuals to shake off subjection and to be protected against arbitrary power.

From this angle EU citizenship seems to be the ultimate realization of the normative core of modern democracy. It is built on rights and hasn’t much more to offer than rights. But there seems also no need to offer more. A German newspaper article on the 60th anniversary of the *European Convention of Human rights* on Sept. 3rd (*Süddeutsche Zeitung*, 3.9.2013), was titled “Europas



Rechtskraft” and stressed that Europe’s power lies primarily in the power of law – a potential achievement for humanity as a whole.

1. There are mediating positions between these two poles “bounded/unbounded”: an antinomy deep at the heart of the concept of citizenship that cannot be resolved (Balibar: 2014).
2. And there is alarming critique of the second, mostly by neo-republican positions: “Rights do not constitute citizenship. Rather, citizenship constitutes rights (...)”, (Bellamy 2008: 606). Rights allow citizens to determine the public goods on which their rights depend on an equitable basis. This argument is used to stress that the various peoples of Europe have developed different rights regimes by exercising their most basic political rights as citizens. And that the ECJ has no legitimacy to undermine this diversity: the domestic understandings of constitutional rights, their specific hierarchy and balancing.

The logic behind the Courts rulings is not only accused of fostering a logic that favours the center, but also of implicitly favouring a form of market citizenship that potentially conflicts with political citizenship. At the heart of EU citizenship are the four commercial liberties of the market. What it has to offer is of particular relevance for a certain category of persons: those moving to or trading with citizens of another member state. The EU itself does not provide citizens with any goods or services, thus its rights are “thin” and with little meaning for large parts of the people. From a republican perspective European integration is an attempt to build political and social integration on individual rights - an attempt which, so the assumption, is destined to fail if it is not backed by stronger political integration.



## **3.2. Confrontations/convergences**

### *3.2.1. Liberal/republican*

Liberal and republican approaches differ around the question of how to conceive of politics and morality and this influence their conceptualization of citizenship and democracy. Looking at the history of ideas it can plausibly be argued that there was a fundamental shift from an Aristotelian understanding of the citizen as a political being to the Roman understanding of the citizen as a legal being. As J.G.A. Pocock argues, a new relationship between persons, actions and things was established. "From being *kata phusin zoon politicon*, the human individual came to be by nature a proprietor or possessor of things; it is in jurisprudence, long before the rise and supremacy of the market, that we should locate the origins of possessive individualism" (Pocock 1995: 42). Neorepublican positions interpret this as a "privatization" of the rights of citizenship. Citizenship "shifted away from the ability and duty to be self-ruling, to one of unqualified entitlement for each and every adult (...) (Bellamy, Castiglione, Shaw 2006: 3). According to this analytical distinction republicans prioritize a "citizenship-as-participation model", communitarians adopt a "citizenship-as-belonging model" and liberals advocate a "citizenship as rights model".

### *3.2.2. Statist/cosmopolitan*

The nationalization of citizenship has been an important moment for the way we conceive of the concept of citizenship today. Modern Citizenship has come to be bound up in a package with other concepts such as state sovereignty, territoriality, universal rights and democratic constitutionalism. The normative promise we have come to associate with this concept – individual and collective self-determination – is linked to this process. But even if the nation





state was a successful catalyst it might be only one possibility for constructing group membership. The nationalization of citizenship occurs at a certain time in history. And it was an ambivalent process: although on the one hand enabling, on the other hand coercive (with regard to ethnic minorities and other excluded categories of persons). The binding up of the package occurred only recently and step by step. There were more disaggregated forms of citizenship earlier in history and there might be more disaggregated forms later.

There is an overwhelming agreement on the continuing role of the nation state - even Habermas, whose position is still most often associated with a cosmopolitan perspective, in certain respects holds on to it (Habermas 2012). At the same time there is a convergence towards some idea of “democracy”: an idea that has come up in a number of theoretical contributions most recently, but that still leaves enough room for conceptual disagreement (black box). And *there is* indeed continuing disagreement on the dynamics of EU-citizenship: whether these dynamics are to be interpreted as a threat to a form of democratic citizenship that was and ought to be realized within a nation state with strong social-democratic institutions or whether denationalization is, on the contrary, the appropriate answer to deficits of legitimacy of national citizenship and a step towards democratizing it.

### 3.2.3. *Embedded normativity/disembedded markets*

An optimistic view on the future of the European Union refers to an embedded normativity: there are “normative codes” (Eriksen 2013) embedded in the political institutions of the European Union that unfold their “force of reasons”. Democracy, Rechtsstaat, human rights, responsible government etc. are the discursive codes of political institutions that stem from the common constitutional traditions of the EU member states. Despite their indeterminacy these discursive codes have their own normative weight and obtained quasi-empirical status, they have become “social facts”.



A pessimistic view points to the force of disembodied markets: European integration is disclosed as the “great illusion” (Streeck 2013 a, 2013 b). Political community never was anything more than a monetary community which now, in the financial crisis, is about to break up. No closer union will follow the currency union, on the contrary: stabilizing the European currency brought up the nations against each other as never before in the post-war era. In the times of crisis management European integration has become another word for hegemonic standardization, a technocratic, authoritarian implementation of a capitalistic monoculture.

### **3.3. Conclusion**

It is neither thinkable nor desirable that the societal opening-up and economic interdependence that went along with European integration so far should be turned back. But especially in the current crisis it becomes obvious that an optimistic view relying on a quasi-automatic spill-over from market to political integration is inappropriate. Any approach that is unable to answer the question where popular support for a European project of political integration is supposed to come from, how the jump from disillusionment to a new European act of founding can be mastered, is implausible. The bEUcitizen-consortium seems well-equipped to reach out for answers.

#### **References:**

Arendt, Hannah (1968 [1951]): *The Origins of Totalitarianism*, San Diego: Harvest HBJ.

Balibar, Étienne (2014): The Antinomy of Citizenship, in: *Equaliberty: Political Essays*, Durham: Duke University Press, p. 1-32 (forthcoming), dt.: Die Antinomie der Staatsbürgerschaft, in: *Gleichfreiheit*, Berlin: Suhrkamp 2013.



Bauböck, Rainer (2007) Why European Citizenship? Normative Approaches to Supranational Union, *Theoretical Inquiries into Law* 8: 2, 453-88.

Bellamy, Richard (2008): Evaluating Union Citizenship: Belonging, Rights and Participation within the EU, *Citizenship Studies* 12: 6, p. 597-611.

Bellamy, Richard/Castiglione, Dario/Shaw, Jo (2006): From National to Transnational Citizenship, in: *Making European Citizens: Civic Inclusion in a Transnational Context*, Houndmills: Palgrave Macmillan, p. 1-28.

Besson, Samantha/Utzinger, André (2008): Toward European Citizenship, *Journal of Social Philosophy* 39: 2, 185-208.

Cheneval, Francis (2009): Multilateral Dimensions of Republican Thought, in: Besson, Samantha/Marti, José Luis (ed.), *Legal Republicanism*, Oxford: Oxford University Press, p. 238-255.

Colliot-Thélène, Chaterine (2011): *Demokratie ohne Volk*, Hamburg: Hamburger Edition.

Eriksen, Erik O. (2013): *The Normativity of the European Union*, London/New York: Palgrave Macmillan.

Habermas, Jürgen (1992): Staatsbürgerschaft und nationale Identität, in: *Faktizität und Geltung*, Frankfurt a.M.: Suhrkamp, 1992.

Habermas, Jürgen (2012): *The Crisis of the European Union: A Response*, Cambridge: Polity Press.

Honig, Bonnie (2003): *Democracy and the Foreigner*, Princeton: Princeton University Press.



Nicolaïdis, Kalypso (2012): The Idea of European Democracy, in: Dickson, Julie/Eleftheriadis (eds.): *Philosophical Foundations of European Union Law*, Oxford: Oxford University Press, p. 247-274.

Nussbaum, Martha (2006): *Frontiers of Justice*, Cambridge, MA/London: Harvard University Press.

Pocock, John G. A. (1995): The Ideal of Citizenship since Classical Times, *Queen's Quarterly* 99, p. 33-55.

Prantl, Heribert (2013): Europas Rechtskraft, *Süddeutsche Zeitung* 03.09.2013, p. 11.

Streeck, Wolfgang (2013a): Gekaufte Zeit. Die vertagte Krise des demokratischen Kapitalismus, Frankfurt a. M.: Suhrkamp.

Streeck, Wolfgang (2013b): Vom DM-Nationalismus zum Euro-Patriotismus? in:

Blätter für deutsche und international Politik, Heft 9/2013, p. 92-75.



#### **4. Theme 2: The Evolution of Citizenship Rights over Time**

- By Marcel Hoogenboom and Maarten Prak, (Utrecht University)

##### ***4.1. WP 3: citizenship rights in between local and national level***

From an historical perspective, the formation of the European Union is a unique and unprecedented project. Never before in history an attempt was made to forge two dozens of highly developed nation states into a new supranational entity. For the citizens of these nation states, the formation of the EU has and will have far-reaching consequences. In the course of eighteenth, nineteenth and twentieth century in all of the EU member states citizens were gradually granted with all sorts of civil, political, social and economic rights, in each of these countries resulting in a unique configuration of citizenship. At the beginning of the twenty-first century, the further integration of EU member states has already resulted in the transfer of some of these national citizenship rights (especially civil and economic rights) to a higher – European – level and most probably will imply the transfer of many more rights in the near future. However, due to the uniqueness of the integration project it remains largely unclear how a further transfer of citizen rights to the European level can take place, what obstacles the process will encounter and which consequences it will have for EU citizens.

Yet while the formation of an entity like the EU is historically unprecedented, the process in which citizen rights are transferred from a lower geographical level to a higher one is not unique in history. In the eighteenth, nineteenth and twentieth century, in all of the EU countries the building of the nation state meant the gradual termination of the capacity of local and regional



communities to provide individuals with all sorts of citizenship rights. In the early-modern period in most European countries only those who had formal citizenship rights in a city or town were allowed to set up shop in a specific trade, represented in local political bodies and claim certain forms of social assistance. Membership of such organisations was almost everywhere reserved for people with (local) citizenship rights, while in many regions citizenship was acquired by those who had joined a guild. Already in the eighteenth century in many European states local autonomy was challenged by forces seeking a strengthening of central authority, as well as free movement of labour, but it would take until the French Revolution before local prerogatives were really undermined. In the French period (1795-1813) in most countries that were conquered by the French revolutionary forces formal citizenship was centralized, representative institutions were nationalized, local economic monopolies abolished, and attempts were made to establish national poor relief systems. Even though after the French period in most countries many of these revolutionary reforms were reversed, the move towards a further “nationalization” of citizenship rights proved unstoppable. Most European countries entered a long transition period of more than half a century in which local authority was weakened and central authority strengthened, but in which many issues concerning the granting of citizenship rights remained unresolved. Thus, the definite formal abolition of the guilds in the early nineteenth century in many European countries was not accompanied by the establishment or emergence of new entities on a higher geographical level entrusted with the tasks the guilds until then had performed, like market regulation, skills formation and welfare provision. Only when by the end of the nineteenth century the process of nation state building finally gained momentum, new national structures were built that were strong enough to strip the local authorities of their last competences concerning the granting of citizenship rights.



#### **4.2. Trajectories to national citizenship**

Yet the transition from local to national citizenship in Western Europe in the eighteenth, nineteenth and twentieth centuries was not as clear-cut as suggested in the above description, nor was it identical in all European countries. One of the main objectives of WP-3 is to identify different trajectories to national citizenship and to make sense of these trajectories in order to provide insights that might help us to understand the current transition from national to European citizenship more clearly.

A fruitful starting point for understanding the transition from local to national citizenship in Europe in the eighteenth to twentieth century is arguably T.H. Marshall's (1950) conceptualisation of various types of citizenship rights and his historical account of the spread of these rights. Summarized briefly, Marshall makes a distinction between three types of national citizenships rights, civil, political and social citizenship rights, that from the early nineteenth century were gradually granted – in that order – to inhabitants of national states according to some sort of “logic” (see for a more detailed discussion of Marshall's theory, Trudie Knijn's contribution to this document). The granting of civil rights (freedom of occupation, the rights to free speech, fair treatment by the judiciary etc.) at the beginning of the nineteenth century, Marshall argues, empowered inhabitants of national territories in such a way that at a later stage they could successfully claim participation in political decision-making (political rights) which, in turn, provided the instruments to realize all sorts of claims to social protection (social rights). Marshall's theory is fruitful here, because it provides us with some basic concepts to analyse the transition from local to national citizenship, and because of the idea of a “sequence”. Yet historical research suggests that Marshall's theory is not chronologically correct – at least not for all European countries – nor is his typology of citizen rights refined enough to fully understand the transition. Three preliminary observations.

*First*, in his theory Marshall utilizes the broad concept of “civil rights” which encompasses both *economic* citizenship rights (right



to choose any occupation and to produce any product) as *civic* citizenship rights (right to free speech, fair trial etc) , while it might be argued that in the historical analysis of the spread of citizenship rights in Europe a clear-cut analytical distinction between the two “sub types” of civil rights is needed to understand the granting of citizenship rights in Western Europe, both in the era of the guilds and autonomous cities and towns as in the age of the nation state. As has been argued in the previous section, until the French Period in most Western European countries civic, political and economic citizenship rights were closely connected at the local level, as were the access to the guilds and “membership” of the local civic and political community. Yet in practice the types of rights were clearly separated. Until the French period in many regions in Western Europe the guilds were capable of granting economic rights, whereas in most cases the granting of civic and political rights was the prerogative of the city council (Burm, De Munck & Davids, forthcoming; Prak, forthcoming). As in the nineteenth century the transfer of citizenship rights from the local to the national level in many countries took more than half a century, for a long time the distinction between economic and civic citizenship rights remained highly relevant (Crouch 1993).

*Second*, a clear-cut analytical distinction between economic and civic citizenship rights is also crucial to understand the “*sequence*” in the relationship, both from short- and long-term perspective. Thus while in some regions in Western Europe guild membership – i.e. economic citizenship – in time provided access to political and civic citizenship in a city or town, in other regions it was exactly the other way around. And when as from the end of the eighteenth century local citizenship was gradually replaced by national citizenship similar differences across Europe could be observed. Thus, it seems that in the United Kingdom the granting of economic citizenship rights largely preceded the granting of political and civic citizenship rights, while in many continental (Western) European countries it was the other way around. While we do not yet understand *why* the sequence was different in various Western European countries, we may hypothesize that the specific trajectory





in a country had some important consequences. For example, the relatively early “freeing” of large sections of the labour force from its feudal and guild ties in Britain might explain the relatively early industrialization of the country and, some decades later, the concentration of labour union activities on the shop floor, instead of the national political arena. Conversely, the relatively early introduction of political citizenship rights in France might account for the “politicisation” of the labour movement in this country and possibly the emergence of national corporatist structures (both in political decision-making and in the welfare state) by the end of the nineteenth century (cf. Crouch 1993, Hall 1986).

*Third*, while Marshall suggests that historically the granting of various citizenship right types in Western European countries occurred in a more or less “unilinear” manner, without any “regressions”, historical evidence demonstrates that this was not always the case. As Sandra Seubert rightly argues in section 3 of this delivery: “[c]itizenship is constituted by rights, but the exercising of rights might be hindered by the existence of other rights that intervene and reduce these rights”. It even seems that certain citizenship rights granted at an early stage *de facto* became void when another type of citizenship rights was granted at a later stage. For example, in some Continental (Western) European countries the abolition of all sorts of hindrances to labour mobility in the second half of the nineteenth century provided many workers with access to other nations’ labour markets, which implied the granting of economic citizenship rights. But when, in the first decades of the twentieth century, the granting of political citizenship rights resulted in the establishment of national social security schemes the access of foreign workers to national labour markets was largely barred (Lucassen 1998, Hoogenboom 2013). There is also evidence that suggests that the *sequence* in the granting of various types of citizenship rights was an important factor. Thus, in those nations where political citizenship rights were granted before political citizenship rights (some Continental Western European countries) and, as a consequence, the labour movement became “politicized”



at an early stage, social citizenship rights were mainly granted to workers, which in many cases implied the exclusion of women.

#### **4.3. WP 3, WP 2 and the other WPs**

Work Package 3 deals with many of the subjects that are addressed in the most of the other work packages too – albeit that WP 3 analyses these subjects in a different time frame (eighteenth – twentieth century). Therefore, the work of WP 3 can both inform and be informed by the researchers in the other work packages. As mentioned above, already in the eighteenth century local authority was increasingly challenged by the central state, a tendency that was intensified in and after the French period, resulting in rivalling local and national citizenship claims (WP 4), and rivalling types of citizenship rights (see above, WP 5-8). Moreover, in this period the expansion of central state powers enabled the gradual emergence of national economies in which the hindrance of free movement of trade and employment (WP 5) by local institutions became a serious problem. At the same time, growing labour mobility between local communities also triggered the issue of access to social rights (WP 6), as until the end of the nineteenth century welfare provision remained to be organized on the local level.

In addition, there is the collective task of connecting the results of WP 3 to the results of the other WPs or, to put it more accurately: to connect the insights concerning the period c. 1750-1920 to the insights concerning the present. Therefore, the project would much benefit if WPs 4-10 would also have a historical dimension, i.e. would also pay attention to the genesis of – both national and European – economic, social, civil and political citizenship rights in the twentieth century up till the present.



### **4.3. References for further study**

So far, not much has been written on the transition of citizenship rights from the local to the national level in eighteenth, nineteenth and twentieth century Europe. Most of the works that address the issue only cover one or at most two countries. The scarce articles and books that cover more than two countries tend to suffer from the same problem: these comparisons address different levels of generalisation, and at those different levels also different topics. Most useful works are: A. Black (1984). *Guilds and Civil Society in European Political Thought from the Twelfth Century to the Present*. London: Methuen; C. Crouch (1993). *Industrial Relations and European State Traditions*. Oxford: Oxford University Press; P.A. Hall (1986). *Governing the Economy. The Politics of State Intervention in Britain and France*. Oxford: Polity Press; H. Slomp (1990). *Labour Relations In Europe. A History of Issues and Developments*. New York: Greenwood; C. Tilly (2004). *Contention and democracy in Europe, 1650-2000*. Cambridge: Cambridge University Press.

### **References**

Burm, E., B. De Munck and K. Davids (forthcoming). 'Beyond exclusivism. Entrance fees for guilds in the early modern Low Countries (c.1450-1800)'.

Crouch, C. (1993). *Industrial Relations and European State Traditions*. Oxford: Oxford University Press.

Hall, P.A. (1986). *Governing the Economy. The Politics of State Intervention in Britain and France*. Oxford: Polity Press

Hoogenboom, M. (2013). 'Transnational Unemployment Insurance: The Inclusion and Exclusion of Foreign Workers in Labour Unions' Unemployment Insurance Funds in the Netherlands (approx. 1900-1940)'. *International Review of Social History*, 58 (2): 247-284.



Lucassen, L. (1998). 'The Great War and the Origins of Migration Control in Western Europe and the United States (1880-1920)', in Anita Böcker et al. (eds), *Regulation of Migration: International Experiences* (Amsterdam), pp. 45-72.

Prak, M. (forthcoming). 'Access to the trade: Urban craft guilds and social and geographical mobility in early modern Europe'.



## **5. Theme 3: Market versus Polis Rights?**

- By Frans van Waarden (Utrecht University)

In the paper below I develop some rough arguments, eventually to be corrected, amended and/or elaborated in a chapter to the horizontal volume that our bEUcitizen project under WP2 is to produce near its end. Input from the scholars participating in other WPs is not only welcome or desirable, but may be also essential to correct, adjust, illustrate, elaborate the facts as well as the reasoning in my theses. And to provide further facts and argument pro as well as contra the theses advanced here.

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### ***5.1. Historical: Markets turned also in a Polis***

Of old, the market and the polis coincided. The Athenian agora was a 'gathering place' where people – citizens(!) - did not only trade goods and services, but also ideas, interests, arguments, and opinions. It may have been in first instance a marketplace, but it became also a place where the people assembled to govern themselves. Commercial and political activities were intertwined. This close relation between market and polis was largely maintained in medieval cities. City charter rights, acquired from the king or emperor, concerned usually both the right of 'communes' to regulate their own affairs - notably to organize their defense - as well as the right to hold a market. Their organizations of economic life – guilds – and political life – the magistrate were often intertwined. Guild masters became mayors and the guildhall could also serve as meeting place for the magistrates. The relation is also apparent from the words in some European languages. Thus Dutch



cities had 'gildemeesters' (guild masters) as well as 'burgemeesters' (mayors), a term still used. Via such channels guildmasters could exert political influence. Vice versa, the magistrates could directly influence and regulate trade and handicraft.

This medieval tradition lives still a bit on in some European member states. More modern forms of such associational self-governance of markets typify a specific 'Variety of Capitalism' (Hall and Soskice 2001) which has also been called the 'Rhineland' or 'Polder model' (van Waarden 1995, 2013a). Thus quite a few handicraft sectors ('Handwerk' in German) in the European core - Germany, Austria, Switzerland, the Netherlands - are (or were until recently) still organized in statutory organizations - Trade and Artisan Chambers - that govern their particular market. The participants engage both in market activities - as producers, sellers, and sometimes buyers in markets - but also in political activities, directly or indirectly governing their sector. They are comparable to municipal governments. Whereas the latter govern territories, the former govern economic sectors. Just as with municipalities the 'inhabitants' of these sectors have a duty to pay taxes to a 'sectoral government' and a right to be represented in the governing council, either through direct elections (as in Austria) or indirectly through their representation by the voluntary trade unions and trade associations. Just as municipal governments, such sectoral governments regulate their domain, i.e. their markets - e.g. by setting standards for product quality, transactions, or the quality of vocational training - and in providing public goods for their sector - such as vocational training, joint advertising for generic (regional) goods, or some basic research. These sectoral governance institutions do provide also a kind of 'citizen-identity' to the 'inhabitants'. Thus German artisans proudly display their 'Meisterbrief' (passport of Chamber-membership) in their shop and even after death. Many gravestones also proudly describe the deceased as e.g. a former 'Metzgermeister'.

With the emergence of the nation-state the relation between market and polis was raised to a higher level of aggregation, but it also changed a bit. Whereas in the Athenian agora the market had



developed into a polis, now the polis nation-state came to define a market: national markets, regulated and frequently stimulated if not even created by national governments.

## ***5.2. From Common Origin to Differentiation of Market and Polis***

More recently however, the market and the polis have become increasingly separated. For several reasons. First of all, it is part of the general trend of increasing differentiation in modern societies. Second, and more specifically, the revolution in transport and electronic communication technology has produced in most economic sectors an unstoppable increase in scale, leading to a full-fledged globalization of markets. That has made such small-scale integration of the market and the polis, at least at the local territorial level, impossible. Third, the further separation of the market and the polis is not only due to technological and economic forces, but also to political choices. European integration itself has contributed to it. The EU has given liberalization of markets a high priority (see below) and has as such been rather suspicious of self-governance by industries, fearing that such regulation could turn into collusion by insiders (read nationals) against outsiders (foreign economic actors). I.e. self-regulation could be a means to keep new foreign competitors from the market. That goes against its mission to integrate European markets.

Though the market and the polis seem increasingly separated at the national or especially European level, it must be said that such is less the case at the global level. There, the opposite seems the case. The legal powers of nation-states are limited to their territorial jurisdiction. And in the absence of a global political community with enough homogeneity and hence enough legal powers to regulate global markets, market participants have increasingly engaged in politically governing those global markets themselves. We do see this e.g. in the global regulation of food quality and safety, with large supermarket chains collectively imposing similar standards on their agricultural suppliers across the world through GlobalGAP



(‘Good Agricultural Procedures’) (van Waarden 2012). (Yet these standards do have some public backing, as they are based on the ‘Hazard Analysis and Critical Control Points’ (HACCP) guidelines from the UN FAO.) Retailers request such certification in order to buy from suppliers. And private commercial auditing firms rather than public inspectors control the observation of the norms by the suppliers. Thus, hindered by neither limited territorial jurisdictions nor international treaties against protectionism, such private economic actors can do what nation-states cannot. Here markets and some form of a polis coincide again, albeit that the participants in that polis are rather limited.

### ***5.3. The EU: First a Common Market, only then/later, an - albeit embryonic - Common Polis***

European cooperation and integration began in the economic sphere. Earlier post-war attempts at Europeanization to form a political and defense union failed. Thereupon the founders hoped that integration of national markets into one European one would create at least some mutual economic dependence. That would produce shared material interests as the one national economy might profit from prosperity and growth of the others. And that in turn should prevent any major future inter-state conflicts as the first half of the 20<sup>th</sup> century had seen. Furthermore, such economic cooperation and integration was considered easier to realize than political integration, as it affected national autonomy and sovereignty less directly. Carefully started, first with the integration of a few specific markets – those of coal and steel (1951, Treaty of Paris) and of atomic energy (1957) – and then also for the whole economy with the creation of the broader European Economic Community with the Treaty of Rome in 1957. The 1965 Merger Treaty joined these together into the European Community, which became in 1993 the major pillar of the three of the European Union, founded with the Treaty of Maastricht. Notwithstanding the fact that the latter Treaty introduced 2 new pillars of cooperation, the





Common Foreign and Security Policy (CFSP) and the Police and Judicial Co-operation in Criminal Matters (PJCC), the final product up until now, the European Union, still bears the imprint of its infancy. It is in essence still an economic union, with economic constraints necessitating further integration. Thus it is the current Euro-crisis which forces the member-states to further centralize economic, financial and budget policies..

Eventually, the formation of a European integrated market was also followed by the development of a European 'polis', a 'political community' in addition to an economic one. It began with the creation of the Council of Ministers, which developed into the European Council. In both the voters were or are indirectly represented through their elected governments. One could compare this institution to the German Bundesrat, the second chamber in the German parliament, where the voters are represented by the elected governments of the various Bundesländer. Except that in Europe it is the Council which is the more important and more powerful chamber, whereas in Germany that is the directly elected Bundestag. The European Council has also similarities to the American senate, in the sense that all subunits (countries respectively states) have the same vote, but with the difference that American senators are directly elected and hence do not represent the governments of the individual states. With the development of a polis out of a market explicit civic rights were introduced, as with the EU Charter of Fundamental Rights and the Area of Freedom, Security and Justice.

The creation of the Council was followed by that of the European Parliament. Its historical roots lie in the European Coal and Steel Community, which in 1958 was transformed in the European Parliamentary Assembly and in 1962 became the European Parliament. At first its representatives were selected by the parliaments of the member-states. But in 1979 direct popular election of the representatives was introduced. Over time it acquired gradually more powers, the power of the budget, followed by the introduction of the co-decision procedure, which put this chamber more at par with the other parliamentary 'chamber', the



Council. Still it does not have the formal power typical for a parliament in a parliamentary system: the power to send the executive power – here the Commission – home. Although one could argue that with the no-confidence vote of Parliament of the Commission Santer in 1999 - about a corruption affair - and the subsequent resignation of that Commission, the Parliament de facto acquired that power. Over time some also some institutions of deliberative democracy have been introduced, such as the European Ombudsman (1995) and the European Citizens Initiative (with the Lisbon treaty, 2007), the latter being an indirect and rather weak form of direct democracy. The most recent addition is the plan for a 'House of Civil Society' in Brussels. Notwithstanding all these new participatory institutions, the debate over a 'democratic deficit' of the European Union continues. (See for a good exchange of arguments the debate between Andrew Moravcsik and Yves Mény in EUI Review Summer 2009.)

#### ***5.4. Dominance in the EU of Market Principles***

Yet, Europe's inception became its conception. The - by now somewhat mature - species carries the inheritance of its inception in its dominant ideas and principles. Economics and the market still seem to dominate its character. It even seems to have become its major source of legitimation by now. Whereas initially economic integration was a means in the market to realize a goal in the polis - 'enduring peace in Europe' - , by now the economy itself has become its major source of legitimation. We seem to have gotten used to that goal of peace. Hence nowadays politicians feel more compelled to defend further European integration by the supposed positive economic results: growth, prosperity, jobs, income, etc. Even though this now creates problems in some parts of Europe, which suffer under the current 'great recession'.

Such prosperity is ever since the beginning expected to come from more and freer competition – characteristic of the market model. Cooperation – characteristic of the polis – was also – if not



mainly – required to realize and channel such competition. It started with freeing national European markets from external constraints - such as tariff and non-tariff trade barriers - as well as internal ones: a ban on cartelization and other forms of inter-firm cooperation, which was easily seen as collusion, even if it served innovation and modernization. In principle this could have even affected trade unions. After all, the latter could be considered cartels of competing workers against ‘customers’ on the labor market. As such they are not much different from organizations of other suppliers of raw materials and production factors.

Furthermore competition was to be enhanced by the ‘four freedoms’: the free movement of what comes out – goods and services - and what goes into – capital and labor - productive organizations across the EU’s territory. The non-discrimination principle fixed that these should also be treated equally all over Europe.

Fair competition requires also a ‘level playing field’, i.e. equal conditions, for all economic actors across Europe. That became an incentive to standardize market regulations across Europe, fueling a trend of replacing national or sectoral regulations by European ones. Unfair competition could also come from public aid to commercial organizations, whether in the form of financial aid, regulatory privileges, public-private partnerships, or public ownership of commercial organizations. Thus European integration became a force for privatization and deregulation, read neo-liberalism. Albeit that it were often national pro-neoliberal forces that used European market liberalization to further their domestic political agendas, in the process shifting the ‘blame’ for liberalization onto Europe.

Many of the social and civic rights of Europeans have - at least initially – been derived from these highly prioritized economic rights linked to the market principle. In order to make the European market really integrated and work well, goods, services, and production factors should be competitive and hence really compete and be mobile across member-states. But workers are different



from goods, money and machinery. They are also human beings, with human needs, for food, shelter, health care, raising a family, security, etc. Thus in order to facilitate mobility, such rights and services should also be offered: housing, health insurance, protective labor law, social security. Eventually these rights got disconnected from the relation to the labor market and became social, civic and eventually also political rights in their own.

All these initially market principles and rules and the subsequent civic and social rights got eventually firmly established in legal products of the European polis: the Treaty on the European Union, the Treaty on the Functioning of the EU, and the Charter of Fundamental Rights of the EU.

### ***5.5. Liberalism, Étatism, and Corporatism***

Side effect of this dominance of free market principles has been the gradual destruction of many long-existing forms of functionally specific 'poleis': non-profit associations and foundations with members and/or associates who decide on the joint provision of certain services and/or regulation of certain activities. Such self-regulating and/or self-providing organizations of civil society – in the tradition of the guilds – have come sooner or later in conflict with these European values. The rich European civil society-based tradition is ignored and many of its institutions at the national level have even been destroyed. Associational-organized health insurance, hospitals and housing corporations have been forced to commercialize and compete on care and housing markets with commercial enterprises. Whatever can be commodified should be so. Close cooperation between such associations and national states in the provision of services is even worse and has been forbidden, as undue forms of state support, considered unfair on open service markets where also enterprises from other member states should have access. And forms of close cooperation between national adversaries across the competitive- as well as the class-divide to



supply such social services, or to finance or regulate them, have been considered illegal 'restraints of trade'.

In that sense European integration fits in the tradition of the French Revolution, which also set out to destroy all the 'corps intermediaries' which stood in between the citizen and the state and which were considered to convey undue privileges unto their members. Just as the French revolutionaries destroyed all the guilds and church-based charities, so the European Union frowns upon many forms on self-organization by civil society, though usually less intentionally than as a side effect of the priority of commodification and free markets. However, whereas in the French revolution case the value to be protected was étatism, the state for which all citizens should be equal, in the current European case the value protected is that of liberalism. Both however attacked any forms of corporatism.

This choice for freedom is often presented as a gift of the EU to its European citizens and should increase the popularity of the Union. Indeed, the citizen has gotten more individual rights, notably in the market: unrestrained mobility across European (labor) markets, absence of discrimination between nationals and 'foreigners' in the member-states, access to job and income, a greater choice and cheaper goods; equal rights on markets across Europe in the roles of consumer, worker, producer, investor, or buyer, seller or intermediary on markets. It has been the legitimation to produce a large amount of European regulations, directives, and case law. Regulation of markets yes, from food to finance. But then equal ones across Europe, emanating from its center.

However, this has gone to some extent at the cost of collective rights of citizens, the right to cooperate in the polis, to form organizations of civil society, with the aim to influence or even merely to affect markets. Cooperation in or for the market is easily suspected of collusion. Yet, those national and or sectoral economies where market participants have cooperated are among the most competitive in the world, as I have indicated elsewhere (van Waarden (1995, 2013a, 2013b)).



### **5.6. Any Room/Prospects for a European Polis?**

The dominance of the market logic in Europe leaves less policy choices to *national* 'poleis', the national political communities. Market necessities and constraints reduce their freedom of choice options. The consequences of what has come to be called the recent 'great recession', and especially the crises around the Euro, have made that clear. National polities have even had to give up their prime autonomy: the right to decide on their own national public finance and budget. The centralization of the final authority over that policy to the European level is just one more – albeit radical – step in the gradual and creeping erosion of the authorities of the nation-states in favor of the powers of the European political institutions.

Can a European polis compensate for this? Can the polis be saved from the market? As mentioned, over time several institutions have been created to embody the European polis. But can they form a real future polis?

For one, the European political institutions are increasingly the locus of political decision making. More and more decisions are moved to the European level. This process of further European integration by centralization is often seen as a semi-autonomous process of 'logical necessities' rather than a result of conscious political choice. That is, it is a matter of 'Sachzwang'; of constraints that leave no other option than to move more and more decisions to the European level. The once choice leads almost 'automatically' to a next one.

The oldest theory is that of neo-functionalism (Haas 1958, Lindberg 1963, Schmitter 1970 and 2004), which perceives a spill-over process, from one policy choice to another. Thus negative integration, such as the abolishment of non-tariff trade barriers to integrate European markets, forces eventually also to positive integration, to draw up European standards for product quality and safety, if one wants to avoid a 'race-to-the-bottom' of ever lower product standards. And once border controls of people between EU member-states are being abolished, as with the Treaty of Schengen,



sooner or later the EU will be forced to develop a central immigration policy, as immigrants led in one member-state can easily travel to the other member-states. And as we have seen more recently: once member-states agree on a common currency, the Euro, sooner or later they will have to develop centralized policies to steer and constrain national budget and borrowing policies.

Majone (2005) has with his concept of 'integration by stealth' emphasized that these spill-over processes are often hardly noticed by outsiders and/or are accepted as a necessity, thus facilitating their acceptance. This has also been called the 'community method'. Jacques Delors introduced also the 'bicycle theory' of European integration: 'if it stops moving it will fall' (Schmitter personal communication). One could also invoke images of the 'flywheel' or 'steamroller'.

But can these European political institutions really be a polis for European citizens? Obviously, it could never be anything close to the ideal of the Athenian agora, the Appenzeller Landesgemeinde, or a New England gathering under the maple tree, where able bodied citizens jointly decide on their public affairs. And the local levels where they could still do so are far removed from the centers of decision making. Even if people would be willing to travel, the size of the European 'nation' could never physically fit even in greater Brussels or Strasbourg. And it keeps growing with the addition of more member-states. By now Europe is much larger in population than the US or Russia. This size makes for ever longer principal-agent chains within the European democracy: from the final principal – the citizens themselves – to their final agents, those who provide the European funded services and enforce the European regulations across the territory.

Furthermore, there is quite a distance between 'the people' and the locus of decision making. One could argue that the importance of such physical distance has lost relevance due to the grown importance of the mass and new social media. After all, most citizens would probably more easily recognize the face of their prime minister and even a European Commissioner, than their own mayor, let alone a member of their city council. However, there is



not only and so much a problem with physical distance, as well as with distance in terms of concerns, knowledge and expertise, and last but not least language. Europe is, unlike the US, 'plagued' by the cultural richness of its language diversity.

### ***5.7. Linguistic Diversity in the Polis***

This linguistic diversity is on the one hand a great cultural richness of Europe, but in practical and political terms it is a hindrance. It could and does produce a Babel confusion of tongues and that does not quite facilitate cooperation in the European polis. For two reasons: identity and practical communication.

Language connects. It provides a source of shared identity: a feeling of togetherness with others who speak and understand the same language and with whom one can communicate. That sense also influences solidarity. One tends to be more solidaristic with those with whom one can communicate, hear and share their ideas, opinions, sorrows, and pleasures. Inhabitants of Munich may have more feelings of solidarity and willingness to provide mutual support with those of Bochum or even Vienna than with those of Athens. Could one ever imagine European citizens to vote for a President of the European Council or Commission – if that ever becomes an directly elected office – who does not speak their own language? If the bilingual Belgians have already that problem, how much more would that not be the case across Europe?

A shared language makes for a 'commons', a 'Forum Europeanum', a 'polis', a shared public arena and a public debate in the media, producing a European public opinion. Such is essential for a shared political community, a polis. But it is still a long way to come. We don't read the same newspapers nor watch the same TV-(news) programs. Moreover, those media in the national language focus usually strongly on national politics and largely ignore what goes on politically in Brussels, Strassbourg or Luxembourg. Sessions of the European Parliament are hardly ever broadcasted in the member-states. Not even in those countries, like the Netherlands,





which have a special TV channel for broadcasting parliamentary debates. There it is all Dutch politics. Probably in part because those politicians are understandable for most viewers. One can really only get an idea about the European political wheelings and dealings from the English language 'European Voice', but that newspaper's circulation seems largely limited to the greater Brussels area. Hence, a major liability of a European polis is the absence of a common language, or at least sufficient mutual understanding.

How could the EU solve this problem – if it may be called like that? Of course not in the way some European nation-states have done so in the past with their own internal linguistic diversity. Integration towards uni-lingualism cannot be forcefully imposed as the French have done with the dominant North-French 'langue d'oïl' on the south and the peripheries. Neither with trying to adopt artificial languages like Esperanto or Volapuk. But perhaps the problem may be solved by the need to communicate coupled with the diversity itself. As the Dutch sociologist De Swaan predicted in 2001, 'the more member-states and hence the more languages in Europe, the more dominant English will become' (2001; 144 ff). It clearly is on its way. Indeed English is becoming ever more dominant. It is gradually even taking over the role of French in the European institutions in Brussels, notwithstanding the fact that these are situated in a French speaking Belgian environment. Another indication, close to home, is that we write and wrote everything in this project in English, without even giving that a second thought.

But perhaps we may ourselves not be representative enough. I have come to know quite a few well educated French, Germans, and Italians who speak to my surprise - if at all - only a tiny bit of poor English. For a while language skills may become the source of a new cleavage in Europe. In addition to that other one emerging around the right to mobility - the movers and the stay-at-homers – there is also a cleavage emerging between those who master English (or another foreign language) well and those who don't. And between the young who can still learn new languages versus the old who have more difficulties to do so.



This language cleavage seems also to exist in the European polis institutions itself. Apparently, many members of the European parliament do not speak so well English. That was an occasion for the European Voice to tell the voters in European elections in an article (...-09-2013) under the headline ‘Don’t ask your candidates for their political opinions; ask them how fluent they are in English’. It may be that anything that is said officially in the European Parliament is being translated. But the real politics, the wheelings and dealings, the engineering of coalition building coalitions, is done informally in the wings and the hallways and all those without sufficient English skills apparently remain outsiders if not pure wallflowers.

Next generations may bring change. The current young generation is already much better versed in English than the former one. And who knows, perhaps sooner or later ICT-technology may come to aid the realization of a true European polis: automatic translation, on a smart phone, or perhaps even through a microchipphone directly implanted in our cheeks, which automatically identifies the language that the speaking partner understands. Who could have imagined even a few years ago that we someday would have a little ‘plate’ in our pocket or hands, on which we could instantly bring all information, persons, and pictures from the whole world and its past right to the place where we are standing. ICT aids already in electronic communication in the new social media, which cross physical and linguistic boundaries easily. Thus support for European Citizens Initiatives – the weak European version of a referendum - which require 1 million votes from at least ... different countries, is largely mobilized through these new social media.

So far, it seems that those linguistic communication problems are more serious in the inter-governmental institutions, such as the Council and Parliament, than in the supra-national European institutions, read the Commission and the Court. That might give the latter an advantage over the former. If communication and hence negotiation or concertation is there easier due to shared linguistic abilities, these institutions might be more decisive and



hence de facto more influential. I.e. even the language issue could bias political influence in favor of the executive and judicial powers, at the detriment of the legislative power. That would further reduce the importance of Brussels as a true 'polis' of us European citizens.

The Commission and Court have also influential powers that the legislature does not have. The Commission is the power with – at least the formal – right of initiative. While the ECJ has the final say in all legal matters. It is the real locus of European sovereignty. These important powers are also the locations of the experts, in complex networks of the European Comitology, the centers of European technocracy and European lawyocracy. Although they do their work in towering Brussels glass palaces, they are not very transparent for the participants in the European polis.

The court's influence is further enhanced by the trend towards greater legalism across Europe, encouraged also by the Commission's newly developed strategy of 'regulation through litigation' (Hirschl 2007, Kelemen 2006, 2011; see also Struenk on cross-cutting theme nr.8, in this volume). In order to be less dependent on enforcement agencies in the member states, the Commission has begun to encourage citizens to sue other market parties in civil court if they feel mistreated or disadvantaged. Thus airline passengers are encouraged to sue airlines for damages because of delayed or cancelled flight. And firms which consider themselves victims of collusion between other firms should try to sue these. Thus the implementation of consumer and anti-trust policies are to be backed up by civil litigation. But in the process, the judiciary is to acquire a greater role in enforcement and hence its influence on the concretization and elaboration of policies decided in the polis.

### ***5.8. Turning the Polis itself into a Market***

Whereas the EU started from the market concept and as an emerging integrated market and is only gradually becoming something like a polis, in its member states an opposite trend has



been witnessed. These parts of the polis turned eventually into markets. What used to be decided and governed directly or indirectly through the polis was more and more left to the market or had to be so. The supreme EU-polis had ordered so, partly under the influence of the then internationally reigning neoliberal ideology, partly as the logical legal consequences of earlier market principles agreed to, such as the freedom of mobility of goods, services, and production factors, the non-discrimination principle, the 'level playing field' idea(l), and hence the ban on 'unjustified' state aid for private enterprise.

Most national political communities – the poleis – happily did so, being also directly under the influence of neoliberalism and its offshoots such as New Public Management ideas. Large scale programs of privatization and market liberalization were initiated. Former state-owned corporations – indirectly governed through the polis – had to be or were privatized, from municipal harbor pilots, provincial energy suppliers, to national public transport, postal services, state owned industry, mining, banking or airports. Albeit that some member states went faster and further with this privatization trend than others. Governments were also forced to retreat from joint public-private partnerships, as the public contribution to private market activities was easily seen as some form of undue state aid. This was even done when states cooperated with non-profit civil society organizations rather than commercial business, as with public housing associations or health care institutions. Even core tasks of public authorities became de facto privatized. Thus cuts in police budgets led to the emergence and fast growth of a private security industry. Thus in the Netherlands there are now more employees working for private security firms than that there are publicly employed police (wo)men.

Even governance tasks were de factory privatized. Cuts in public food or labor inspections were compensated by a booming private audit industry, with customers requiring audits by them and subsequent provision of safety/quality certificates as a condition to buy from suppliers. Furthermore, under NPM-teaching public



regulatory and enforcement agencies were placed at some distance from politics. All democratic control of such agencies was suspended, with the argument that that de facto meant only undue influence of particularistic lobbies on the agencies, as the old 'capture theory' predicted. Just as we seem to want 'independent' central banks in order to assure that particularistic interests in the polis could not bias its policies and threaten the stability of a currency, so similar influences via politics on other regulatory agencies were feared.

Paradoxically enough, where market regulation was in the hands of private organizations, such as sectoral trade associations, the opposite of privatization, nationalization, happened. Again out of fear for bias by particularistic interests. However, once in the public domain, they were handed over to the experts. Just as in Europe the technocrats rule, so do they in the regulatory agencies of many nation-states.

All in all this implied less influence of the polis. Citizens could no longer influence decisions, neither regarding the provision of public services, nor the formulation and/or enforcement of market regulations.

### ***5.9. Conclusion. Choice in the Market versus Choice in the Polis***

Thus citizens – and their representatives in the polis - have less choice there. They can be less active in the polis and if they do so it may have less effect. Do they perhaps have more choice in the market as consumers? Or for that matter in the courtroom as a plaintiff?

To be sure, in addition to popular sovereignty there is also consumer sovereignty. And the latter can also be used to make indirectly political choices as a consumer, by buying critically: only fair trade, fair labor, or organic food. Albeit that the influence may be more limited than in the polis. Actually, his or her political influence as a critical consumer can best be amplified by political



choice: to organize in critical NPOs and collectively rally against e.g. businesses that exploit labor in distant lands.

After all, the market and the polis follow different logics. As has been extensively elucidated by Deborah Stone in her popular book *'Policy Paradox. The Art of Political decision Making'* (2002, orig. 1988) which has attracted lots of attention, won several prizes, and has seen several updated reprints since 1988.

In both the market and the polis there is choice. In the first as economic actor, be it consumer, worker, or investor; in the polis as politician, voters, or street-activist. The means of exchange and communication differ. In the market it is competition; in the polis cooperation. European integration has, through the further internationalization of markets, increased the choice of consumers, workers, or investors. In the polis however, the influence of choice has been reduced. For one, the individual vote is way more diluted in the much larger size of the electorate. And secondly, the liberalization and privatization policies have reduced the authority of political actors. The end would be the privatization of politics itself

What could be the end of this trend? The superfluity of politics! A liberalization policy, carried to the extreme, a libertarian or anarchic one, leaves no more room for a politically domain, no more role for the state, for oikos nor for politeia. That would be a real 'tragedy of the commons'.



Some Questions to the other WPs:

WP Number	WP Title	What about?
WP3	Historical citizenship	How was the relation between market rights and political rights in the guilds and their cities? And between the governance of both? Did guild functionaries also (aid in) governing towns, vice versa? Incidentally or structurally? Any difference in different parts of Europe and in time? Why?
WP4	Rivalling citizenship	How have other segmented or 'federal' nations dealt with multi-lingualism? How, if at all did they succeed in forming an integrated cross-language polis? In the past and currently? Was/is social integration in markets easier than in the polis?
WP5	Economic rights and free movement	Is the exercise of economic rights linked to language skills, either formally or informally? How does free movement affect identification with and participation in the polis? E.g. also via civil



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		society organisations like unions? Do economic identities further affect political participation?
WP6	Social rights	Are social rights derived from market rights in member states? For which social rights? Now or in the past? Or why not? How and why? Is this different for 'insiders' and 'outsiders'? Is it related to language skills? Are there conflicts between nation states and the EU regarding this issue?
WP7	Civil rights of citizens	Are civic rights derived from market rights in member states? For which civil rights? Now or in the past? Or why not? How and why? Is this different for 'insiders' and 'outsiders'? Is it related to language skills? Are there conflicts between nation states and the EU regarding this issue?
WP8	Political rights	How are political rights related to market rights? Do they support each other or compete, frustrate, negate? How important are linguistic skills for exercising political rights? Any

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		differences in their importance as well as ease between different European democratic institutions ?
WP9	Balancing gender and generational citizenship	How do economic, social, civil and political rights relate in nation states for the sexes and the generations and how does this relate to EU policies? Do the younger have an advantage regarding linguistic skills?
WP10	Balancing citizenship of insiders and outsiders	Do linguistic skills make for new cleavages? Both between natives and 'immigrants'? Is there a new cleavage between those that master international languages and those who don't? How does that affect both market and polis rights?

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### References:

Haas, Ernst (1958) *The Uniting of Europe: Political, Economic, and Social Forces, 1950-1957*, London: Stevens

Hall, Peter A, and David Soskice (eds.) (2001): *Varieties of Capitalism. The Institutional Foundations of Comparative Advantage*. Oxford: OUP



Hirschl, Ran (2007) *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism*, Cambridge: Harvard UP

Kelemen R Daniel (2006) *Suing for Europe. Adversarial Legalism and European Governance*. In *Comparative Political Studies* 39, 1-27.

Kelemen, R. Daniel (2011) *Eurolegalism. The Transformation of Law and Regulation in the European Union*, Cambridge, Mass: Harvard UP

Lindberg, L.N. (1963) *The Political Dynamics of European Economic Integration*  
Stanford: Stanford University Press

Majone, Giandomenico (2005) *Dilemmas of European Integration: The Ambiguities and Pitfalls of Integration by Stealth*, Oxford: OUP

Moravcsik, Andrew, and Yves Meny (2009) 'A Transatlantic Dialogue about Democracy and its Future in the EU', published in *Review* (Summer) of the European University Institute in Florence

Schmitter, Philippe (1970) 'A Revised Theory of Regional Integration.' *International Organization* 24 (4), pp. 836-868

Schmitter, Philippe (2004) 'Neo-Neofunctionalism,' in A. Wiener and T. Diez (eds.), *European Integration Theory*, Oxford: Oxford University Press, pp. 45-74

Stone. Deborah (2002) *Policy Paradox. The Art of Political Decisionmaking*, New York: Norton

Swaan, Abram de (2001) *Words of the World*, Cambridge: Polity Press



Waarden, Frans van (1995) 'Breekt Nederland zijn dijken door?', shortened version of inaugural lecture, in *Economisch-Statistische Berichten*, vol. 80, no. 3993, pp. 52-57.

Waarden, F. van (2013a) '(Will and) Did the Netherlands breach its Dykes?', in Annette Zimmer (ed.) *Civil Societies Compared: Germany and the Netherlands*, Baden-Baden: Nomos Verlag, pp.219-246)

Waarden, Frans van (2013b) 'A "Poldermodel" for the EU?', in, Anne-Marie Grozelier, Björn Hacker, Jan Machnig, Henning Meyer, Wolfgang Kowalsky, and Brigitte Unger, (eds) *Roadmap to a Social Europe*, Social Europe Report, October 2013, pp. 100-104

Waarden, Frans van (2009) 'Power to the Legal Professionals. An Americanization of European Law?', in *Regulation and Governance*, September issue, Vol. 3: 3, pp.197-216

Waarden, Frans van, and Yuri Hildebrand (2009) 'From Corporatism to Lawyocracy? On Liberalization and Juridification', in *Regulation and Governance*, September Issue, Vol. 3: 3, pp. 259-286

Waarden, Frans van (2012) 'Governing Global Commons: the Public-Private Protection of Fish and Forests', in Axel Marx, Miet Maertens, Johan F.M. Swinnen and Jan Wouters (eds) *Private Standards and Global Governance. Economic, Legal and Political Perspectives*, Cheltenham: Edward Elgar, pp. 15-59



## **6. Theme 4: Citizenship, Equality, and Work**

- By Hartley Dean (LSE, London)

This short contribution is concerned with contested conceptualisations of citizenship, equality and work and the intersections between them. (NOTE: for such purposes, some quite complex arguments have necessarily been rather brutally paraphrased!)

### **6.1. Citizenship**

Sandra Seubert's contribution has already discussed contested meanings of citizenship, but here we shall focus on the enduring underlying tensions that exist between 'liberal' and 'civic-republican' traditions (e.g. Oliver & Heater, 1994). The ideas of citizenship that were incubated following the so called Western Enlightenment were captured in the classic French revolutionary slogan: *Liberté, Egalité, Fraternité* (freedom, equality and solidarity). The liberal conception of citizenship associated initially with the Anglophone world, emphasised the importance of freedom in the context of a constitutional social order. The civic-republican conception, associated initially with Continental Europe, emphasised the importance of solidarity in the context of a negotiated social order (Mann, 1987). These differently nuanced traditions of citizenship have different implications for understandings of equality, and to this we shall return. We shall also be returning to mention the global historical trend that fuels a declining commitment to social solidarity in Europe. But for a moment we shall concentrate on contradictory interpretations of freedom.



The founding principles of the EU - dating back to the 1957 Treaty of Rome - encompassed four freedoms relating to the movement of goods, capital, services and people. These are, of course, market freedoms and insofar as they apply to people, they constitute the person as a market actor, rather than as a social actor or citizen. In practice, the substance of EU citizenship is potentially somewhat hollow. It is instructive to compare the EU's four freedoms with the four freedoms declared by Franklin D Roosevelt in his celebrated 1941 State of the Union Address to the US Congress in which he asserted the US citizen's freedoms *of* speech and worship and her freedom *from* want and fear. It might be argued that political and spiritual freedoms and matters of physical security are of secondary concern to the EU as a supranational body, but freedom from want is of a different order. Roosevelt's premise, as a social liberal rather than a free-market liberal, was that 'a necessitous man is not a free man [*sic*]'. This is an understanding that is consistent with TH Marshall's (1950; 1981) account of modern citizenship in democratic-welfare-capitalist societies and it resonates with Jacques Delors' attempts in the 1980s to develop social policy and a 'social space' (*l'espace social*) within the EU (e.g. Geyer, 2000; and see EC, 1993).

Bringing together nations with differing citizenship traditions for the purposes of establishing a 'common market' is one thing; seeking to establish a union within which the peoples of different nations share common citizenship in a wider sense is another. It is in this context that the principle of equality becomes problematic.

## **6.2. Equality**

The liberal citizenship tradition tends towards a formal or procedural approach to equality; the civic-republican tradition to a more substantive approach. The liberal tradition embraces the ideal of equality under the law. At its meanest this is captured by Anatol France's celebrated aphorism: 'The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in



the streets, and to steal bread' (1894). More inclusive understandings of liberalism, recognise that free markets can perpetuate social disadvantage and so favour equality of opportunity and the idea that every citizen should be allowed to succeed on the basis of her ability. Communitarian versions of the civic-republican tradition emphasize equality of belonging, inclusion and respect rather than strict material equality, though social democratic derivations of the tradition support broad equality of material outcomes<sup>1</sup>.

These distinctions, however, are never hard and fast and in every day popular and political discourse they are extensively conflated (Dean, 1999). There have been attempts to capture alternative ideas of equality. Amartya Sen (1992), as a liberal individualist, has questioned all such approaches to equality and argues that what matters is an equality of 'capabilities', by which he means that everyone should be equally free to be and to do that which they might reasonably choose to be or to do. Michael Walzer (1983) on the other hand, as a radical democrat, has argued strongly for 'complex equality': the diversity of humanity means that substantive equality requires that people be treated differently, not the same. There are different dimensions to equality

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<sup>1</sup> This intentionally parsimonious account is broadly consistent with that offered by Sandra Seubert in Chapter 3 (Theme 1) above, in so far as it identifies an essential fault line within the diverse family of traditions that have been brought to bear in the formation of modern forms of citizenship in Europe. There are a great many overlapping taxonomic models by which we might classify different conceptions of citizenship. But it would not be sensible to try and establish or impose an agreed taxonomy. We might, nevertheless, agree that there is an enduring tension between the priority accorded to individual rights and freedoms by 'liberal' conceptions of citizenship and that accorded to collective participation and belonging by 'republican' conceptions (albeit that the labels 'liberal' and 'republican' are now mired in confusion). The issue for the bEUcitizen project is that competing ideological conceptualisations can represent a barrier to a shared practical understanding.



and different equalities and inequalities, relating, for example, to gender, age, ethnicity, disability, sexuality, religion, etc. (e.g. Platt, 2011).

So an alternative way of reflecting on the nature of citizenship rights is to consider the relationship between needs and rights. From a sociological perspective rights are not eternal verities, but social constructs, premised on the naming, claiming and recognition of needs (Dean, 2010, 2013). This perspective on rights moves beyond that of Marshall (1950), who contended that modern citizenship was constituted through three sets of rights that had been sequentially developed: first, the civil rights upon which free markets depend; second and subsequently, the political rights on which democracy depends; and only finally, the social rights that ensure that all citizens can substantively enjoy the basic minimum necessary to assure equality of status. However, human beings were social beings before the invention of citizenship: as interdependent and potentially vulnerable creatures (Turner, 2006) human beings necessarily negotiate mutual arrangements for the satisfaction of their needs for food, clothing, shelter, care, love, recreation and for both existential and ontological security. Our rights and our citizenship, in this sense, were social before they were civil or political (cf. Isin et al, 2008). Citizenship is not merely a status, it is a social process. It may provide formal equality of status, but also substantive equalities negotiated at a multiplicity of sites and at a variety of levels. Conceptualised in this way, citizenship is not necessarily constrained to the level of the nation state. It may be constituted through local customary practices at one extreme of the spectrum or international covenants and treaties at the other.

At the supranational level, the EU is one such site of negotiation. However, economic globalisation, the financialisation of capitalism and the consequences of the recent global financial crisis have ushered in an era of austerity (Callinicos, 2010; Gough, 2010; Taylor-Gooby, 2013); manifestly impacting on the more solidaristic traditions on which several key European welfare states had in part been founded and weakening the capacity of the EU as a whole to promote substantive equality.



### **6.3. Work**

One of the clearest ways to illustrate the contentions above is with reference to the contested nature of the right to work - beyond the worker's right to mobility. The right to work is not currently explicitly addressed within any of the bEUcitizen work packages, but has fundamental importance to the project as a whole.

If we equate 'work' with wage labour, it may be regarded as one of the constitutive features of capitalist modernity (Durkheim, 1893; Weber, 1930), of the formal economic order (Polanyi, 1944) and of the totality of social organisation (Glucksmann, 1995). It has been a core concern of the EU (and of the EEC before it). Since the Amsterdam Treaty of 1997 various incarnations of a European Employment Strategy had sought to prioritise full employment across Europe. But following the 'Great Recession' (Jenkins et al. 2011) that ambition has been diluted in favour of the pursuit of 'smart growth'; of merely 'increasing' labour market participation, while 'reducing' structural unemployment (European Commission, 2010). The retreat from Keynesian goal of full employment is consonant with a global trend in favour of supply side economic orthodoxy, and coincides with long-term trends relating to the polarisation and flexibilisation of labour markets; trends which diminish the security of work (Doogan, 2009; Standing, 2009).

However, 'work' is not merely a market activity it is a social activity. It can have meaning as a shared moral obligation and a central life activity (MOW International Research Team, 1987), as a source of identity and fulfilment (Jahoda, 1982) and a sense of dignity and virtue (e.g. Noon & Blyton, 2007: ch. 3). 'Work' is a word we apply to an entire spectrum of unpaid activities, including caring, participatory and creative activity. Detached from the context of waged labour, work is a characteristic of our 'species being' (Marx, 1844). It may be understood as a fundamental human need (Dean, 2010).

Nevertheless, at several levels the concept of a right to work remains contested. First, is it a human right or a right of citizenship? The EU's Charter of Fundamental Rights (now incorporated in the





2009 Lisbon Treaty) provides for the European citizen's right 'to engage in work and to pursue a freely chosen or accepted occupation' and her 'freedom to seek employment [and] to work'. By implication there is no obligation on member states to provide a citizen with a job. This is a more equivocal provision than that contained in the Council of Europe's Social Charter of 1961 (revised 1996) which specifies a person's right 'to earn one's living in an occupation freely entered upon' and to 'an economic and social policy designed to ensure full employment'. The Council of Europe's right to work reflects the spirit of that provided by Article 23 of the Universal Declaration of Human Rights. As a human right, the right to work might not readily be realised for the benefit of every citizen of every nation state, but the widely accepted principle of the human rights framework is that nation states should aim progressively to realise rights, such as the right to work, by seeking so far as possible to protect the workers' rights and, even when they cannot themselves provide work, to promote job creation (e.g. Shue, 1980). Arguably, the human rights of EU citizens are violated if indeed the EU, as a club of relatively rich nations, does not pursue policies that are at least designed to ensure full employment.

Second, is the right to work an economic right or a social right? Paid employment is an economic activity. In liberal democracies it is undertaken in pursuance of a contract between worker and employer and the rights of the respective economic actors are defined by the express or implied terms of that contract. However, social legislation may intervene to protect workers in a variety of ways: for example, by specifying minimum wages and conditions, restricting the circumstances in which employees may be dismissed, providing benefits during periods of sickness or unemployment (e.g. Dean, 2002). While labour law may bear on the functioning of labour markets, so too may policies with regard to social security provision that may, to a greater or lesser extent, de-commodify labour (Esping-Andersen, 1990, 1999). Labour power may be an economic commodity, but workers are social beings. In the current era, social policy is inextricably implicated in labour market policy



and, in this particular sphere, the boundary between economic and social rights is elusive.

Third, is work a right or a duty? The so called 'crisis' of the welfare state in the post-industrial era entailed extensive questioning of the normative basis of citizenship and of the extent to which welfare states had promoted rights at the expense of correlative responsibilities (Roche, 1992). This has been most evident in the continuing development of labour market activation policies, workfare, 'welfare-to-work' and/or flexicurity (Gray, 2004; Jessop, 2002; Serrano & Keune, 2014). Paradoxically, the foundation of the right to freely chosen work within the human rights framework had been a concern to prohibit slavery and forced labour, and policies (such as apply in several EU members states) that impose benefits sanctions on citizens who decline exploitative work placements arguably violate human rights (Dean, 2007).

#### **6.4. Conclusions**

The single cross-cutting question that underpins this discussion is this: When and in what circumstances can the EU citizen be in any sense more than a market actor? This has general relevance for the terms on which EU citizens can have rights to equality of social status, equality of treatment and parity of participation in the public sphere. When and how might EU citizens, whether 'at home' within their own country or migrants within Europe, be assured of:

- meaningful equality of social recognition and respect having regard not only to their multiple categorical identities (i.e. their gender, ethnicity, age, disability, etc.), but also to their fundamental ontological identity as human beings with shared vulnerabilities (Taylor, 1988)?
- substantive equality of experience in relation to their access not only to privately provided goods and services, but also provision of, and protection by, public services - including health and social services, social security, health and



education provision, tax systems, courts and criminal justice systems, etc. ?

- effective equality of engagement not only within civil society, but also in democratic consultation and decision making processes at neighbourhood, local, national and EU level?

But it has particular relevance in relation to the right to work: that is, the right to work that is freely chosen and 'decent' (ILO, 1999; Leschke et al. 2008). To what extent are workers across Europe truly citizens, as opposed merely to factors of production? And to what extent can those across Europe who are not or cannot be engaged in the labour market truly be equal citizens? Aspects of the question may be addressed from a historical perspective (WP3), in relation to the experiences of minorities, vulnerable or marginalised social groups (WPs 4, 9 and 10) and as an aspect of economic, social, civil and political rights (WPs 5,6,7 and 8).

## References

Callinicos, A. (2010). *Bonfire of Illusions: The twin crises of the liberal world*. Cambridge: Polity.

Dean, H. (1999). *Poverty, Riches and Social Citizenship* (with M. Melrose). Basingstoke: Macmillan.

Dean, H. (2002). *Welfare Rights and Social Policy*. Harlow: Prentice Hall.

Dean, H. (2007). The ethics of welfare-to-work. *Policy and Politics*, 35(4), 573-589.

Dean, H. (2010). *Understanding Human Need*. Bristol: The Policy Press.



Dean, H. (2013). The translation of needs into rights: Reconceptualising social citizenship as a global phenomenon. *International Journal of Social Welfare*, 22(S), 32-49.

Doogan, K. (2009). *New Capitalism? The transformation of work*. Cambridge: Polity.

Durkheim, E. (1893). *The Social Division of Labour* (1964 ed.). New York: Free Press.

Esping-Andersen, G. (1990). *The Three Worlds of Welfare Capitalism*. Cambridge: Polity.

Esping-Andersen, G. (1999). *The Social Foundations of Post-Industrial Economies*. Oxford: Oxford University Press.

European Commission. (1993). *European Social Policy: Options for the Union*. Luxembourg: OOEPC.

European Commission. (2010). *Europe 2020: A European Strategy for Smart, Sustainable and Inclusive Growth*. Brussels: EC.

France, A. (1894). *Le Lys Rouge*

Geyer, R. (2000). *Exploring European Social Policy*. Cambridge: Polity.

Glucksmann, M. (1995). Why 'work'? Gender and the 'total social organisation of labour'. *Gender, Work and Organisation*, 2(2), 63-75.

Gough, I. (2010). Economic crisis, climate change and the future or welfare states. *21st Century Society*, 5(1), 51-64.

Gray, A. (2004). *Unsocial Europe: Social protection or flexploitation*. London: Pluto.



International Labour Organisation (ILO). (1999). Report of ILO Director-General: Decent Work, International Labour Conference, 87th Session. Geneva: ILO.

Isin, E., Brodie, J., Juteau, D., & Stasiulis, D. (2008). Recasting the Social in Citizenship. In E. Isin (Ed.), *Recasting the Social in Citizenship*. Toronto: University of Toronto Press.

Jahoda, M. (1982). *Employment and Unemployment: A social psychological analysis*. Cambridge: Cambridge University Press.

Jenkins, S., Brandolini, S., Micklewright, J., & Nolan, B. (2011). The Great Recession and the Distribution of Household Income. Paper presented at the XIII European Conference of the Fondazione Rodolfo De Benedetti, *Incomes Across the Great Recession*, Palermo.

Jessop, B. (2002). *The Future of the Capitalist State*. Cambridge: Polity.

Leschke, J., Watt, A., & Finn, M. (2008). *Putting a number on job quality? Constructing a European Job Quality Index*. Brussels: European Trade Union Institute.

Mann, M. (1987). Ruling class strategies and citizenship, *Sociology*, 21, 3.

Marshall, T. H. (1950). Citizenship and social class. In T. Marshall & T. Bottomore (Eds.), *Citizenship and Social Class* (1992 ed.). London: Pluto.

Marshall, T. H. (1981). *The Right to Welfare and Other Essays*. London: Heinemann.

Marx, K. (1844). Economic and Philosophical Manuscripts. In L. Colletti (Ed.), *Early Writings* (1975 ed.). Harmondsworth: Penguin.



MOW International Research Team. (1987). *The Meaning of Working*. London: Academic Press.

Noon, M., & Blyton, P. (2007). *The Realities of Work*. (3rd. ed.). Basingstoke: Palgrave Macmillan.

Oliver, D., & Heater, D. (1994). *The Foundations of Citizenship*. Hemel Hempstead: Harvester Wheatsheaf.

Platt, L. (2011). *Understanding Inequalities*. Cambridge: Polity.

Polanyi, K. (1944). *The Great Transformation*. New York: Rinehart.

Roche, M. (1992). *Re-thinking Citizenship*. Cambridge: Polity

Sen, A. (1992). *Inequality Re-examined*. Oxford: Oxford University Press.

Serrano, A., & Keune, M. (Eds.). (2014). *Alternatives to Flexicurity: New concepts and approaches*. London: Routledge.

Shue, H. (1980). *Basic Rights: Subsistence, affluence and US foreign policy*. Princeton: Princeton University Press.

Standing, G. (2009). *Work after Globalization: Building occupational citizenship*. Cheltenham: Edward Elgar.

Taylor, D. (1998). Social identity and social policy: Engagements with post-modern theory. *Journal of Social Policy*, 27(3), 329-50.

Taylor-Gooby, P. (2013). *The Double Crisis of the Welfare State*. Basingstoke: Palgrave Macmillan.

Turner, B. (2006). *Vulnerability and Human Rights*. Pennsylvania: Pennsylvania State University.

Walzer, M. (1983). *Spheres of Justice*. Oxford: Blackwell.



Weber, M. (1930). *The Protestant Ethic and the Spirit of Capitalism*.  
London: Allen & Unwin.



## **7. Theme 5. Citizenship as a balance of rights and duties**

- By Jan Komarek (LSE, London)

The aim of this paper is to (1) sketch a basic conceptual structure for a further inquiry into the question of balance between rights and duties related to EU citizenship, (2) put this structure into the context of our project, especially its research questions and seek input from other work packages.

### ***7.1. The relevance of rights and duties for our understanding of (EU) citizenship: conceptual framework***

If the concept of citizenship is composed of three main elements, legal, political and identity, <sup>2</sup> then the legal dimension seems to be dominated by rights. The legal status of a citizen is determined by her civil, political and social *rights*; duties seem to have disappeared from the current discourse on citizenship. This is reflected by the structure of our very project: our inquiry into the multi-dimensional character of EU citizenship (WP5 to WP 8) concerns rights only. My inquiry into the balance between citizenship rights and duties will therefore focus mainly on the latter, to complete the work of other colleagues involved in the project, who deal primarily with rights.

Below I briefly discuss some recent contributions to the debate concerning the EU citizenship, those that (a) criticize the absence of duties or at least consider them as important for the development of the EU citizenship and those (b) who argue against their relevance.

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<sup>2</sup> See Dominique Leydet, 'Citizenship', *The Stanford Encyclopedia of Philosophy* (Fall 2011 Edition), Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/fall2011/entries/citizenship/>.





### 7.1.1. In favour of EU citizenship duties

For some time the students of European integration observed that the absence of EU citizens' duties marked the immaturity of the EU citizenship or at least its difference from the citizenship of a state.<sup>3</sup> Jo Shaw has for example recently observed that 'it is hard ... to imagine the EU in its present stage of development acquiring the "duties" dimension of the citizenship concept, given the limitations upon its legal competences, as well as limited recognition of its political capacity, e.g. in the external sphere'.<sup>4</sup>

Joseph Weiler put this issue in more conflictual terms as a severe criticism of the 'culture of rights', which is not counterbalanced by the culture of responsibility and duty.<sup>5</sup> He notices the conspicuous absence of specific EU citizen duties in the text of the Treaties, contributing, in his view, to the 'matrix of personal materialism, self-centeredness, Sartre style ennui and narcissism in a society which genuinely and laudably values liberty and human rights'.<sup>6</sup> For Weiler, therefore, the absence of duties of EU citizenship has some deeply negative implications conceptualized by him as the lack of 'virtues'. These virtues, for Weiler, 'involve exertion. Things that demand sacrifice are cherished more than things that come easily. Sacrifice invests things with value'.<sup>7</sup>

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<sup>3</sup> See particularly Jo Shaw, 'Citizenship of the Union: Towards Post-National Membership?' VI (1) (1995) *Collected Courses of the Academy of European Law* 237-347. See also Shaw's more recent contribution, 'Citizenship: Contrasting Dynamics at the Interface of Integration and Constitutionalism' in P Craig and G de Burca (eds), *The Evolution of EU Law* (OUP 2011), 575-609.

<sup>4</sup> Shaw (2011), 577.

<sup>5</sup> Joseph Weiler, 'On the Distinction between Values and Virtues in the Process of European Integration', <http://www.ilj.org/courses/2010IILJColloquium.asp>.

<sup>6</sup> *Ibid.*, 41.

<sup>7</sup> *Ibid.*, 11.



Dora Kostakopoulou's recent account of EU 'social citizenship duties' reflects this 'culture of rights', in my view. The duties she identifies concern non-discrimination and solidarity, owed to *other citizens*. They are not owed directly to the EU understood as a community that would be distinct from individual citizens.<sup>8</sup>

### 7.1.2. Against EU citizenship duties

Dimitry Kochenov has recently taken issue with the very notion of citizens' duties – both in the EU and in general. According to him,

1. There are no empirically-observable duties of EU citizenship;
2. Such duties would lack any legal-theoretical foundation, if the contrary were true;
3. Legal-theoretical foundations of the duties of citizenship are lacking also at the Member State level;
4. EU law plays an important role in undermining the ability of the Member States where residual duties remain, to enforce them;
5. This development is part of a greater EU input into the strengthening of democracy, the rule of law and human rights in the Member States and reflects a general trend of dedutification of citizenship around the democratic world.<sup>9</sup>

To me it seems that only the 4 is true, but all depends on what we understand by 'citizens' duties'. Kochenov rightly criticizes many people who use the concept of citizens' duties too broadly – including duties of anyone subject to the public authority, either of the State or the EU. To say, therefore, that EU citizens have the duty

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<sup>8</sup> Dora Kostakopoulou, 'European Union Citizenship Rights and Duties: Civil, Political and Social' in E Isin and P Neyers (eds), *Global Handbook of Citizenship Studies* (Routledge, forthcoming, 2014), available at <http://ssrn.com/abstract=2316819>, 16-17.

<sup>9</sup> 'EU Citizenship without Duties', forthcoming in (2014) 20 *European Law Journal*, available at <http://ssrn.com/abstract=2323273>.



to pay taxes or to obey EU law does not help us to understand what is so specific about duties of EU citizens that belong to EU citizens only.<sup>10</sup>

Kochenov suggests that there is 'there is a virtually universal consensus in the legal-philosophical literature that the moral duty to obey the law does not and cannot possibly exist'.<sup>11</sup> This, in my view, is incorrect, although it is of course difficult to determine with certainty whether there is a consensus on controversial issues of legal philosophy (or philosophy in general).<sup>12</sup> The view proposed by Margaret Gilbert is most interesting for the purposes of our project: 'the members of a political society are obligated to uphold its political institutions by virtue of their membership in that society'.<sup>13</sup> This view is echoed in the recent law-oriented scholarship. Shai Lavi thus argues that 'citizens are committed to the democratic constitutional bond, which is the ground of their legal and political co-existence as equal members in a free polity'.<sup>14</sup> Such views, grounded in the current political and constitutional theory can help to overcome Kochenov's criticism of citizenship duties as 'feudal in nature',<sup>15</sup> whose main functions were that of exclusion<sup>16</sup> and uniformisation.<sup>17</sup>

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<sup>10</sup> Ibid, 12, referring to Roy W Davis, 'Citizenship of the Union... Rights for All?' (2002) 27 *European Law Review* 121, 125 and Shaw (1995), n 3, 245.

<sup>11</sup> Ibid, 22.

<sup>12</sup> For an overview see Richard Dagger, 'Political Obligation' in *The Stanford Encyclopedia of Philosophy* (Summer 2010 Edition), Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/sum2010/entries/political-obligation/>.

<sup>13</sup> Margaret Gilbert, *A Theory of Political Obligation: Membership, Commitment, and the Bonds of Society* (Clarendon 2006), 289.

<sup>14</sup> Shai Lavi, 'Citizenship Revocation as Punishment: On the Modern Duties of Citizens and Their Criminal Breach' (2011) 61 *University of Toronto Law Journal* 783, 795.

<sup>15</sup> Kochenov, n 9, 13-14.

<sup>16</sup> Cf. *ibid*, 15: 'the main function of citizenship duties in the past was an exclusionary one: duties were relied upon to outline second-class citizens – such as persons of colour, women, the poor, the weak, and, crucially for the



Despite his own criticism, Kochenov remains unclear as regards the definition of citizenship duties and their precise distinction from citizenship obligations or responsibilities. Much conceptual work thus remains to be done. I was also not convinced by Kochenov's rejection of the correlativity of rights and duties, based (similarly to his views concerning the obligation to obey the law) on a selective reading of the relevant literature.<sup>18</sup> One of the chief aims of my chapter should be conceptual clarification, informed by input from other WPs, while I at the same time hope to provide some helpful conceptual framework.

### ***7.2. The focus of the chapter and possible inputs from other WPs***

In my contribution to the project I would like to respond to both concerns briefly discussed above: the first which expresses dissatisfaction with the current 'culture of rights' and the second concerning the lack of conceptual clarity when citizens' duties are invoked in the context of the debates on the EU citizenship – and what their justification can possibly be. This relates to the ongoing debates on the very legitimacy of the EU, where the liberal focus on rights, at the expense of communitarian or republican values

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democratic outcomes, political dissenters – in order to justify their full exclusion from the actual benefits that the legal status of citizenship which they formally possessed was supposed to provide to "everyone".

<sup>17</sup> Cf. *ibid*, 18: 'the second function of citizenship duties can be outlined, which is at least as important as the first and consists in the uniformisation of the population and the suppression and humiliation of any difference and dissent, deploying citizenship duties to get rid of diversity, cultural, political, linguistic, or otherwise, building on the presumption that the State knows better what the citizens should want and should strive to achieve, denying citizens personality, respect and choice'.

<sup>18</sup> *Ibid*, 19-22.



focussing on collectivity rather than individuality, is often criticised.<sup>19</sup>

The solution (if any) needs to be found somewhere between: inspired by republican-liberal positions of some political theorists,<sup>20</sup> the chapter will seek to ‘translate’ this general political theory into the context of the debates concerning EU citizenship.

Related to the Project’s research questions, one may ask, together with Weiler mentioned above, whether the present culture of rights has some corruptive effects on creating conscious European citizens capable of acting together politically, or more broadly, the virtues of European integration.

If Weiler is right, would a more explicit formulation of EU citizenship duties (not necessarily in a legal text) be constitutive of the ‘counter-culture of responsibility’? Or, agreeing with Kochenov, should citizenship duties be erased from our conceptual vocabulary concerning citizenship, since the ‘contemporary rights-based secular legal culture’ does not require or even recognise them?<sup>21</sup> If a middle position is found, how it is to be fixed in the legal and political practice? Which actor (out of those mentioned in the Project Proposal) should have what role?

It would be great if colleagues from other WPs (not only WP5-8, but from others) had these questions in mind so as their findings could be used productively for writing the final chapter.

Particularly:

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<sup>19</sup> See Fritz Scharpf, ‘Legitimacy in the Multi-level European Polity’, in M Loughlin and P Dobner (eds), *The Twilight of Constitutionalism?* (Oxford: OUP 2010), 89-119.

<sup>20</sup> See particularly Richard Dagger, *Civic Virtues: Rights, Citizenship, and Republican Liberalism* (OUP 1997).

<sup>21</sup> Kochenov, n 9, 6.



WP3: What was the role of citizenship duties in the developing notion of citizenship in Europe? Is it true that such duties were feudal in nature, as Kochenov claims?<sup>22</sup>

WP4: In the systems compared, are citizenship duties still important?

WP5-8: Is the realisation of the rights examined somewhat dependent on the simultaneous enforcement of citizenship duties? How are such duties to be understood?

WP10: When outsiders become insiders, are their rights accompanied with expressly formulated duties as well? Is it possible to lose citizenship as a sanction for a violation of a citizenship duty?

These are of course suggestions only and I would welcome any input from all WPs concerning the question of citizenship duties.

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<sup>22</sup> See text to n 15.



## **8. Theme 6: Effects of shifting borders on coherence of communities and identities**

- By Vít Hloušek (MU Brno) and Viktor Koska (UNNIZG, Zagreb)

### ***8.1. Introduction***

For the last two decades the growing literature in the academic field of citizenship studies has been focused on the various aspects of the citizenship phenomenon. The emergence of the prominent citizenship handbooks (e.g. Handbook on Citizenship Studies (Isin and Turner 2003)) emphasized the multi-layer nature of the concept and highlighted the existence of the various dimensions and types of citizenship such as political citizenship, multicultural citizenship, sexual citizenship, liberal citizenship and other. While the flourishing of the new approaches contributed to better understandings of the nuances of the phenomenon, a number of scholars argue that the outcome of the segmentation of these approaches was that citizenship became a rather ambiguous term; it means many things for many people (Joppke 2007: 37) and it is used to address various features of civil society, social capital or state-society relations more generally (Howard 2006: 443).

Hence, in order to provide a workable framework for the analysis of the role of shifting borders on communities and identities, this chapter will start from the essential understanding of the citizenship as a membership to a particular political community (in most cases but not limited to a state). However, in order to encapsulate the various roles and possible struggles and challenges that stem from the existence of the competing identities during the new nation state formations and/or changes of the boundaries of the existing polities, the analysis will move forward the more comprehensive study of citizenship regimes (Jenson 2007, Shaw and Štiks 2010). As Shaw and Štiks (2010) define it, citizenship regime is



the “concept that encompasses a range of different legal statuses, viewed in the wider political context, which are central to the exercise of civil rights, political membership and – in many cases – full socio-economic membership in a particular territory” (5). Such approach enables the study of formal text and citizenship legislation, but also enables the focus on various non-formal and formal areas of social life in which the issues of identity and inclusion/exclusion to a polity are prominent.

### ***8.2. Citizenship as a closure and reflection of political community identity***

It may be argued that the citizenship can be conceived as a reflection of the political identity of the given political community. In his classical study on citizenship and nationhood in France and Germany, Brubaker (1992) emphasizes that citizenship at the same time represents an instrument and an object of closure; while it is a prerequisite for enjoyment of certain rights and modes of participation in a particular polity, it is also a status to which access is restricted (31). However, in comparison with other legal statuses that grant state residents access to certain civic, social and economic rights, it is a decisive instrument of closure in the political domain. Hence, Brubaker argues that citizenship reflects ‘deeply rooted understandings of nationhood’ and it evolves according to such understandings rather than in the line of the group or the state interests. These dominant national understanding have their roots in the political and cultural traditions of the particular polities, and once instituted as legal traditions they determine the membership criteria to the political community.

However, the determination of the dominant nationhood tradition of a given polity, particularly in the cases of the formation of the new nation states (as was the case in the Eastern and South Eastern Europe during the early 1990s), is rarely an uncontested project. The demographic realities may be in conflict with the visions of the political elites of the dominant ethnic group who aim





to create ethnically homogenous polities over otherwise heterogeneous territories. On contrary, minority groups may conceive the emergence of the new states as a threat to their security and equal status enjoyed during the previous regime. Finally, the struggle over the position of the minority within the new state becomes even more complex if there is an external state that claims to be the kin-state of the minority in question and shows readiness to protect its ethnic compatriots.

Nevertheless, as Brubaker argues, all three entities (the nationalizing state, national minority and external kin state) should not be conceived as fixed entities but rather as ‘fields of differentiated and competitive positions or stances adopted by various organizations ... seeking to “represent” and monopolize the legitimate representation of the group’ (1996: 61). The adopted citizenship regime of a new polity hence may be conceived as the result of the struggles between and stances taken within each of these three entities which allows perceiving the citizenship policies as an important tool for state or ethnic engineering (Štiks 2010).

There are various outcomes that may stem from the different configuration between the entities of this so called “triadic nexus” (Brubaker 1996). If the ethnic majority acknowledges the equal status of the minority group in the new state, the citizenship regime may result with some type of multicultural citizenship which grants a protection of various rights of recognized groups in the polity. In other cases, where the minority is perceived as a major threat to the stability of the state, a very exclusive models of constitutional nationalisms (Hayden 1992) or ethnic democracies (Smootha 2002) may emerge. Finally, if the newly formed polity has a long established civic culture, the new citizenship regime may adopt a liberal citizenship which promotes the equal incorporation of various identities through constitutional protection of individual rights and naturalization policies based on residence rather than on previous ethnic or citizenship status.



### ***8.3. Changing boundaries of political communities by incorporation of ethnic compatriots abroad***

However, changes of the borders of community may not appear only through the break-up of the former multinational states and formation of the new nation states. While the citizenship policies may be used to neglect the rights of particular resident groups on the territory of a particular state, they may be further utilized to incorporate desired non-residents to an imagined political community that transgresses the boundaries of territorial state. Recently, many national citizenship legislations have enacted the special naturalization procedures for the non-resident co-ethnics who often form a minority in the neighboring countries (Pogonyi 2011). The case of Croatia reveals that such policies went in line with the idea of the imagined Croatian nation as a transnational political community, but also had to promote the territorial aspirations of the nationalist elites towards the certain territories of the neighboring Bosnia and Herzegovina during the conflict in the 1990s (Ragazzi 2009).

Obviously, such policies allow the kin-state to politicize the issue of national identity of their ethnic compatriots and possibly infer in the internal relations of other state by invoking the dividend of protection of their citizens. The double citizenship loyalties of such ethnic compatriots may pose a potential threat to democratic developments of their states of residence, particularly in cases where such state already represent a fragile and fragmented political community. Besides the citizenship rights, such state individual ties based on ethnic affiliations have been strengthened by the special status laws in a number of the newly formed nation states. Rainer Bauböck emphasizes that these quasi-citizenship statuses, or “ethnizenships” emphasizes the ethnic character of the particular nation states, from which particular special obligations of the state towards particular individuals who are neither citizens nor residents of the state. (Bauböck 2007: 2396)

In addition, it cannot be neglected that with the increase of international migration within the EU states but also from non-EU



to EU states and vice-versa, the boundaries of communities became more porous. The focus of the citizenship and identity studies was often on the citizenship policies of the countries of migrants or ethnic minorities, while as was evident from the previous analysis, the members of these groups through their citizenship and quasi-citizenship statuses belong to more than one state. Therefore, in order to adequately study the process of identity construction and cultural and political claims made according to such identities, in Bauböck's terms one needs to analyze the complex citizenship constellations and decisions made in response to a given citizenship opportunity structure (Bauböck 2010: 849).

Considering the projected goals of the bEUcitizen project, in relation to the identity issues in the context of the changing borders several questions can be analyzed. The WP3 can provide a historical overview of the competing constitutive stories that shaped the development of the identities of majority and minority groups in the old and new EU member states. WP4, particularly in its focus on the new nation states and states with large diaspora communities, may provide analyzes of the modes of the incorporation of competing identity claims to the existing citizenship regimes. Additional question than can be covered by all WPs relate to the challenges to development of EU identity and rights associated to the status of EU citizen that stem from the reality that due to the citizenship policies of particular members states many residents of the non-EU member states are entitled to the status of EU citizen.

Finally, since on the one hand the consortium of the project involves the Universities from several post-Socialist countries, who constituted their novel political communities after the collapse of the multi-national federations, and on the other hand, consists of the Universities from the countries in which certain regions have recently been involved in political debates that could possibly lead towards the formation of independent states, it would be interesting to provide the comparative analyzes of similarities and differences in the establishing of the new citizenship regimes between the countries who claimed their independence after the



long experience of the authoritarian regime and with EU membership as a projected national goal, and the countries which claim independence from the long established liberal democracies and already within the political realms of the membership to EU. Such comparison may provide an invaluable ground for testing hypotheses whether and to what extent EU accession can be an instrument of external pressure on the countries for greater incorporation of minorities to their polities, and whether the EU membership is a proper warranty for the effective implementation of minority policies once the state becomes a full member state.

#### ***8.4. Some political implications***

Shifting of borders is a concept that should not be aimed only at discussing societal and identity-related impact of territorial reconfigurations among European states in the past or major migration streams in the present times or in the future. We should address two added dimensions of focus: (1) the way the shifting community identities influence political process through political mobilization and the way the identities matter in party politics and (2) the way the inclusion of the member states (MS) to the EU might influence the conceptualization of identity and the feelings of belonging to a political community (or communities) in the MS societies inside the Union.

#### ***8.5. Impact of politicizing of identities for the citizenship***

Let us first briefly address the first issue and its potential consequences for the project. Especially in Central and Eastern Europe, the issues of border changes and shifts influenced a lot the political life and the way the ethnic/national communities conceptualized minority and majority issues in a political way. Here, the traditional and well developed concept of social cleavages as presented in 1967 can still be of substantial use. Stein Rokkan and



his followers used the concept of cleavages especially for research and comparison of partisan channels of political mobilization and parliamentary representation. The cleavage concept which connects divisions within the society with their political voice represented by political parties represents a suitable concept for research of ethnic and other collective identities and especially the role they play in party politics.

In regard to the scope and aims of the bEUcitizen project, the concept poses following research questions. As for the historical oriented research, the WP3 and WP4 can be charged with the task to include partisan political dimension to concerns about history of citizenship (what kind of collective political rights were demanded by the ethnic/national/other minorities that experienced boundary shifts and faced the need to socialize in a new political framework? What kind of counter-strategies was used by the majority institutions to facilitate, accept, calm-down, reject, or even oppress these demands? Was there any role left for the EC/EU as potential political venue that might contribute to setting not only the legal standard? And how did these issues and their politicization influence contemporary views concerning the solutions?).

Other work packages (especially WP 8 and WP 10) can be helpful with supplying evidence for contemporary problems related to the issue of shifting borders on coherence of communities and identities. WP 8 can be useful in paying attention to political aspects of minority issues, be it in the sphere of party politics or parliamentary representation and control of agenda setting process of the MS related to the EU level. How are the issues of identity addressed in the system of position-taking and policy implementation? Are the political rights' activists of minorities and political representations of minorities rally primarily on national/state channel of representation? Are they able to have a voice directly at the EU institutions? What are the successful strategies of the minority representation? Is not the success of minority representation undermining the substantial level of national/state unity in some cases? And what is the outcome of citizen/non-citizen divide? How to accommodate non-citizens



without blurring substantial divide between non-citizens' and citizens' political entitlements?

### ***8.6. The EU as a shifting border agency sui generis***

Another set of research questions might emerge out of thinking about the EU enlargement (or more precisely inclusion of a country to the EU) as a kind of shifting political borders that might have implications on perceived collective identities. One way how to address the issue offers seminal work of Thomas Risse (2010) who has tried to theorize and detect in an empirical way the emerging European identity that cuts across or complements national, regional, and other collective identities. His two concepts of likely-emerging implications of European identity building can be useful for further empirical research in the framework of bEUcitizen research project. Risse distinguishes between the concept of Europa as a modern political entity based on democracy, human rights, rule of law, market economy and relative inclusiveness sponsored by “inclusive Europeans” and Europe as a quasi-national inward looking conceptualized primarily as an exclusive cultural project shared by “exclusive nationalists”.

These theoretical concerns however can and should be exploited by more empirical oriented research closely related to the role the EU citizenship might play in reconciling between these positions in order to foster common integration project but only to the extent that won't prove unfeasible or even destabilizing because of lack of approval by citizens of the MS where exclusive nationalist prevail over inclusive Europeans and pro-integration stances of political elite meet more severe, critical, or even rejecting reactions than before.

The project can address following questions. Political implications of clash between European and still deeply prevailing national identity can be focused by researchers of the WP 8 on political rights. Basic question is how to moderate impact of popular moods in regard to integration from permissive consensus to what



some authors call “constraining dissensus”? Are the instruments of a subsidiarity check introduced by the Lisbon Treaty effective and efficient? Are the domestic political systems able to channel / frame the European debate as relevant to domestic public? If they fail to do so, what are the appropriate tools that can enhance public awareness of European politics? And is it really the cure at all to politicize the EU politics more, as for example Simon Hix (2008) suggested? Or shall we think more about increasing of output legitimacy or indirect means of political actors’ representation as more suitable instruments for enhancing acceptance of the EU politics by the EU citizens?

Execution of economic and social rights intersects the execution of political rights or, at least, it influences the sphere of political rights and it is conversely influenced by political rights as well. Regulation of economic and social rights belongs to factors that impact on political socialization both at individual and collective levels. Dissatisfaction with achieved level of economic and political rights can result in manifestation of political claims and changes of collective and individual political identities. In a multilevel system of governance composed of the EU and the MS, such new claims and identity changes can influence relations between the EU and (national) states conceptualized in a perspective of multi-level governance approach as two interdependent levels of policy making as well as two levels guaranteeing the respect for human rights and human rights enforcement. Example of the UK rejecting inclusion of the Social Charter might be too exceptional position but political debates and the way soft and hard Eurosceptic parties (see Szczerbiak and Taggart 2008) address the potential clash between national and EU levels of legal protection as opposing each other pose questions how to harmonize the sets of different rights at these two levels. From the perspective of the building of European identity, it is important to maintain such framing of the human rights’ issues that will not create conflict between popular perception of the role of national state and the EU. How to develop the EU standards of legal protection to be framed as concurring with domestic standards? This might be a question worth of



addressing by the scholars responsible for the WPs 5-7. As a side effect of considering seriously implications of shifting (mental and political) boundaries and changing individual and collective identities, the question of cultural rights can be regarded as well in relation to other types / sets of rights.

## References

Bartolini, Stefano (2005): *Restructuring Europe: Centre formation, system building, and political structuring between the nation state and the European Union*. Oxford: Oxford University Press

Bartolini, Stefano – Peter Mair (1990): *Identity, Competition, and Electoral Availability: The Stabilisation of European Electorates, 1885-1985*. Cambridge: CUP.

Bauböck, Rainer (2007): *Stakeholder citizenship and transnational political participation: a normative evaluation of external voting*, *Fordham Law Review*, 75: 2393 – 2446.

Bauböck, Rainer (2010): *Studying Citizenship Constellations*, *Journal of Ethnic and Migration Studies*, 36 (5): 847-859.

Brubaker, Rogers (1992): *Citizenship and nationhood in France and Germany*. Cambridge, MA: Harvard University Press.

Brubaker, Rogers (1996): *Nationalism reframed, nationhood and the national question in the New Europe*. Cambridge: Cambridge University Press.

Hayden, Robert (1992): *Constitutional nationalism in the formerly Yugoslav republics*. *Slavic Review* 51: 654-673

Hix, Simon (2008): *Whats Wrong with the European Union and How to Fix it*. Oxford: Polity Press.





Howard, Marc Morjé (2006): Comparative citizenship: an agenda for cross-national research, *Perspectives on Politics*, 4(3): 443-55.

Isin, D. Engin and Turner, S. Bryan (2003): *Handbook of citizenship studies*, Sage publications LTD.

Jenson, Jane (2007): The European Union's citizenship regime. Creating norms and building practices, *Comparative European Politics* 8: 53-69.

Joppke, Christian (2007): Transformation of citizenship: status, rights, identity. *Citizenship studies*, 11 (1), 37–48.

Karvonen, Lauri and Kuhnle, Stein (eds.) (2001): *Party Systems and Voter Alignments Revisited*. London and New York: Routledge.

Luther, Kurt Richard and Müller-Rommel, Ferdinand (eds.) (2002): *Political Parties in the New Europe: Political and Analytical Challenges*. Oxford – New York: OUP.

Pogonyi, Szabolcs (2011): Dual citizenship and sovereignty, *Nationality papers*, 39(5): 685-704.

Ragazzi, Francesco (2009): The Croatian 'diaspora politics' of the 1990s: nationalism unbound? In: U. Brunnbauer (ed): *Transnational societies, transterritorial politics, migrations in the (post)Yugoslav area, 19th–21st centuries*. Munich: Oldenourg Verlag, 145–168.

Risse, Thomas (2010): *A Community of Europeans? Transnational Identities and Public Spheres*. Ithaca and London: Cornell University Press.

Rokkan, Stein (2009; orig. 1970): *Citizens, Elections, Parties: Approaches to the comparative study of the processes of development*. Colchester: ECPR Press.



Rokkan, Stein (1999a): Mass Politics. In: Flora, Peter – Kuhnle, Stein – Urwin, Derek (eds.): State Formation, Nation-Building, and Mass Politics in Europe. Oxford: OUP, 225 – 240.

Rokkan, Stein (1999b): State Formation and Nation-Building. In: Flora, Peter et al. (eds.): State Formation, Nation-Building, and Mass Politics in Europe: The Theory of Stein Rokkan. Oxford: OUP, 93 – 224.

Shaw, Jo and Štiks, Igor (2010): The Europeanisation of citizenship in the successor states of the Former Yugoslavia: an introduction. CITSEE Working Paper 2010/01. School of Law, University of Edinburgh.

Smooha, Sammy (2002): The model of ethnic democracy: Israel as a Jewish and democratic state. Nations and Nationalism 8 (4): 475-503

Szczerbiak, Aleks and Taggart, Paul (2008): Theorising Party-Based Euroscepticism: Problems of Definition, Measurement and Causality. In: Szczerbiak, Aleks and Taggart Paul (eds.): Opposing Europe? The Comparative Party Politics of Euroscepticism: Comparative and Theoretical Perspectives. Oxford: OUP, 239-262.

Štiks, Igor (2010): The citizenship conundrum in post-communist Europe: The instructive case of Croatia. Europe-Asia studies, 62 (10), 1639–1660.



## 9. Theme 7. Citizenship Rights, Welfare State, and EU

- By Trudie Knijn (Utrecht University)

### 9.1. The concept

Citizenship is a concept with a long tradition, having its roots in Ancient Greece. However, studies on *welfare states and citizenship* tend to start with T.H. Marshall's reflection on the relationship between the two concepts (Marshall, 1950). In theorizing on the relationship between the economic basis of the capitalist economy and the role of the nation state he concluded that in the end the two systems go together; the capitalist economy divides – stratifies – the population and per definition results in inequality. In contrast, the nation state modifies and tempers the rude effects of that system by giving people status – and derived rights – on basis of their membership of a nation state. “All who possess the status are equal with respect to the rights and duties with which the status is endowed” (Marshall, 1950). Therefore nation states guarantee to their members, status, respect, self-esteem, maybe even pride and self-consciousness, and inclusive membership offers the state social cohesion support for its existence. In the literature on citizenship and welfare states the accent is on citizens' rights and obligations vis-à-vis the state.

Citizenship however, is a much broader concept also referring to social positioning and belonging, identity, and cultural and moral framing ('good citizens') (Hobson & Lister, 2002; Yuval-Davis, 1997). In creating rights and obligations for 'its own citizens' nation states also compose 'discursive frameworks for understanding citizenship as part of a wider world view' (Bussemaker & Voet, 1998).

The rights Marshall referred to – by putting these in a chronological and historical timeline – are; civil rights, political rights and social rights. In sum; *civil rights* contain the right to



perform any work one wants to. Civil rights contradict occupational segregations as defined and controlled by the guilds, related local (city's) protection of occupational status, and local citizenship rights. It also refers to the right to defend one's property against the state, the right to free speech, to conclude valid contracts, and to justice. Marshall situates the acceptance of this right in the beginning of the 19<sup>th</sup> century. *Political rights* form the basis of current democracies and citizenship. Suffrage movements have successfully pleaded for first male and latter universal voting, also for being voted. As Marshall claims; "this right shifted the basis [of citizenship] from economic substance to personal status". Finally, *social rights*, developed only at a large scale after WW II for many reasons and after long battles between social movements, political parties and also because enlightened entrepreneurs envisioned the advantages of a well-educated, healthy and skilled working class; the right to work (full employment), income protection, housing, education and healthcare have in the end been defined as citizenship rights in the second half of the 20<sup>th</sup> century, be it in different systems of regulation and with various effects on national populations.

Several conclusions can be drawn from this analysis is 1) the assumption that class inequality and citizenship rights together are formative for western welfare states (WP5 and WP6), 2) that membership of nation states guarantees protection against the rude effects of capitalist economies on individual lives resulting in societal polarization, 3) a gradual inclusion of all inhabitants of a nation state as citizens; citizenship rights in first instance have been reserved to working men only – the citizens *par excellence* (Marshall, 1950). Paupers depending on the Poor law, women and children only gained full citizenship much later on basis of the assumption that they need protection, not rights, which still is a topical issue (Anderson, 2013) (WP9 and WP10), and 4) the historical approach implies that citizenship once related to the local community (city, citizen, Burger) had to be broken up in favor of the free labour contract, though comments have been made on the historical pathways; these vary per country (WP3). Parallel



tendencies are at stake in current days where national citizenship rights form limitations for and are challenged by the EU's supranational claim for an open market with free mobility of persons, goods and services.

## **9.2. Comments and additions to Marshall's perspective**

### *9.2.1. Not one but three (or more) welfare states*

Inspired by Marshall's analysis on the combination of capitalist economies' and nation states' efforts to create membership and coherence Esping-Andersen (1990) presented a very influential cross-country study on the relationship between (re-) stratification (inequality) and de-commodification (the degree in which nation states protect their population against the effects of the market economy by providing benefits for the unemployed, pensioners and disabled). His conclusion was that there is not one single model of welfare states but in Europe there at least three models; the *social-democratic* model with generous benefits and few status hierarchies; the *liberal model* with residual benefits and major occupational status hierarchies, and the *corporatist/etatist* model with average benefits and major status hierarchies between civil servants employed by the state and/or occupations. Most European welfare states can be fit to one of these three archetypes, though some do not fit. For instance The Netherlands and Switzerland are qualified as hybrids, and some scholars plead for a fourth type, the Mediterranean countries (Leibfried, 1992).

Causes of the diversity of welfare states have to be found in *power resources* (Korpi, 1983; Esping-Andersen, 1990), the organized capacity of those without means of production to ally and form coalitions to struggle for social protection. Important here is the role of the middle class and how they are positioned vis-à-vis the state; included in the service system (social democratic welfare states), prioritized as civil servants or high skilled professionals



(corporatist and etatist systems), or excluded and self-responsible (liberal welfare states). Comments on the one-sided attention for mainly the power resources of the leftist (social democratic parties, small farmers' parties and trade unions) have been made by Van Kersbergen (1995). His studies show the contribution of Christian democratic political parties (and trade unions) to the development of welfare states, in particular in those countries where they had to compete with the socialist parties' and trade unions' efforts for gaining the vote of the workers. In addition, De Swaan (1988) pointed at the conflicting roles of elites in understanding social needs and in particular on the contribution of the enlightened bourgeoisie to social services and social protection systems developed 'in their own interests'. Examples are education (a better skilled population), healthcare a healthier population is more productive), social housing, and sewage systems (to avoid epidemic diseases).

Conclusions from this literature are that capitalist economies and welfare states co-exist though are based on diverse systems of inclusion and stratification, either class-based or membership based. Moreover, - European - national welfare states have rather diverse systems to organize membership and rather diverse mechanisms to bind their population to protection and service systems in exchange for identification and belonging. Finally, driving forces behind the development of social services and social protection systems may vary.

For the project bEUcitizen this variety of social rights within European member states, the role of interest groups as driving forces in preserving or changing nation state related rights are a crucial focus point. This is even more the case because of the relationship at the EU level between balancing the capitalist economies stratification principles and the de-commodification principles that until now bind citizens to 'their' nation states; what contribution can the EU make to create confidence, identification and social cohesion needed for social protection and social cohesion parallel to what nation states offer? Subsequently, is it possible to level out in a satisfactory way differences between generous



welfare states, corporatist welfare states and residual or familialistic welfare states (WP5-WP10)?

### *9.2.2. Gendered citizenship; adding the role of the family*

Also comments on women's unequal citizenship rights are not so recent. The 'Declaration of the Rights of Women' literally brought Olympe de Gouges to the guillotine during the French revolution. And although Marshall already in 1950 pointed at the slow integration of women as citizens, he and subsequently Esping-Andersen – in first instance - have not problematized the position of women in the family, nor noticed the family as a third constitutive institution for providing welfare. Interestingly, a male bias made them view only the capitalist market economy and the nation state as major institutions running and governing capitalist welfare states, thereby neglecting the family as the oldest and major social institution. Neither did they recognize that each of those institutions – the state, the market and the family – created and confirmed a stratified and gender-unequal hierarchy. Hence, feminist critiques focus on a variety of aspects of the construction of citizenship in welfare states. One of these critiques refers to Marshall's omission in defining social rights; the right to work, income protection, housing, education and health. Absent here is the right to – give and receive – care as a basic human need during some periods of the life course (Knijn & Kremer, 1997). By including the right to give and receive care as social rights, conditions for gender-equality can be improved. Ways to do so are facilitating care provisions, equal rights to care leaves, cash for care systems and care-related pension rights. Hobson and Lister (2002) argue that in the European feminist tradition comments take account of the social liberal tradition as represented by Marshall (1950) by connecting social rights to political and civic rights. As long as social rights are denied to women they will be unable to perform their political and civic rights (Siim, 2000), and this refers to all the social rights Marshall has outlined. To which Orloff (1993) has added the



right to exit marriage and form an autonomous household. Also reproductive rights (using anti-conceptive means, the right to abortion) and recognition of same sex relations are inductive for gender-equal citizenship (Orloff, O'Connor & Shaver, 1999). Interestingly, additions to the welfare state typology on basis of assumptions on gender-equal social rights as well the inclusion of the family as a constitutive welfare institute resulted in a more nuanced typology of welfare states than the one presented by Esping-Andersen. In reaction on the feminist critiques he has borrowed a third criterion in addition to de-commodification and (re-) stratification, which is de-familialization, still without acknowledging the gender-unequal basis of each of the institutions making up the welfare regimes; the family, the state and the market.

Parallel to these scholarly debates social rights for women have been highly prioritized at the EU agenda. Since the 1980s major reforms in nation states have been implemented because of the EU's strict regulations and directives (equal pay for equal work, equal pension schemes for feminized sectors of the labour market, compulsory maternal leave schemes etc.) and some soft laws. And as Hobson and Lister (2002) conclude: "[...] the appeal to a European notion of citizenship rights enhance the power resources of women to claim and extend the boundaries of citizenship in their respective countries."

Two comments can be made here; 1) The route towards gender-equality the EU has taken fits better to the residual liberal welfare state model than to the European social model in that it proclaims 'individual' rights and obligations and by consequence denies or at least downgrades interpersonal relations, interdependency and its effects on an unequal playing field for women. Several scholars have pointed at the fact that gender equality has become the servant of the economy with negative effects of this individualized 'adult worker model' for women's benefits, pensions and social protection in general (Lewis & Giullari, 2005; Frericks, 2007; Jenson, 2009). 2) The formal coding in the EU law and treaties do not immediately speak to national political discourses, economies and





structural conditions of labour markets, let alone to citizens with their specific cultural traditions. It is a challenge of WP5 to WP9 to trace biases in social rights for care workers, care receivers and women on the labour market in the various member states. This is of even more importance because of the financial and economic crisis; are we witnessing a return to informal unpaid and gendered family responsibility for those in need? Is gender-equality losing priority at the EU agenda because of the crisis, and do we witness a return to the family – and women as care providers – as the last resort - of maintaining social services; all over Europe or only in those EU member states that face deficits? (WP5 to WP10).

### *9.2.3. Welfare states and migration; membership of the nation states.*

Nation states have built up their power of identification via their social protection systems; reciprocal systems of contribution based upon exchange systems of 'its members only' (Ostner; 2004). At the intersection of migration, the EU and national citizenship systems the boundaries and challenges of reciprocity, not to say solidarity, come to the fore. National reciprocal protection systems appear to be per definition inclusive and exclusive, as is citizenship (Yuval-Davis, 1997). National citizens express – organized in political parties that give a voice to these fears – anxiety on their membership status, national identity, and on their social protection systems. Hierarchies of citizenship are created, and find their ways into polarized and cultural struggles on belonging and membership. A striking example of this construction of membership is the (ab)use of gender-equality as a defining concept in 'good citizenship' and hierarchical ethno-national diversity (Siim & Mokre, 2013). The question is whether migration - within the EU and from third countries to the EU – and welfare states relate as contradictions or as a paradox (Kremer, 2013; Banting & Kymlicka, 2006). Arguments for the latter are the need for specific categories of migrants in many European welfare states; care workers, high skilled –



technological knowledge workers and seasonal workers. Demographic declines in the Southern and Eastern part of the EU might be a reason for welcoming migrants and 'mobile youth' experiencing not their nation state but Europe as their natural habitat as promoted by the EU. Related questions are who is the other, why do they (not) belong, what hierarchy of migrants is created, by whom and what are implications?

#### *9.2.4. Three perspectives on welfare states and citizenship.*

The current focus of the debate, 25 years after the publishing of the *Three Worlds of Welfare Capitalism*, shifted from accentuating de-commodification and stratification to various versions of what citizenship actually entails. In addition to the social protection perspective that has been so central in the *Three Worlds*, nowadays also the 'social investment approach and the social innovation approach gain attention. Actually, these 'new' perspectives redefine the Marshallian meaning of social, economic, political and civil citizenship. The least extreme in the reconstruction of citizenship is the social investment approach, recently adopted by the EU commission by way of a 'Call to Member States to focus on growth and social cohesion' (COM, 2013, 83 final). This approach accentuates the need for active citizenship, and social investments in life long training, Early Childhood Education and flexicurity in order to avoid new social risks, avoiding intergenerational transmission of poverty and anticipating on the demands of the knowledge economy. Redistribution should target in particular needs of workers with low and obsolete skills, working single parents families, and the young as newcomers on the labour market (Vandenbroucke, Hemerijck & Palier, 2011). The main difference with the 'old' social protection approach is that now commodification instead of de-commodification is put central, and re-stratification might imply that 'old' social security – say pension systems and unemployment benefits – need reconsideration.



A more radical route away from the Marshallian definition of welfare states is the ‘social innovation’ approach. This approach fits in the republican instead of the social liberal approach of citizenship and accentuates participation in society as the core criterion for citizenship in contrast to the social liberal rights and responsibility approach of citizens vis-à-vis the state. Inherently, citizenship *rights* are envisioned as of less importance than *participative* citizenship existing in mutual responsibility. The focus is also less on the nation state and more on the local community in which citizens should ‘take care for each other’ and fulfilling needs is a matter of reciprocity and solidarity. The implication of this perspective might be decreasing importance of welfare states as units of association, lessening citizenship rights, increasing moral claims on citizens, and in the end a more prominent role for family members; hence gender-inequality.

### **9.3. Topical issues**

In order to avoid overlap with other chapters this chapter 6 focuses on citizenship rights from the perspective of the relationship between welfare states and the EU. The accent will be put on the relationship between social protection, social investments, social innovation and membership, and the focus will be on *gender and generations* as well as on *insiders and outsiders*. For the other WP’s questions are generated (see table).



WP Number	WP Title	What about?
WP3	Historical citizenship	Formative citizenship; does Marshall's claim of the successive introduction of civil, political and social rights hold?
WP4	Rivalling citizenship	How do rights and membership in nation states relate to recognized and separate communities?
WP5	Economic rights and free movement	Do economic rights exist to the same extent for the sexes, the generations (insiders) and for outsiders, and what is the crucial intersection for inclusion in and exclusion from economic rights? Do conflicts exist between nation states and the EU at this point?
WP6	Social rights	Do social rights exist to the same extent for the sexes, the generations (insiders), for outsiders and what is the crucial intersection for inclusion in and exclusion from social rights? Do conflicts exist between nation states and the EU at this point?
WP7	Civil rights of citizens	Do civil rights exist to the same extent for the sexes, the generations (insiders), for outsiders and what is the crucial intersection for inclusion in and exclusion from civil rights? Do conflicts exist between nation states and the EU at this point?
WP8	Political rights	Do political rights exist to the same extent for the sexes, the generations (insiders), for outsiders and what is the crucial intersection for inclusion in and exclusion from political rights? Do



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		conflicts exist between nation states and the EU at this point?
WP9	Balancing gender and generational citizenship	How do economic, social, civil and political rights relate in nation states for the sexes and the generations and how does this relate to EU policies?
WP10	Balancing citizenship of insiders and outsiders	How do economic, social, civil and political rights relate in nation states for several categories of migrants and how does this relate to EU policies?

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## References

Anderson, B., 2013, *Us and Them: The Dangerous Politics of Immigration Control*. Oxford: Oxford University Press.

Banting, K. and W. Kymlicka, 2006, *Multiculturalism and the Welfare State: Recognition and Redistribution in Contemporary Democracies*, Oxford: Oxford University Press.

Bussemaker, J. and R. Voet, 1998, Citizenship and gender: theoretical approaches and historical legacies, *Critical Social Policy*, 18 (3) 277-307)

Esping-Andersen, G., 1990, *Three Worlds of Welfare Capitalism*. New Jersey: Princeton University Press.

Frericks, P., 2007, *Setting Rights: Resource Flows, Life-course norms and the Dynamics of Citizenship in European pension Systems*, Utrecht: Utrecht University Dissertation.

Hobson, B. & R. Lister, 2002, Citizenship, in: B. Hobson, J. Lewis and B. Siim (eds.) *Contested Concepts in Gender and Social Politics*. Cheltenham: Edward Elgar, pp. 23-54.



Jenson, J., 2009, Lost in translation: the social investment perspective and gender equality, *Social Politics* 16 (4) 446-483.

Kersbergen, K. van, 1995, *Social Capitalism: Study of Christian Democracy and the Welfare State*, London/New York: Routledge

Knijf, T. and M. Kremer, 1997, Gender and the caring dimension of welfare states: toward inclusive citizenship. *Social Politics. International Studies in Gender, State and Society*. 4. (3), Special Issue: p. 328-361.

Knijf, T. and A. Komter (eds.), 2004, *Solidarity between the Sexes and the Generations. Transformations in Europe*, Cheltenham: Edward Elgar.

Korpi, W., 1983, *The Democratic Class Struggle*, London: Routledge and Kegan Paul

Kremer, M., 2013, *Vreemden in de verzorgingsstaat* (Strangers in the Welfare State), Den Haag: Boom Lemma Uitgevers.

Leibfried, S., 1992, 'Towards a European welfare state? On integrating poverty regimes into the European Community', in Z. Ferge and J.E. Kolberg (eds.) *Social Policy in a Changing Europe*. Frankfurt am Main: Campus Verlag

Lewis, J. and S. Giullari, 2005, '[The adult worker model family, gender equality and care: The search for new policy principles and the possibilities and problems of a capabilities approach](#)', *Economy and society*, 34 (1). 76-104.

Marshall, T.H., 1950, *Class, Citizenship and Social Development: Essays*, Chicago: University of Chicago Press.



Orloff, A., 1993, Gender and the social rights of citizenship: a comparative analysis of gender relations and welfare states, *American Sociological Review* 58 (3), 303-328.

Orloff, A., J. O'Connor and S. Shaver, 1999, *States, Markets, Families: Gender, Liberalism and Social Policy in Australia, Canada, Great Britain and the United States*, Cambridge: Cambridge University Press.

Ostner, I., 2004, 'What are children for? Reciprocity and solidarity between parents and a children', in: T. Knijn, T. and A. Komter, 2004, *Solidarity between the Sexes and the Generations. Transformations in Europe*, Cheltenham: Edward Elgar, pp. 167-184.

Siim, B., 2000, *Gender and Citizenship. Politics and Agency in France, Britain and Denmark*, Cambridge: Cambridge University Press.

Siim, B. and M. Mokre (eds.), 2013, *Negotiating Gender and Diversity in an Emergent European Public Sphere*, Hampshire: Palgrave Macmillan.

Swaan, B. de, 1988, *In Care of the State: Health Care, Education and Welfare in Europe and the USA in the Modern Era*. New York: Oxford University Press.

Vandenbroucke, F., A. Hemerijck and B. Palier, 2011, *The EU Needs a Social Investment Pact*, Brussels, OSE paper series, Opinion Paper no. 5.

Yuval-Davis, N., 1997, *Gender and Nation*. London: Sage



## **10. Theme 8: A 'Rights Revolution' in Europe?**

- By Christoph Strünck (Usiegen)

### ***10.1 Causes and consequences of expanding rights in Europe***

The relation between citizenship and rights is ambiguous: any concept of citizenship rests on rights whereas rights do not necessarily constitute citizenship. The European Community has shaped rights for quite a long time. The treaties constitute rights of free movement and citizenship, the ECJ extracted fundamental rights from member states' shared traditions, and through directives a range of statutory rights have been crafted, e.g. consumer rights, worker rights and other economic and social rights (Stone Sweet 2000).

Yet for decades the concept of positive, individual rights was not in the limelight. Creating a common market was much more based on "negative" rights, shielding individuals from government intervention. Even the ECJ limited his mandate to protecting those negative rights (Scharpf 1997, 1999).

The so called "rights revolution" in Europe is about positive rights that started spreading in the 1990ies. Against the backdrop of European Integration, rights have a peculiar meaning. In an abstract way rights simply mean "judicially enforceable rules", set up by EU institutions.

As the Common Market took shape the intrusion of European laws and regulations challenged the legitimacy of the European Union (de Burca 1995). Both fundamental citizen rights and positive social rights were demanded by different groups and actors: member states, interest groups, as well as the President of the European Commission, Jacques Delors. The Single Market should be accompanied by a "Social Europe". Practically, the Social Protocol to the Treaty of Maastricht represented this approach. In the





aftermath it was also positive consumer rights that were conveyed through secondary legislation in Europe.

Preparing the Treaty of Amsterdam, urges to enact civil rights as well as social rights converged (Maas 2005). Most interest groups that championed rights insisted that policy-makers made no difference between civil and social rights. For example, antidiscrimination rights were enshrined in the Treaty of Amsterdam. It was not until the adoption of the Maastricht Treaty (1992) that human rights were formally acknowledged as part of EU law. The Charter of Fundamental Rights came with a regular “Bill of Rights” but had no binding effect. Yet new European rights have had a significant impact on legal systems in member states (Aziz 2004).

A lot of those rights have paved the way to litigation in member states, effectively strengthening European institutions (Schimmelpfennig 2006). Most visibly, the European Court of Justice has interpreted new rights often generously and has even created new rights that empower European citizens and their advocates.

## ***10.2 Converging towards the US?***

But what exactly are the causes and consequences of the “rights revolution” in Europe? There is a controversial debate on why rights have become a prominent tool of European integration. Daniel Kelemen (2011) insists that a pattern of adversarial legalism has been created which he labels “Eurolegalism”. The two main driving forces are side effects of the single European market and political fragmentation at EU level. As the European market unfolded the traditional way of informal policy-making and insider networks in the EU did no longer work. Thus more formal and legalistic rules proved to be an equivalent that helped to maintain the growing market sphere. Secondly, powerful European actors tried to overcome the obstacle of fragmented policy-making and multiple principal-agent problems by delivering rights. The European Commission even actively trains activists to trigger test cases and streamline litigation strategies (Vanhala 2011).



This explanation casts doubt on a crucial thesis in bEUcitizen's theoretical framework. That thesis states that delegating decision-making to courts, comitology and commissioners has shrunk transparency and accountability. This may be true in general; yet creating more "judicially enforceable rules" could also increase transparency compared to long-established informal policy-making in the EU.

There are prominent counterarguments to the causes and the scope of "Eurolegalism". Concerning causes, proponents of policy diffusion argue that Eurolegalism was much more invented from the outside. Major factors include US law firms swept to Europe through the dynamics of globalization, higher degrees of judicial activism and policy brokers seeking to emulate US regulatory style (Shapiro/Stone 1994; Levi-Faur 2005, van Waarden/Hildebrand 2009, van Waarden 2009). Diffusion theories contribute significantly to explaining the spread of rights and legalism in Europe. However, US adversarial legalism is widely feared as a specter of irrational and costly excesses. Thus processes like mimicking meet strong opposition.

As for the scope of Eurolegalism, barriers towards enforcing European rights can be found in the culture of national legal systems (van Waarden 1995). There are different rules of standing, of legal aid or incentives to interest groups when it comes to litigation (Strünck 2008). Also, most European countries do not allow for class action, they ban contingency fees and other features of US adversarial legalism (Kagan 2007). Yet the question remains whether legal systems in member states are slowly changing, opening up space for Eurolegalism.

### ***10.3. References for further study***

The expansion of rights in Europe is well documented in the literature of law and political science. There are new studies that aim to explain growing judicial activism in member states (Rehder 2009). There are also comparative studies on granting more rights



to citizens to challenge government regulation (Rose-Ackerman/Lindseth 2010). Whether citizens are called upon to invoke new rights or regulatory agencies are in charge is another topic of comparative studies (Vogel 2012). Finally, the debate on whether creating enforceable rights diminishes democratic accountability is picking up speed (Kelemen 2012).

#### ***10.4 A Rights Revolution in Europe: issues for and contributions from working packages***

By and large, there is no doubt that a rights revolution has transformed the European Union since the 1990ies. The different causes and ambiguous consequences of the rights revolution cut across all working packages of bEUcitizen. *So the general question in every single WP is: What are the causes and consequences of establishing new rights?* Beyond this general question a couple of detailed questions pop up. Most of them are linked to all work packages:

- Is there a linear or a wave pattern of enlarging rights to citizens?
- What economic and political interests were linked to creating rights?
- Has the spread of rights increased clashes and conflicts between different forms of rights?
- Does the growing power of the judiciary help to grant rights to all citizens or does it deepen differences between social groups?
- What kind of rights has effectively restrained “negative” economic rights?
- How and why are “positive” rights re-defined as “negative” and vice versa?
- Have “positive” rights be re-defined by courts as “negative” and vice versa?
- Can the distinction of positive and negative rights be upheld?



- Have court rulings reshuffled established “priorities” among rights at national level?
- Have court rulings re-defined given rights?
- Have parliaments re-defined rights following court rulings?
- Has the spread of rights come with more money or new forms of legal aid to fund claims?
- Are the costs linked to enforceable rights distributed evenly or do they discriminate against certain groups?

In every working package there are distinctive dimensions of the rights revolution, captured by questions above. Most questions cut across all working packages. Crucial questions that could be raised in the respective research of each work package are listed in the table, as well as the specific contribution of each WP to the chapter on rights revolution.

Table 10.1. Questions to and possible contributions from work packages

WP Nr.	WP Title	Dimensions of rights revolution and related questions in each WP	Specific contribution of WP to chapter on rights revolution
WP 3	Historical citizenship – guilds and apprentices	Is there a linear or a wave pattern of creating rights? What economic and political interests were linked to creating rights?	WP 3 highlights the interdependence and ever-evolving dynamics of rights WP 3 scrutinizes relations and overlaps between economic rights and other forms of rights during expansion
WP 4	Rivalling citizenship claims elsewhere	Is there a linear or a wave pattern of creating rights? What economic and political interests were linked to creating rights?	WP4 scrutinizes which layers of rights are driving forces of a rights revolution



		<p>Does the growing power of the judiciary help to grant rights to all citizens or does it deepen differences between social groups?</p> <p>Has the spread of rights increased clashes and conflicts between different forms of rights?</p>	
WP 5	Economic rights and free movement	<p>Is there a linear or a wave pattern of creating rights?</p> <p>What economic and political interests were linked to creating rights?</p> <p>Does the growing power of the judiciary help to grant rights to all citizens or does it deepen differences between social groups?</p> <p>Has the spread of rights increased clashes and conflicts between different forms of rights?</p> <p>What kind of rights has effectively restrained “negative” economic rights?</p> <p>How and why are “positive” rights re-defined as “negative” and vice versa?</p> <p>Have “positive” rights be re-defined by courts as “negative” and vice versa?</p> <p>Can the distinction of positive and negative rights be upheld?</p> <p>Have court rulings re-defined</p>	WP 5 scrutinizes whether expansion and/or access to economic rights has been uneven among member states and social groups



		<p>given rights?          Have parliaments re-defined rights following court rulings?          Has the spread of rights come with more money or new forms of legal aid to fund claims?          Are the costs linked to enforceable rights distributed evenly or do they discriminate against certain groups?</p>	
WP 6	Social rights	<p>Is there a linear or a wave pattern of creating rights?          What economic and political interests were linked to creating rights?          Does the growing power of the judiciary help to grant rights to all citizens or does it deepen differences between social groups?          Has the spread of rights increased clashes and conflicts between different forms of rights?          What kind of rights has effectively restrained “negative” economic rights?          How and why are “positive” rights re-defined as “negative” and vice versa?          Have “positive” rights be re-defined by courts as “negative” and vice versa?          Can the distinction of positive and negative rights be upheld?</p>	WP 6 scrutinizes whether expansion and/or access to social rights has been uneven among member states and social groups



		<p>Have court rulings re-defined given rights?</p> <p>Have parliaments re-defined rights following court rulings?</p> <p>Has the spread of rights come with more money or new forms of legal aid to fund claims?</p> <p>Are the costs linked to enforceable rights distributed evenly or do they discriminate against certain groups?</p>	
WP 7	Civil rights of citizens	<p>Is there a linear or a wave pattern of creating rights?</p> <p>What economic and political interests were linked to creating rights?</p> <p>Does the growing power of the judiciary help to grant rights to all citizens or does it deepen differences between social groups?</p> <p>Has the spread of rights increased clashes and conflicts between different forms of rights?</p> <p>What kind of rights has effectively restrained “negative” economic rights?</p> <p>How and why are “positive” rights re-defined as “negative” and vice versa?</p> <p>Have “positive” rights be re-defined by courts as “negative” and vice versa?</p> <p>Can the distinction of positive</p>	WP 7 scrutinizes whether expansion and/or access to EU civil rights has effectively transformed national civil rights



		<p>and negative rights be upheld?</p> <p>Have court rulings re-defined given rights?</p> <p>Have parliaments re-defined rights following court rulings?</p> <p>Has the spread of rights come with more money or new forms of legal aid to fund claims?</p> <p>Are the costs linked to enforceable rights distributed evenly or do they discriminate against certain groups?</p>	
WP 8	Political rights	<p>Is there a linear or a wave pattern of creating rights?</p> <p>What economic and political interests were linked to creating rights?</p> <p>Does the growing power of the judiciary help to grant rights to all citizens or does it deepen differences between social groups?</p> <p>Has the spread of rights increased clashes and conflicts between different forms of rights?</p> <p>What kind of rights has effectively restrained “negative” economic rights?</p> <p>How and why are “positive” rights re-defined as “negative” and vice versa?</p> <p>Have “positive” rights be re-defined by courts as “negative” and vice versa?</p> <p>Can the distinction of positive</p>	WP 8 scrutinizes whether political rights have been hampered by expanding other rights





		<p>and negative rights be upheld?          Have court rulings re-defined given rights?          Have parliaments re-defined rights following court rulings?          Has the spread of rights come with more money or new forms of legal aid to fund claims? Are the costs linked to enforceable rights distributed evenly or do they discriminate against certain groups?</p>	
WP 9	Balancing gender and generational citizenship	<p>Is there a linear or a wave pattern of creating rights?          What economic and political interests were linked to creating rights?          Does the growing power of the judiciary help to grant rights to all citizens or does it deepen differences between social groups?          Has the spread of rights increased clashes and conflicts between different forms of rights?          What kind of rights has effectively restrained “negative” economic rights?          How and why are “positive” rights re-defined as “negative” and vice versa?          Have “positive” rights be re-defined by courts as “negative” and vice versa?          Can the distinction of positive</p>	WP 9 scrutinizes whether the expansion of individual rights clashes with peculiar patterns of “collective” rights attached to families and generations



		<p>and negative rights be upheld?          Have court rulings re-defined given rights?          Have parliaments re-defined rights following court rulings?          Has the spread of rights come with more money or new forms of legal aid to fund claims? Are the costs linked to enforceable rights distributed evenly or do they discriminate against certain groups?</p>	
WP 10	Balancing citizenship of insiders and outsiders	<p>Is there a linear or a wave pattern of creating rights?          What economic and political interests were linked to creating rights?          Does the growing power of the judiciary help to grant rights to all citizens or does it deepen differences between social groups?          Has the spread of rights increased clashes and conflicts between different forms of rights?          What kind of rights has effectively restrained “negative” economic rights?          How and why are “positive” rights re-defined as “negative” and vice versa?          Have “positive” rights be re-defined by courts as “negative” and vice versa?          Can the distinction of positive</p>	WP 10 scrutinizes whether the expansion of rights helped to enlarge or to target citizenship



		<p>and negative rights be upheld? Have court rulings re-defined given rights? Have parliaments re-defined rights following court rulings? Has the spread of rights come with more money or new forms of legal aid to fund claims? Are the costs linked to enforceable rights distributed evenly or do they discriminate against certain groups?</p>	
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## References

Aziz, M., 2004. The impact of European rights on national legal cultures. Oxford: Hart.

Búrca, G. de, 1995. The language of rights and European integration. In: J. Shaw and G. More, eds. *New legal dynamics of the European Union*. New York: Clarendon Press, 24-54.

Kagan, R.A., 2007. Globalization and legal change: The "Americanization" of European law? *Regulation & Governance*, 1 (2), 99–120.

Kelemen, R.D., 2011. Eurolegalism: The transformation of law and regulation in the European Union. Cambridge, Mass: Harvard University Press.

Kelemen, R.D., 2012. Eurolegalism and democracy. *Journal of common market studies : JCMS*, 50 (2012), 55–71.



Levi-Faur, D., 2005. The Political Economy of Legal Globalization: Juridification, Adversarial Legalism, and Responsive Regulation. A comment. *International Organization*, 59 (02), 473–484.

Maas, W., 2005. The genesis of European rights. *Journal of common market studies : JCMS*, 43 (5), 1009–1025.

Rehder, B., 2009. “Adversarial legalism” in the German system of industrial relations? *Regulation & Governance*, 3 (3), 217–234.

Rose-Ackerman, S. and Lindseth, P.L., 2010. *Comparative administrative law*. Cheltenham, U.K, Northampton, Mass: Edward Elgar.

Scharpf, F.W., 1997. *Balancing positive and negative integration: The regulatory options for Europe*. Florence: European University Institute, Robert Schuman Centre.

Scharpf, F.W., 1999. *Governing in Europe: Effective and democratic?* Oxford, New York: Oxford University Press.

Schimmelfennig, F., 2006. Competition and community: constitutional courts, rhetorical action, and the institutionalization of human rights in the European Union. *Journal of European Public Policy*, 13 (8), 1247–1264.

Shapiro, M. and Alec Stone., 1994. *The New constitutional politics of Europe*. Thousand Oaks, Calif: Sage Publications.

Stone Sweet, A., 2000. *Governing with judges: Constitutional politics in Europe*. Oxford, New York: Oxford University Press.

Strünck, C., 2008. Claiming Consumers’ Rights: Patterns and Limits of adversarial Legalism in European Consumer Protection. *German Policy Studies*, 4 (1), 167–192.



Vanhala, L., 2011. Making rights a reality?: Disability rights activists and legal mobilization. Cambridge [etc.]: Cambridge University Press.

Vogel, D., 2012. The politics of precaution: Regulating health, safety, and environmental risks in Europe and the United States. Princeton NJ: Univ. Press.

Waarden, F. van, 1995. Persistence of national policy styles: a study of their institutional foundations. *In*: B. Unger and F. van Waarden, eds. *Convergence or diversity?: Internationalization and Economic Policy Response*. Aldershot, Brookfield, USA: Avebury, 333–372.

Waarden, F. van, 2009. Power to the legal professionals. An Americanization of European Law? *in Regulation and Governance*, 3(3), 197-216.

Waarden, F. van, and Y. Hildebrand 2009. From corporatism to lawyocracy? On liberalization and juridification. *in Regulation and Governance*, 3 (3), 259-286.



## **11. Theme 9: EU Citizenship: Model to other Regions and Vice-Versa?**

- By Mónica Ferrin and Francis Cheneval (UZH, Zürich)

### ***11.1 The Multi-Layeredness of European Citizenship: Some Difficulties***

#### *11.1.1. Member States' interests vs. EU interests*

One basic characteristic of European Union citizenship is its multi-layered nature. A European citizen may at the same time be a British citizen, a Scottish citizen, and a Glaswegian. Combining all these different levels into a coherent citizenship status is probably the most difficult task the European Union has to address. Since EU has no monopoly on citizenship, but it is supplementary to national and sub-national citizenship, access to European citizenship is dependent on the possession or acquisition of a member state nationality (Article 17EC). Member states (MS) have exclusive competence in determining who becomes a national, which has resulted in a number of contradictions between EU rights and national legislation.

Even if the European Court of Justice (ECJ) has played a major role in trying to solve the tensions between MS exclusive competence and European law, some argue that it has not been able yet to solve the question of hierarchy – and autonomy – between national and European levels in a systematic way (Kostakopoulou 2012). The Rottman case is highly significant in this regard. “Mr Rottmann, an Austrian national by birth, acquired German nationality by naturalisation. However, the Land of Bavaria decided to withdraw this naturalisation with retroactive effect on the grounds that it was obtained fraudulently, since Mr Rottmann



had not disclosed the fact that he was the subject of judicial investigation in Austria. According to Austrian law, Mr Rottmann's naturalisation in Germany had the effect of loss of his Austrian nationality, without the withdrawal of his naturalisation in Germany implying that he automatically recovers Austrian nationality." (Case C-135/08 Janko Rottman v Freistaat Bayern, judgment of the Court of 2 March 2010). Given that European citizenship is dependent on MS nationality, Mr Rottmann would immediately lose EU citizenship if both Germany revokes naturalization and Austria withdraws nationality. However, the ECJ has not been conclusive in this regard, as it has established that: "It is not contrary to European Union law, in particular to Article 17 EC, for a Member State to withdraw from a citizen of the Union the nationality of that State acquired by naturalization when that nationality was obtained by deception, on condition that the decision to withdraw observes the principle of proportionality.", but has not clearly determined whether Mr. Rottman would immediately lose EU citizenship. As a matter of fact, the Court has set that the question whether Austria is obliged to restore his original citizenship as this question must first be decided by Austrian courts. This example clearly illustrates one of the main problems related to the multi-layeredness of EU citizenship, and its dependence on national citizenship.

In addition to the reluctance to lose sovereignty in the field of determination of nationality – and surely linked to it – member states' major argument against EU citizenship relates to social benefits (Jenson 2007; Kostakopoulou 2012). Given the lack of European-level social provision, costs associated to EU rights to move and reside freely within the territory of the Union fall exclusively on member states. As a consequence, MS are unwilling to extend EU citizenship rights, as they fear that economic burden will increase. "A key challenge for the EU over the coming decades relates to social entitlements in such areas as health care, education, pensions, and other benefits, which have come to characterize modern welfare states. Unless EU institutions are able to guarantee some degree of portability and equality to these entitlements, the content of EU citizenship when compared with



member state citizenship will remain relatively hollow.” (Maas 2013a: 98).

### *11.1.2. Insiders and Outsiders*

EU citizenship has also introduced much complexity with regard to who is an *insider* and who an *outsider*. While the EU has tried to provide equal treatment to MS nationals who live in another member state, strict limitations have been enforced on third-country citizens who move to an EU country. This different treatment has resulted in different *categories* of citizens, which are often difficult to manage (see, for example, the case of Roma in France in Parker and Toke 2013). The insider-outsider dichotomies become all the more problematic since both EU and non-EU citizens are increasingly moving into other communities and/or categories where they may be considered outsiders: as tourists, migrant workers, service providers, consumers, investors, internet consumers, buyers of real estate, immigrants, students, marriage partners, etc. EU citizens can easily move across the European Union maintaining their single nationality; changing nationality or becoming dual nationals. Instead, non-EU citizens' status is more dependent on citizenship regimes of each MS: immigrants, denizens, or citizens are some of the concepts which are normally applied to name non-EU citizens (Bauböck 2007; Shaw 2007; Vink and Bauböck 2013).

The confusion is even bigger if we consider that EU citizenship might be increasing inequality between EU national insiders and EU national outsiders. Indeed, while the European Union citizenship has brought a new brunch of rights to citizens who move to work or live in another MS, insiders neither take profit of these new rights nor are they 'compensated' to stay at home.





### 11.1.3. Identity

It is often argued that identity is a fundamental aspect of political legitimacy and citizenship, which the European Union has not been able to develop successfully (e.g. Delanty 1997). However, “despite the neglect of the issue in the treaties, the development of a common European identity has long been a goal of those steering the processes of European integration, dating back to the vision and idealism of Monnet and Schuman, who saw that a sense of shared values and cultural norms (rather than a stress on national differences) might contribute to the aim of bringing peace to a war-torn continent.” (Painter 2002: 99). Several attempts have in fact been made from the part of the EU to enhance European identity, such as a common TV area, the institution of the European flag and the European anthem, or greater cooperation and interchange in education such as the well-known Erasmus Program. Yet, even if Europe is constantly in citizens’ minds, it is far from being totally fused into Europeans political imaginary. Most Europeans still identify exclusively with their own MS, in particular in countries such as the United Kingdom and Denmark (e.g. Sanders et al. 2012). In spite of this, qualitative studies show that the European Union is gradually becoming part of EU citizens’ lives, as a sort of multi-layered identity (Miller 2012). It is an open question whether EU citizenship can survive in the long run without the development of a parallel European identity<sup>23</sup>; and in particular, whether European identity will equally grow among EU stay-at-home citizens and EU movers’ citizens.

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<sup>23</sup> On the strategies to promote European identity, see for example, Schmidt 2010 or Schall 2012.



## **11.2. WP4, WP2, and the other WPs**

### *11.2.1. Objectives of WP4*

In the field of citizenship the EU, as a multi-national entity, faces problems that have been experienced by multi-ethnic and (con)federal states for decades, sometimes centuries. This applies to barriers such as varying (linguistic and ethnic) identities, competing prioritizations of rights and/or practical language problems. Citizens in the relevant countries belonged to two or more communities, from which they derived identities and claims to specific rights. Countries with multiple linguistic communities or minorities, such as Belgium, Switzerland, Italy, Austria, Spain, Estonia, Latvia and Romania have given these communities specific rights or they have been able to claim them - e.g. the right to speak their minority language in court - under reference to EU citizenship. Special status can also affect property rights, as in Estonia: the right to own real estate. In this work package these experiences, and the ways in which such countries have dealt with multiple civic identities, will be studied and compared. Thus the objectives of WP4 are to compare the problems experienced and solutions tried in other (con)federal states - or other states where citizens have multiple identities - with those in the EU.

### *11.2.2. Helpful literature*

Although there is much literature comparing the US (or other (con)federal states) to the EU (e.g. Ansell and di Palma 2004; Bolleyer 2009; Fabbrini 2004; McKay 2001; Menon and Schain 2006), most of it compares institutional arrangements which have



been implemented in the EU and the US<sup>24</sup>. Less has been investigated on how citizenship has been designed in countries which have faced similar problems to the EU (a few examples: Prügl and Thiel 2009; Brubaker 2010; Schall 2012; Maas 2013a). From this point of view, WP4 can importantly contribute to fill this gap in the literature.

Another trend of the literature which can be very useful in order to answer research questions of WP4 is literature on European identity (e.g. Sassatelli 2009; Risse 2010; Lucarelli et al. 2011; McMahon 2013).

### *11.2.3 Comparison between the EU and other countries*

WP4 proposes an interesting comparison between several case studies and the European Union. Eight countries (see Table 1) – case studies – are the object of empirical research in WP4. Indeed, “the comparative history of citizenship provides rich examples of multilevel citizenship in theory and practice, although such examples are today often forgotten or obscured by the dominant narrative of single and homogeneous, territorial, state-based citizenship.” (Maas 2013b: 1). These varieties of multilevel citizenship can certainly shed some light on possible developments for the European citizenship, which can help to overcome some of the obstacles Europeans face nowadays when trying to exercise their rights as citizens.

Table 11.1 Selection of countries of WP4

Country	EU member	System of government	Type of government	Multiple-identities	Official language/s
Canada	No	Federal	Parliamentary	English	English/ French

<sup>24</sup> This list needs to be completed with comparative literature including our case studies.



			dem. (Const. Monarch.)	origin; French origin; Europeans; Aborigine	
Croatia	Yes	Unitary	Parliamentary dem.	Croats; Serbs	Croatian
Czech Republic	Yes	Unitary	Parliamentary dem.	Czechs; Moravians; Slovaks	Czech
Estonia	Yes	Unitary	Parliamentary rep.	Estonians; Russians	Estonian
Israel	No	Unitary	Parliamentary dem.	Jewish; non-Jewish	Hebrew/(Arabic)
Spain	Yes	Semi-federal	Parliamentary monarchy	Spanish; Catalan; Galicia; Basque country	Spanish/Basque/Catalan/Galician
Switzerland	No	Confederation	Federal rep./semi-direct democracy	German; French; Italian; Romansh	German/French/Italian/Romansh
Turkey	No	Unitary	Republican parliamentary dem.	Turks; Kurds	Turkish

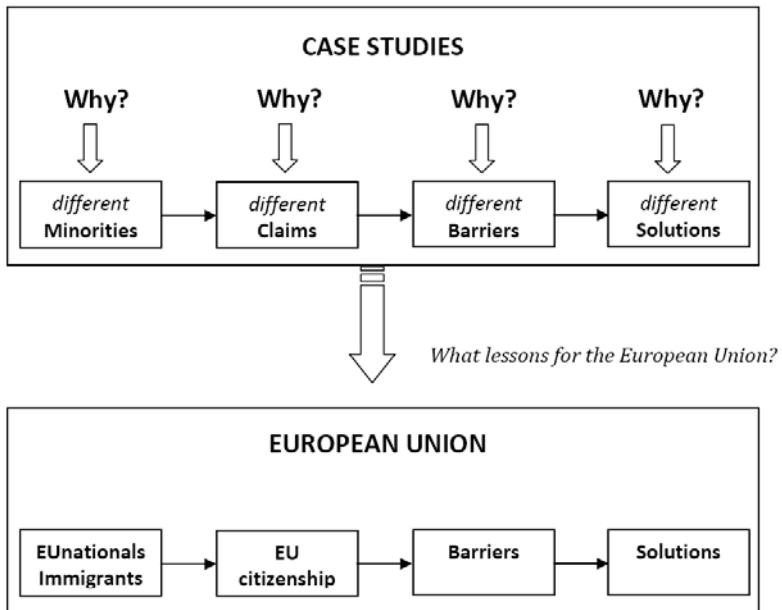
Figure 1 identifies the main variables that need to be accounted for in WP4: *different* minorities; *different* claims; *different* barriers; and *different* solutions. Within each of our case-study, different types of problems (*barriers*) have been experienced due to multiple and rivalling identities of groups of citizens (*minorities/claims*). In response to these, different types of social, legal and political *solutions* have been tried. The first task in WP4 is to develop a common theoretical framework, which allows for comparison of these four main variables across countries, and across countries and



the EU. In this regard, there are a number of questions which need to be answered, namely:

- What is the parallelism between *Minorities* and *EU nationals/ immigrants*?
- How similar are minority claims to EU-national claims?
- How similar are these barriers to those found by EU citizens?
- Have similar solutions been implemented at the EU level?

Figure 11.1 Comparison between case studies and the European Union



Since WP4 is mainly focused on the top of Figure 1 (except for deliverables D4.10 and D4.11), WP2 could eventually concentrate



on the relationship between the top – *case studies* – and the bottom – *European Union*. It would be interesting to do this from a bi-directional perspective: *What lessons can be taken for the European Union? & Can the European Union be taken as model for other regions?*

In order to do this, we need to answer a question which is transversal to all WPs: What problems does European citizenship face as a consequence of its multi-layered character? Ideally, participants from each WP would consider this question in relation to the different topics – types of rights; types of groups (Table 2).

Table 11.2 Transversal to theme 9

WP Number	WP Title	Transversal to theme 9
WP5	Economic rights and free movement	What obstacles for <b>economic rights and free movement</b> because of EU citizenship multi-layeredness?
WP6	Social rights	What obstacles for <b>social rights</b> because of EU citizenship multi-layeredness?
WP7	Civil rights of citizens	What obstacles for <b>civil rights</b> because of EU citizenship multi-layeredness?
WP8	Political rights	What obstacles for <b>political rights</b> because of EU citizenship multi-layeredness?
WP9	Balancing gender and generational citizenship	What obstacles for <b>gender and generational equality</b> as consequence of EU citizenship multi-layeredness?
WP10	Balancing citizenship of insiders and outsiders	What obstacles for <b>outsiders</b> as consequence of EU citizenship multi-layeredness?



Particularly relevant for the eventual contributions to the horizontal volume are results of WP6 and WP10, since these are particularly affected by the multi-layered structure of citizenship (see first section).

## References

Ansell, C.K. and G. di Palma (eds.) (2004). *Restructuring Territoriality: Europe and the United States Compared*. Cambridge: Cambridge University Press.

Bauböck, R. (2007). 'Why European Citizenship? Normative Approaches to Supranational Union', *Theoretical Inquiries in Law*, 8/2, 452-88.

Bolleyer, N. (2009). *Intergovernmental Cooperation: Rational Choices in Federal Systems and Beyond*. Oxford: Oxford University Press.

Brubaker, W.R. (2010). Introduction to immigration and the politics of citizenship in Europe and North America. In Martiniello, M., Rath, J. (eds). *Selected Studies in International Migration and Immigrant Incorporation*. Amsterdam University Press, Amsterdam, 215-237.

Case C-135/08 Janko Rottman v Freistaat Bayern, judgment of the Court of 2 March 2010

Delanty, G. (1997). "Models of Citizenship: Defining European Identity and Citizenship". *Citizenship Studies* 1: 285-303.

Fabbrini, S. (2004). "Transatlantic constitutionalism: Comparing the United States and the European Union". *European Journal of Political Research* 43(4): 547-569.



Jenson, J. (2007). "The European Union's Citizenship Regime. Creating Norms and Building Practices". *Comparative European Politics* 5: 53-69.

Kostakopoulou, D. (2012). "The European Court of Justice, Member State Autonomy and European Union Citizenship". In de Witte, B. And H.M. Micklitz (eds.) *The European Court of Justice and the Autonomy of the Member States*. Cambridge: Intersentia.

Lucarelli, S., Cerutti, F. and V. Schmidt (eds.) (2011). *Debating Political Identity and Legitimacy in the European Union: Interdisciplinary Views*. London: Routledge.

Maas, W. (2013a). "Free Movement and Discrimination: Evidence from Europe, the United States, and Canada". *European Journal of Migration and Law* 15: 91-110.

Maas, W. (ed.) (2013b). *Multilevel Citizenship*. Philadelphia: University of Pennsylvania Press.

McKay, D.H. (2001). *Designing Europe: Comparative Lessons from the Federal Experience*. Oxford: Oxford University Press.

McMahon, R. (ed.) (2013). *Post-Identity? Culture and Political Integration*. New York: Routledge.

Menon, A. and M.A. Schain (eds.) (2006). *Comparative Federalism: the European Union and the United States in Comparative perspective*. Oxford: Oxford University Press.

Miller, R. and G. Day (eds.) (2012). *The Evolution of European Identities*. New York: Palgrave.

Painter, J. (2002). "Multi-level Citizenship, Identity and Regions in Contemporary Europe". In Anderson, J. (ed.), *Transnational Democracy*. London: Routledge.





Parker, O. and D. Toke (2013). "The Politics of Multi-level Citizenship: French Republicanism, Roma Mobility and the EU". *Global Society* 27(3): 360-378.

Prügl, E. and M. Thiel (eds.) (2009). *Diversity in the European Union*. New York: Palgrave.

Risse, T. (2010). *A Community of Europeans? Transnational Identities and Public Spheres*. Cornell University Press.

Sanders, D., Bellucci, P., Tóka, G. and Torcal, M. (eds.) (2012). *The Europeanization of National Politics? Citizenship and Support in a Post-Enlargement Union*. Oxford: Oxford University Press.

Sassatelli, M. (2009). *Becoming Europeans. Cultural Identity and Cultural Policies*. New York: Palgrave.

Schall, C.E. (2012). "Is the Problem of European Citizenship a Problem of Social Citizenship? Social Policy, Federalism, and Democracy in the EU and United States." *Sociological Inquiry* 82(1): 123-144.

Shaw, J. (2007). *The Transformation of Citizenship in the European Union*. Cambridge: Cambridge University Press.

Vink, M.P. and R. Bauböck (2013). "Citizenship Configurations: Analysing the Multiple Purposes of Citizenship Regimes in Europe". *Comparative European Politics* 11: 621-648.



### **13. Theme 10: EU-Citizenship and Prospects for Cosmopolitan Citizenship**

- By Sandra Seubert and Daniel Gaus (Goethe University, Frankfurt/M)

Modern citizenship has long been conceived from a nation-state perspective. Beyond all differences between competing interpretations,<sup>25</sup> it has been generally understood as a set of equal rights individuals grant each other based on their membership in the same legally constituted political community which, in turn, is defined by common nationality and discrete territory. In this sense, citizenship has typically been equated with democratic citizenship – to grant each other equal individual rights implies an equal right to participate in the political process of decision-making. Recently, this view of citizenship as democratic citizenship in a constitutional state is facing two challenges.

#### ***12.1. Two challenges to the modern concept of citizenship***

The first challenge refers to a ‘practice turn’ that is related to the diagnosis that informal forms of citizenship become increasingly more important (Sassen 2008). Rather than reducing citizenship to set of positive rights, it has been suggested to understand citizenship more broadly as ‘that set of practices (juridical, political, economic and cultural) which define a person as a competent member of society, and which as a consequence shape the flow of resources to persons and social groups.’ (Turner 1993: 2). This turn towards citizenship as practice has two important consequences.

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<sup>25</sup> In particular liberal and republican understandings of modern citizenship (Seubert 2013).



On the one hand, by suggesting citizenship as those practices that set the terms of mutual recognition in the 'distribution of life opportunities' (Shaw 2007: 19), it widens the scope of where to look for transformations of and barriers towards EU-citizenship. No doubt rights and obligations are finally expressed in positive law. But more than that, there is an ongoing public contestation, pressing towards change or preservation of the legally codified citizenship rights and their application. Those instances of claim-making in political discourse can be seen as 'acts of citizenship' (Isin/Nielsen 2008, Saward 2013) that shed an additional light on transformations of citizenship beyond case law and legal treaties. On the other hand, conceptualising citizenship as practice helps to acknowledge that citizenship is not a fixed category but in constant transformation. The modern history of citizenship is a history of struggles for recognition of equal rights and status for those being excluded from the commonwealth. In this regard, Balibar (2012) describes the dynamics of modern citizenship as inherently driven by a tension between the particular and the universal. Whereas, on the one hand, citizenship always claims to realize equal individual freedom, the practical realization of these rights, on the other hand, presuppose the institutions of a bounded legal order. Thus, the universalist tendency inherent to the values of equal individual freedom contradicts the particularist conditions of its own realization, that is, a bounded political community. This tension between the universal and the particular is reflected by two competing views of citizenship, which leads us to the second challenge of the modern concept of citizenship.

This second challenge could be called the 'cosmopolitan challenge' to citizenship. It concerns the question of how to define the group of people that can legitimately make particular claims on each other and is thus entitled to the full amount of citizenship rights. In the modern history of Western political thinking two principally different ways to answer this question can be distinguished. Both assume that the principle of equal individual freedom also implies equal political participation and, consequently, that citizenship is always a form of democratic citizenship. However,



they differ in their assumptions about the nature of social membership, more precisely, the cultural and institutional preconditions that are necessary to establish a democratic community of citizens. The first and dominant view sees citizenship based on peoplehood. Here, the community of equals granting each other citizenship rights is typically seen as a national community. Citizenship serves to cast a more or less pre-existing national community into a political mould. The bonds and social relations of a pre-existing nation, be it a 'civic' or an 'ethnic' nation (Smith 1986), establish special rights and obligations towards ones fellow citizens, whereas towards all others, aliens and outsiders, there is only a restricted duty of humanity (Miller 2007). In this view citizenship rights belong to the members of a national community only and citizenship is thus a 'bounded' concept that is restricted to the democratic nation-state. On the other hand, cosmopolitanism critics reject the assumption that citizenship rests on peoplehood and argue for a global citizenship based on personhood. Every individual by being a member of the human kind is morally entitled to the full amount of equal rights and treatment. Arendt's (1951) famous notion of an unconditional 'right to have rights' is a case in point. According to this view, citizenship is not dependent on an affiliation to a particular (national) political community. Rather, human beings 'deserve equal political treatment, that is, treatment based upon the equal care and consideration of their agency, irrespective of the community in which they were born or brought up' (Held 2009: 537). In this view citizenship is seen as unbounded in the sense that full citizenship, including equal rights to political participation, can only be realized in a global cosmopolitan democracy.

For quite some time, the international political order seemed to do justice by both the nation-state and the cosmopolitan understanding of citizenship. Whereas national citizenship was granted by sovereign nation-states, public international law served as a backup 'to deal with failures in the system of discrete states and separate systems of nationality such as the withdrawal of



nationality, expulsion from the national territory... and any other denial of rights, to regulate prevent conditions such as statelessness, and to protect groups such as refugees and those in need of temporary protection' (Shaw 2007: 22-3). However, processes of globalization increasingly blur the clear-cut distinction between citizens of a nation-state and being a 'world citizens' based on human rights in two ways. For one thing, economic globalization undermines the conditions for nation-state democracies to function properly. Democratic legitimacy obviously depends on a democracy's ability to generate satisfying policy-outcomes. Highly mobile capital flows and liberalized markets, however, have weakened national democracies' capacity for effective regulation, especially in social politics, the most salient policy-area (Offe 1998). For another thing, globalization also changes the terms of democratic politics more fundamentally. The explosion of border-crossing interaction and communication raises awareness with regard to social diversity and the effects of political decisions on people beyond the borders of one's own democratic nation-state. This goes along with a reframing of our sense of justice and equality (Fraser 2008) that slowly perforates the legitimacy of the nation-state as a closed container of democratic self-determination. In both regards, the effects of globalization seem to strengthen the case of cosmopolitans who seek to overcome the bounded notion of national citizenship and argue for a 'global commonwealth of citizens' (Archibugi 2008).

## ***12.2. The cosmopolitan challenge for the EU***

It is often suggested that the EU can be understood as a laboratory for how to react to this double cosmopolitan challenge adequately (e.g. Bohman 2007). The main question is whether in the EU the configuration of the democratic constitutional nation-state can be disaggregated in order to reassemble its elements – democracy, constitution and the state – in a way that meets the challenges of a neoliberal, disembedded economy for democratic politics, on the



one hand, and an extended sense for democratic obligations reaching beyond the respective borders of the EU member states, on the other. As regards how far the EU has come along this way, the balance sheet shows some mixed results so far.

With regard to the challenge of economic globalization, for some European integration is the most promising route to the effective regulation of an unfettered capitalism and its detrimental effect on democracy. As Habermas (2001: 69) argues, economic globalization poses a threat to national democracies because it undermines 'the capacity of the tax-based state to extract the national resources that the administration depends upon for its survival'. With a society's capacity to act being a precondition for its democratic self-control and -realization, the recovery of political decision-making capacity on the European level becomes a requirement of sustaining democracy itself (Habermas 2012: 15). For that, however, the EU would have to integrate even further into a polity with a common economic, labor and social policy. Critics are not only skeptical towards the feasibility of such a further integrated EU, but go a step further and see the EU as the main obstacle towards regaining the political agency of national democracies. They argue that, for one thing, the EU being grounded on the four basic economic freedoms works like a catalyst to the very economic deregulation that deprives its member states of political decision-making capacity (Streeck 2013). For another, its structure of political decision-making works like a 'joint-decision trap' that makes the revision of once deregulated economic policies practically impossible (Scharpf 2006). In this perspective, only a gradual disintegration and renationalization could stop further deregulation with its detrimental effects to national democracies.

Regarding the EU's prospects to answer the challenge of transnationally extended democratic obligations, there are also differing views. For some the EU is an example of how the scope of legitimate political claims-making already has extended beyond the borders of national community. Externally, EU institutions impose the obligation to mutually justify national politics with regards to negative externalities affecting neighboring countries. Internally,



the principle of non-discrimination increasingly undermines the normative basis for special rights and obligations towards fellow national citizens only. In both regards the national community is challenged as the political space that draws the boundaries between legitimate and illegitimate democratic claims. In this perspective, European integration has the effect of gradually separating citizenship from nationality (Besson/Utzinger 2008), substituting national citizenship with a 'stakeholder citizenship' (Bauböck 2007) that is based on affectedness rather than political affiliation. In this perspective, the EU is sometimes seen as the vanguard towards a new type of European democracy without a bounded demos – be it as a kind of multinational democracy of democracies ('democracy') (Cheneval 2013) or as a 'post-national democracy with a cosmopolitan imprint' (Eriksen/Fossum 2012) or even a 'global stakeholder democracy' (Macdonald 2008). Others object that democracy remains dependent on a nationally integrated demos and thus see the prospects for European democracy as rather weak given that a European demos is lacking and will be lacking in the future (Scharpf 2009). Still others take a middle position and argue that albeit there is a denationalization of democracy in European integration, the prospects of a cosmopolitan type of democracy in the EU are weak, because democratic citizenship depends on the affiliation to and the solidarity of a common European political community. To insist on the need of a European 'demos-cracy' (van Parijs 2013) is however not to say that national democracies had to merge into a federal European state. For Habermas (2012) the EU has the potential to develop into a non-state federal multinational democracy that combines features of a European 'demos-cracy' with a European 'democracy'. According to this view, democratic citizenship in the EU presupposes full political rights on the European level. This would not necessarily imply new mechanisms of political participation, but rather an upgrading of the right to vote by turning the European Parliament into a full legislative chamber on equal terms with the European Council. In this sense, EU decision-making would consist of two counterbalancing legislative institutions, one



representing the community of European citizens, the other representing the community of national communities.

Questions:

- Is EU Citizenship developing into a “full” citizenship containing civic, political and social rights known from the democratic nation-state? Or is EU citizenship a step towards disaggregating democratic citizenship that strengthens economic rights at EU level and restricts full democratic citizenship including political and social rights to the national level?
- Did any disaggregated forms of citizenship exist previously and how did they relate the idea of democratic citizenship/political participation?
- In what ways is political autonomy affected by citizenship rights on the EU level? Do EU political rights complement national political rights and thus extend (or: regain lost) democratic autonomy for EU citizens? Or: is EU-citizenship still a form of market citizenship that is a barrier to full democratic citizenship? Or: are they just the vanguard to be joined by full participation and social rights?
- Is the EU on the way to establish a new type of democracy that does not presuppose affiliation to a particular political community and treats its residents alike regardless of their country of origin?





Table 12.1 Questions for other WPs

WP Nr	WP Title	Dimensions of prospects for cosmopolitan citizenship and related questions in each WP	Specific contribution of WP to chapter Prospects for cosmopolitan citizenship
WP 3	Historical citizenship: guilds and apprentices	-How did forms of citizenship previous to nation-state citizenship refer to legal membership status, principle of equality / non-discrimination and political participation?	WP 3 analyzes citizenship as an ever-evolving institution, reflects the historical genesis of citizenship concepts
WP 4	Rivalling citizenship claims elsewhere	-What disaggregated forms of citizenship are existent in multi-ethnic and (con)federal states?  -Is EU-citizenship used to justify political claims of national minorities?	WP4 scrutinizes the challenge of a multi-layeredness of rights for a unitary citizenship status
WP 5	Economic rights and free movement	- Can EU-citizenship still be understood as market citizenship and what are the normative implications?	WP 5 scrutinizes whether expansion and/or access to economic rights has been uneven among member states and social groups
WP 6	Social rights	-Are there signs of a nascent 'European	WP 6 categorizes social rights and



		solidarity' in claims and struggles for social rights?	scrutinizes how entitlement to social rights across borders affect welfare state policies in MS
WP 7	Civil rights of citizens	-What is the scope of application of the non-discrimination clause in EU case law? Is it restricted to remove barriers of nationality only for non-national EU citizens or also for third-country nationals? -Is the EU-non-discrimination clause extendingly applied to cases that do not only affect the "mobiles" but also the "stay at homers"?	WP 7 scrutinizes whether expansion and/or access to EU civil rights has effectively transformed national civil rights
WP 8	Political rights	-In how far does market freedom have the potential to restrict political freedom? - How can democratic citizenship be strengthened at EU level?	WP 8 scrutinizes whether political rights have been hampered by expanding other rights
WP 9	Balancing gender and generational citizenship	- What role do EU-citizenship rights play in overcoming gender discriminating social	WP 9 scrutinizes whether the expansion of individual rights



		and institutional practices?	clashes with peculiar patterns of solidarity attached to families and generations
WP 10	Balancing citizenship of insiders and outsiders	<ul style="list-style-type: none"> <li>- How are insiders / outsiders 'socially constructed' with regard to work, welfare, mobility and belonging?</li> <li>- What is the scope of application of the non-discrimination clause in EU case law?</li> </ul>	WP 10 scrutinizes whether the expansion of rights helped to enlarge or to target citizenship

There is no single work that entails all the above-mentioned topics. A good introduction though may be Habermas (2012).

### References

Archibugi, Daniele (2008): *The Global Commonwealth of Citizens: Toward Cosmopolitan Democracy*, Princeton: Princeton University Press.

Arendt, Hannah (1951): *The Origins of Totalitarianism*, New York: Schocken Books.

Balibar, Étienne (2012): Die Antinomie der Staatsbürgerschaft, in: Balibar, Étienne: *Gleichfreiheit. Politische Essays*, Frankfurt a.M.: Suhrkamp, 11- 71.



Bauböck, Rainer (2007): Stakeholder citizenship and transnational political participation: A normative evaluation of external voting, *Fordham Law Review* 75: 5, 2393-2447.

Besson, Samantha/Utzinger, André (2008): Toward European Citizenship, *Journal of Social Philosophy* 39: 2, 185-208.

Bohman, James (2007): *Democracy across Borders: From Demos to Demoi*, Cambridge: MIT Press.

Cheneval, Francis (2013): Demoicracy: The Democracy of Democracies, in: NCCR Democracy/Kriesi, Hanspeter/Müller, Lars (eds.): *Democracy: an ongoing challenge*, Zürich: Lars Müller Publishers, 492-496.

Colliot-Thélène, Catherine (2011): *La démocratie sans demos*, Paris: Presses universitaires de France.

Delanty, Gerard (2007): European citizenship: A critical assessment, *Citizenship Studies* 11: 1, 63-72.

Eriksen, Erik O./Fossum, John E. (eds.) (2012): *Rethinking Democracy and the European Union*, New York: Routledge.

Fraser, Nancy (2008): *Scales of justice: reimagining political space in a globalizing world*, Cambridge: Polity Press.

Habermas, Jürgen (2001): *The Postnational Constellation*, Cambridge: Polity Press.

Habermas, Jürgen (2012): *The Crisis of the European Union: A Response*, Cambridge: Polity Press.

Held, David (2009): Restructuring Global Governance: Cosmopolitanism, Democracy and the Global Order, *Millenium: Journal of International Studies* 37: 3, 535-547.



Isin, Engin F./Nielsen, Greg M. (eds.) (2008): *Acts of Citizenship*, London/New York: Zed Books.

Joppke, Christian (2010): *Citizenship and Immigration*, Cambridge: Polity Press.

Kostakopolou, Dora (2008): The Evolution of European Union citizenship, *European Political Science* 7, 285-295.

Kostakopolou, Dora (2009): Citizenship goes public: the institutional design of a national citizenship, *Journal of Political Philosophy* 17: 3, 275-306.

Macdonald, Terry (2008): *Global Stakeholder Democracy: Power and Representation Beyond Liberal States*, Oxford: Oxford University Press.

Miller, David (2007): *National responsibility and global justice*, Oxford: Oxford University Press.

Offe, Claus (2000): The Democratic Welfare State in an Integrating Europe, in: Greven, Michael Th. (ed.): *Democracy beyond the state? The European Dilemma and the emerging global order*, Boston: Rowman and Littlefield, 63-89.

Sassen, Saskia (2008): *Territory, Authority, Rights: From Medieval to Global Assemblages*, Princeton: Princeton University Press.

Saward, Michael (2013) The Dynamics of European Citizenship: Enactment, Extension and Assertion, *Comparative European Politics* 11: 1, 49-69.

Scharpf, Fritz W. (2006): *Problem Solving Effectiveness and Democratic Accountability in the EU* (Political Science Series 107), Vienna: Institute for Advanced Studies.



Scharpf, Fritz W. (2009): Legitimacy in the multilevel European polity, *European Political Science Review* 1: 2, 173-204.

Seubert, Sandra (2013): Dynamics of modern citizenship: Democracy and peopleness in a global era, *Constellations* (forthcoming).

Shaw, Jo (2007): The transformation of citizenship in the European Union: Electoral rights and the restructuring of political space, Cambridge: Cambridge University Press.

Smith, Anthony D. (1986): *The Ethnic Origins of Nations*, Oxford: Basil Blackwell.

Streeck, Wolfgang (2013): Gekaufte Zeit. Die vertagte Krise des demokratischen Kapitalismus, Frankfurt a.M.: Suhrkamp.

Turner, Bryan S. (1993): Contemporary Problems in the Theory of Citizenship, in: Turner, Bryan S. (ed.): *Citizenship and Social Theory*, London: Sage, 1-18.

Van Parijs, Philippe (2013): Demos-crazy for the European Union: why and how, paper presented at the bEUcitizen kick-off conference, Sept. 18<sup>th</sup> 2013, Utrecht.



## **14. Conclusion**

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The main task of D2.1. is to specify various concrete tasks for the different work packages and to formulate overarching questions suitable to provide substantive cohesion and integration of the overall project. The elaboration of 10 cross-cutting topics (to become chapters in the “horizontal” book, D2.3.) is a first step towards this goal. On the one hand, the contributions merge into a valuable overview of the multi-faceted research on (EU) citizenship. They access the main issues of EU-citizenship and citizenship in general from different angles, providing useful background information on debates in the literature of different disciplines and their main issues and controversies. On the other hand, the contributions help to identify barriers towards EU citizenship and ways to overcome them. This task implies a normative yardstick, a clear picture of what would be a ‘good’ EU citizenship practice. Elaborating on such a normative yardstick is a meta-topic that cuts across the range of cross-cutting topics presented in this working paper. In this regard all contributions, sometimes explicitly, sometimes implicitly, draw on to two overarching issues that are of utmost importance for the overall project and serve well to connect the research to be conducted in the single work packages.

Firstly, the contributions more or less share the assumption that - as of today - EU citizenship still unfolds mainly as market citizenship. Doubtlessly there have been developments (most visibly in ECJs case law) that indicate a slow shift from a pure market citizenship towards a broader understanding of EU citizenship. But the question remains (and becomes increasingly pressing) what the effect of EU integration, still predominantly driven by an economic rationale, on democratic citizenship is. So far, democratic citizenship encompasses a broad range of civic, social and political rights still very closely connected to the national level. This problem



is taken up by several contributions. What is the relation between market rights on the one hand and social and political rights on the other? Is there a detrimental effect of economic EU integration on the national welfare systems and on national democratic citizenship? What kind of social protection, investments or innovation could and should the EU provide to compensate for a possible loss of social and welfare rights of its citizens? Would a fundamental right to work be helpful in this regard? And with regard to political rights, could a strengthened political integration of the EU reverse the detrimental effect of economic EU-integration? What would be the implications of stronger EU political rights for national democratic citizenship? Do stronger EU political rights further undermine national democratic citizenship? Or would they be complementary or even compensatory? The overarching issue that puts all these questions into a common cognitive frame is the future shape of the EU-polity. What shall the EU become: a refined market order or a democratic polis? Different answers to that have different implications with regard to the progress and barriers towards 'good' EU citizenship and ways to overcome the latter.

Secondly, and relatedly, there seems to be a common concern about whether citizenship should be understood mainly in terms of (civic, social and political) rights or if citizenship is meant to be more than legally enforceable claims. Whether existing market rights need, can and should be complemented by a broader range of social and political rights also depends on how rights claims are normatively justified in citizenship contexts. Does extending individual rights lead to a stronger and more democratic and just EU citizenship per se? Or are there other preconditions for democratic citizenship still lacking in the EU? Does, for example, the granting of citizenship rights contribute to a more substantive form of equality among Europeans or does it establish only formal legal equality, which is insensitive to the different needs of the sexes, generations, migrants and EU nationals? What steps are necessary to bridge the gap between formal and substantive equality in the EU? And are fundamental social rights a concern to be dealt with at the EU level





in the first place or do such rights claims grow out of already existing ties of solidarity and identity which do exist at the member state but not at the EU level? The overarching issue that puts these questions into a common cognitive frame is whether citizenship is a bounded political concept that requires solidaristic ties of a political community or whether an unbounded form of citizenship can emerge in the EU, the normative basis of which is the equal value of individual persons rather than peoplehood. Is EU citizenship a predictor of a new type of disaggregated citizenship that complements shortcomings of national democratic citizenship in the growing transnationalisation and Europeanisation of politics – be it as a EU market-citizenship or as a EU cosmopolitan-citizenship? Or must it transform into a stronger form of bounded EU citizenship for including more social and political rights in order to be able to do establish meaningful democratic citizenship at the EU level? Again there are different implications in these scenarios with regard to what makes a barrier towards EU citizenship and how to evaluate and approach them.

Both issues finally boil down to what may be seen as the general research question of the project: is the current state of EU citizenship as mainly a market citizenship its own and most important barrier to become a ‘full’ democratic citizenship? Is there a bias in EU citizenship not only towards citizenship-as-rights but also, more specifically, towards citizenship as economic rights that is itself a hindrance to the generation of sense of European solidarity, the willingness to mutually grant social security, the recognition of different social needs etc.? Or do the problems lie elsewhere, is the struggle about EU citizenship driven by typical issues of a multi-layered (federal) political order that has to deal with conflicting identities, sites of authority and linguistic diversity? The cross-cutting topics collected in this volume are all more or less located inside this frame of questions, which is one of the most puzzling conundrums in current EU-research.

The idea behind this paper, its introductory reflections, single contributions and final conclusion is to offer each researcher in each WP a frame suitable to interpret his or her work in the light of



overarching questions and relate it to the project as a whole. This conclusion contributes to making clear what these guiding questions are.





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