The Concept of
EU Citizenship:
Past, Present and Future Dimensions

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I hereby declare that the work submitted is mine and that where I have made use of another’s work, I have attributed the source(s) according to the Regulations set in the Student’s Handbook.

January 2017

Thessaloniki - Greece
Dedicated to my two loving daughters

who willingly and proudly

embarked on this two-year journey with me.
Abstract
This dissertation was written as part of the LLM in Transnational and European Commercial Law, Mediation, Arbitration and Energy Law at the International Hellenic University.

The topic revolves around the concept of EU citizenship and endeavours to address various related to it issues. It constitutes an effort to delineate the rights that EU Member State nationals have based on the status of European citizen and to promote the benefits that they are given the opportunity to enjoy bearing at the same time in mind the obstacles that may stand in their way. It also tries to monitor the progress that has been achieved in the area of EU citizenship since introduction of the concept with the Treaty on the European Union at Maastricht in 1993.

The role that EU institutions have played in the establishment of the concept of EU citizenship is especially analysed. Attention is drawn to rulings of the Court of Justice which proved to be extremely significant for the setting of solid foundations in the use of EU citizen rights. Additionally, the Commission’s stance is presented as part of the wider effort to raise awareness and disseminate good practices.

The contribution of Prof. Dr. Thomas Papadopoulos to the development of the dissertation has been invaluably unquestionable. Firstly, he very willingly accepted the topic I proposed and set the basic guidelines for me to follow. In addition, he provided me with useful insights into the matter and guided me towards the right direction with suggested reading and bibliography. Moreover, he pinpointed weak points and proposed ways that I could enrich my arguments. Mostly, he showed understanding towards the reason that made me delay contact and start my dissertation. Above all, his very precious remarks on my writing broadened my way of thinking.

Keywords: (EU citizenship, rights, Court of Justice, Commission)

Kiriaki Papadopoulou
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Preface

Goal of the present dissertation is to inspect the evolution of the concept of EU citizenship attaching to it past, present and future dimensions. The historic analysis is short, whereas emphasis is placed on the parameters that contributed to the establishment of the concept. The conclusions forecast simultaneously future developments, which are deemed to herald a new era in the area of enjoyment of EU citizenship rights.

After a brief introduction to the concept of citizen and its extension to the EU citizen, an attempt is made to delve into EU legislation and search the legal foundations of EU citizenship focusing on Treaty (TEU and TFEU) provisions. The following Chapter stresses the importance of ECJ rulings in the establishment of EU citizenship. In fact, it is acknowledged that the Court of Justice provided valuable interpretations which forced Member States to re-evaluate their position towards migrants and to let go of discriminatory practices through their national legislation. In this respect, numerous cases are viewed as indicators of the extent of issues that arose from the use of EU citizenship rights. Apart from the Court, the Commission’s stance deserves equal attention. It is the Commission that has undertaken the task of monitoring any noteworthy changes in the implementation of EU citizenship rights and of promoting the idea with various actions. Both tasks are presented and evaluated accordingly. The analysis consecutively brings us to the present situation to discuss recent experiences and current trends which add up to new findings that deserve special attention. Finally, the concluding remarks are an attempt to perceive how the concept of EU citizenship will stand in the future after the analysis of the situation we are experiencing nowadays.

A great part of this work relies on EU sources, may they be Treaty provisions, secondary legislation, formal Commission activities and mainly abundant case law. However, bibliography is extensively used as well in an effort to provide fruitful insights into the matters under investigation.
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1. INTRODUCTION: SHAPING THE CONCEPT OF EU CITIZENSHIP

1.1. THE CONCEPT OF CITIZEN THROUGHOUT HISTORY

Citizenship is a multi-faceted concept running through civilized societies for thousands of years. In ancient times it was considered a special privilege bestowed on individuals under special circumstances and this made it an even more precious concept. Citizenship with its current dimensions is deeply rooted in the aftermath of American and European revolutions, mainly the French. The establishment of democratic regimes gave way to the granting of rights and responsibilities to individuals who could as a result participate in the social, political and economic life of their country. At the same time the sense of social belonging was enhanced and this brought on cohesion to the population who had already acquired a national identity.\(^1\)

1.2. EU CITIZENSHIP CONSIDERATIONS AT THE ONSET OF THE EUROPEAN COMMUNITIES

The transformations that took place in the concepts of state and community out of the various economic, social and political factors influenced contemporary national citizenship. Accordingly, the European Community had to be sensitive towards the well-being of the people living within the territories of the Member States and to propose solutions for integration and greater social cohesion.\(^2\)

There was no mention of citizenship in the initial EC Treaty. Indeed, there was no discussion of the term until the 1970s.\(^3\) During the 1970s and 1980s efforts were started to facilitate the adoption of a status that would recognise to the people of the

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Community rights and freedoms irrespective of the economic element and time had come for the realisation of this idea with the Treaty on European Union at Maastricht.  

2. ESTABLISHMENT OF EU CITIZENSHIP

2.1. THE TREATY ON EUROPEAN UNION (TREATY OF MAASTRICHT)

At the Preamble of the Treaty on European Union it is cited that the participating Member States are “RESOLVED to establish a citizenship common to nationals of their countries”. This resolution is the result of long negotiations and efforts that started a very long time ago, when great European leaders were envisaging the dream for a Europe which had more points of reference that united rather than separated them and who wished to eliminate barriers among people in accordance with ‘Social Europe’ ambitions.

In Recital 14 it is also stated that the Treaty was created “IN VIEW of further steps to be taken in order to advance European integration” not only from an economic point of view, but also by creating special bonds between the people and the Union itself.

Article 9 TEU sets the foundations for the formation of the concept of European citizenship. This article attaches not an original but an additional form of citizenship to the already existing national citizenship, thus enhancing it in a sense. The wording of the specific provision is clever because its main aim is to reinforce the point that EU citizenship can only add rights, and cannot detract from national citizenship and thus

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5 Recital 10.
8 since TEU is the Treaty that transforms the European Community into the European Union, i.e. an economic as well as monetary Union among its contributing Member States.
9 This however requires “the process of creating an ever closer union among the peoples of Europe” according to Recital 13.
10 Among others, it is stated that “every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship”.
11 Paul Craig, Grainne de Burca, “EU Law, text, cases and material” fourth edition, Oxford University Press, p. 599.
convince citizens that their national rights are not at stake. Being a European citizen derives exactly from the fact that a person is already a citizen of a State which is Member to the European Union.

Throughout the Treaty, the term citizen is used repeatedly and widely.\textsuperscript{12} This shows that drafters wished to instill this very notion to the people of Europe and pass on a new identity to them: the identity of a citizen acquiring European dimensions, of a citizen who could exercise extra rights and could thus achieve better results for his life such as career prospects, improvement of family conditions, better education possibilities.\textsuperscript{13}

What is more, TEU provisions on democratic principles outlined in Articles 9-12 exemplify the importance of being an EU citizen besides being a citizen of an EU Member State. Article 9 TEU states that “the Union shall observe the principle of equality of its citizens”, whereas Article 10 inaugurates representation of citizens to the European Parliament placing great emphasis on democratic values and their strong links to the quality of citizen. In Article 11 the role of institutions becomes innovative in getting citizens to express themselves in public and in promoting the notion of citizens’ initiative.

Provisions concerning the structure and function of the European institutions contain the element of citizenship as well. According to Article 13 the Union’s institutions shall work with the ultimate objective of promoting the interests not only of the Union itself and of its Member States but of its citizens as well, while Article 14 outlines the prerequisites for representation to the European Parliament the most important of all being that representatives must be Union’s citizens.

Finally, Union delegations in third countries are destined to “contribute to the implementation of the right of citizens of the Union”, as Article 35 (ex Article 20 TEU) in Part II of the Treaty puts forward.

\textsuperscript{12} The start takes place in the very first provision of the Treaty: Article 1 (ex Article 1 TEU), where it is mentioned that decisions “should be taken as openly as possible and as closely as possible to the citizen”.

\textsuperscript{13} Here steps in Article 3 (ex Article 2 TEU) to ensure the lack of internal frontiers for EU citizens who are offered freedom, security and justice within the European Union borders, by oversimplifying the requirements for travelling from a European Union Member State to another.
2.2. DECLARATION 2 ON NATIONALITY OF A MEMBER STATE

Attached to the Treaty of Maastricht can be found Declaration 2 on Nationality of a Member State\(^\text{14}\). The Member States unanimously agreed that nationality is a matter that does not lie under European institutions or authorities to declare. Each Member State has made a declaration stating what persons it regards as citizens.\(^\text{15}\) Therefore, who can become a national of a Member State is dependent on national legislation. Under that perspective, the burden of who can be granted with or lose a Member State’s nationality lies with the State itself and is not something to be awarded or denied by the Union.\(^\text{16}\) From that point on, any person who fulfills the criteria can be announced as a citizen of that State, the most important consequence of which being that person is at the same time considered an EU citizen as well.\(^\text{17}\)

2.3. THE TREATY OF LISBON: A STEP FURTHER

With the Treaty on the Functioning of the European Union citizenship became an intrinsic and inseparable part of the deeper integration efforts.\(^\text{18}\) Articles 18-25 TFEU constitute Part Two: Non-discrimination and Citizenship provisions, the essence of which is centered around Article 20 where citizenship of the Union is established. It is noteworthy that exactly the same wording as Article 9 TEU is followed when expressing the additional nature of EU citizenship; perhaps drafters did not wish to interfere with the issue of exclusive competence already solved in Declaration 2 TEU.

Article 21 TFEU is the most widely used Treaty provision on citizenship. The freedoms of movement and residence were from the beginning deemed necessary for the realization of the EEC goals and therefore the idea of moving from one Member State to another

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\(^{14}\) With Declaration 2 a very serious issue is attempted to be resolved: that of who is considered a national of a Member State.


\(^{17}\) Somebody who was born a national of an EU Member State becomes automatically an EU citizen from the moment he or she becomes a citizen of a Member State and stops being an EU citizen from the moment he or she stops being a citizen of a Member State.

aimed at facilitating the economic objectives of the Community was already in use through secondary legislation.

The political rights of EU citizens are outlined in Article 22 TFEU. As it stands from the provision, an EU citizen has the right to vote and stand as candidate at municipal elections in the Member State of his residence and at the European Parliament elections. Elections have shown that the percentage of participation is not satisfactory\(^{19}\), which is under consideration\(^{20}\).

With Article 23 TFEU diplomatic and consular\(^{21}\) protection in the territory of a third country is guaranteed to EU citizens\(^{22}\) while Article 24 contains the right to refer to the institutions through the citizens’ initiative\(^{23}\), through petition to the European Parliament\(^{24}\) and through accessing the European Ombudsman\(^{25}\).

Article 18 TFEU reveals the significance of non-discriminating practices when addressing nationality matters, rendering the opposite prohibitive. The principle of non-discrimination on various grounds is explained in Article 19 TFEU, however, the reference to the ground of nationality alone attaches greater significance to the concept.

3. ISSUES INTERLINKED WITH NATIONALITY AND CITIZENSHIP

3.1. THE CONTRIBUTION OF THE COURT OF JUSTICE

The multiple aspects that the concept of EU citizenship under the Treaties entails have been shaped, supported and extended with the rulings of the Court of Justice.\(^{26}\) Given

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\(^{20}\)European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions “Report on the 2014 European Parliament elections”.

\(^{21}\)In April 2015 Member States adopted Directive 2015/637 on the coordination and cooperation measures to facilitate consular protection for unrepresented citizens of the Union in third countries repealing Decision 95/553/EC.

\(^{22}\)Commission’s Communication of 23-3-2011 to the European Parliament and the Council entitled “Consular protection for EU citizens in third countries: State of play and way forward” presents what has been so far achieved and indicates the way to the future.

\(^{23}\)There is a special website about it under http://ec.europa.eu/citizens-initiative/public.


that the Court of Justice exercises the jurisdiction conferred upon it under the EU founding Treaties\textsuperscript{27} it is there to ensure that in the interpretation and application of the Treaties the law is observed\textsuperscript{28} bearing in mind the Union’s purposes and objectives. Undoubtedly, its contribution to the establishment of the notion of citizen has been unparalleled due to the fact that it provided foundations for legal reforms in EU secondary legislation and national legislative measures. In particular, the ECJ has contributed to its evolution by deriving far-reaching consequences from the link between the principle of non-discrimination on the ground of nationality and the rights granted by the Treaties to EU citizens so that EU citizenship has become the fundamental status of nationals of the Member States.\textsuperscript{29}

### 3.2. NATIONALITY ISSUES ARE A NATIONAL ISSUE

EU institutions are not competent to decide on the acquisition or loss of a person’s citizenship but only Member States themselves through their national legislation because any definition of Union citizenship inevitably must depend on the Member States’ definitions of nationality.\textsuperscript{30} Therefore, each Member State has the power to freely determine and define the exact way in which nationality is acquired and lost by setting rules that are obligatory to follow.\textsuperscript{31} Undoubtedly, this leads to diversification concerning the way national orders throughout the European Union implement the concepts of nationality acquisition and nationality loss, which in a comparative study would be very interesting to observe.\textsuperscript{32}

\textsuperscript{28} Article 19(1) TEU.
\textsuperscript{31} An indicative analysis is presented in Rainer Baubock,Bernhard Perchinig, Wiebke Sievers, “Citizenship Policies in the New Europe”, Amsterdam University Press 2009.
Nevertheless, this diversification does not in any way affect EU law implementation as far as European citizenship is concerned because nationality issues fall within the exclusive competence of Member States.\textsuperscript{33}

In \textit{Kaur}\textsuperscript{34} the Court repeated the interpretation on the exclusive competence that a Member State holds in order to determine who could become its national. The reference for a preliminary ruling of the Court was aimed at ascertaining the meaning of national and the context it could be used.\textsuperscript{35} It very simply mentioned that national law\textsuperscript{36} should be used as the instrument for determining who can be considered a national so that they can enjoy Community rights and freedoms. There was no room for limiting Community freedoms through this discrimination towards some categories of the British nationality because the people falling into these categories were not regarded as fully British citizens in the first place.\textsuperscript{37} With this case the Court clarified that the Member States also have the power to grant different categories of nationals different rights.\textsuperscript{38}

\textbf{3.3. PURELY INTERNAL TO A MEMBER STATE SITUATIONS}

Situations that are purely internal to a Member State do not fall within the material scope of the relevant EU citizenship provisions. This means that when a citizen of a Member State has not made use of the Treaty provisions that bestow certain freedoms and rights upon him then a claim that he can rely on EU citizenship protection is unfounded. This is very finely illustrated in \textit{Mc Carthy}\textsuperscript{39} where the Court was clear in stating that the non-exercise of the right of free movement can in no way produce the effects which stemmed out of the right of residence; as a result, Mrs. Mc Carthy having become an Irish national besides her British nationality could not effectively support the

\textsuperscript{33} and since a person has already become a citizen of any of the EU Member States then this person is considered to be a European citizen as well.
\textsuperscript{34} Case C-192/99
\textsuperscript{35} The Court was asked to investigate what happened when a Member State such as the United Kingdom recognised various categories of nationality due to its imperial and colonial history.
\textsuperscript{36} i.e. the 1982 Declaration replacing the 1972 Declaration about nationality.
\textsuperscript{37} The contracting Member States did not object to Great Britain’s Declaration about nationality when acceding the Community.
\textsuperscript{39} Case C-434/09.
fact that she was an EU citizen who had the right to reside freely in the UK with her Jamaican husband who did not have a leave, because she had never left Britain before in order to activate her EU citizenship rights. The McCarthy case had no factor linking it with any of the situations governed by EU law and was thus confined in all relevant respects within a single Member State.40

3.4. DUAL NATIONALITY AND EU CITIZENSHIP ASPECTS

Things may get perplexed when discussion comes to dual nationality from two different perspectives: on the one hand there is the question of what happens when somebody possesses the nationality of two Member States and on the other hand answers are needed on what happens when somebody possesses the nationality of a Member State as well as the nationality of a non-Member State. As a result of this hard-wiring to national citizenship, EU citizenship sometimes seems to fall between two stools.41

3.4.1. When one of the two nationalities is a Member State nationality

Micheletti and others42 is groundbreaking in view of its outcome as the judgement confirmed Member State autonomy in nationality law, which in its turn resulted in dual nationality treaties’ amendments in the 1990s.43 The Court’s judgment repeated the fact that it was within the exclusive competence of a Member State to lay down the conditions on how to grant nationality to persons wishing so. However, it made also clear that the exercise of the fundamental freedoms set out in the Treaty could not depend on extra conditions and additional formalities imposed by Member State legislations. The fact that Spain restricted the enjoyment of the free movement of persons and freedom of establishment by setting the prerequisite of habitual residence

42 Case C-369/90.
to Mr. Micheletti\textsuperscript{44} was inadmissible and therefore rejected by the Court. We can discern here the Court’s will to make Member States understand that being part of a wider Community required their national legislations aligned with the Community’s pursuits. As a result, since Mr. Micheletti was an EU citizen he had every discretion to invoke rights.\textsuperscript{45}

3.4.2. When both nationalities are Member State nationalities

In its judgment in \textit{Gullung} \textsuperscript{46} the Court was called to make a decision on the issue of dual nationality by ruling whether it was permissible for a national of a Member State who simultaneously happened to be a national of another Member State to enjoy the benefits of Treaty provisions and practice the profession of lawyer in the second Member State just because he had acquired the European citizenship through his first nationality. The Court took into serious consideration the fundamental Community freedoms and in that respect concluded that it would not be possible for a Member State to refuse enjoyment of Community rights to a person on the mere ground that he already possessed the nationality of that specific Member State.\textsuperscript{47} As it became clear either holding two nationalities or having economic activity on either side of the border is sufficient to gain access to the EC Treaty.\textsuperscript{48}

3.4.2.1. Both EU nationalities are active nationalities

A European citizen who holds two Member State nationalities should not be discouraged by Member State legislation from cutting connections with his roots and historic or cultural traditions related to one of the two nationalities that he possesses. This was a finding in \textit{Avello}.\textsuperscript{49} The Court had to examine the fact that an administrative authority of a Member State did not authorise a surname change according to the dual

\textsuperscript{44} a dentist who wanted to perform his profession in Spain but who was neither a Spanish national nor a national of a Member State where his habitual residence was in that Member State.

\textsuperscript{45} Chris Turner, “Key Cases EU Law” 2\textsuperscript{nd} edition, Hodder Education an Hachette UK Company 2011, p.76.

\textsuperscript{46} Case 292/86.

\textsuperscript{47} whereas it provided Community rights to any other national of the other Member State.


\textsuperscript{49} Case C-148/02.
nationality possessed, both nationalities coming from two Member States. The outcome of the Avello decision was that children whose parents came from two different Member States and as a result of this held dual nationality were not by any means obliged to abandon connections with the one Member State just because the other Member State followed different legal patterns for example in the case of surname giving.

Beyond the achievement it entailed concerning the encouragement to retain connections to all nationalities that follow an EU citizen, this Court’s decision on surname recognition is perceived as a fine example that not all EU citizenship issues entail an economic element. In other words, an EU citizen need not pursue only economic interests or be always motivated by one of them in order to claim his EU citizenship rights. The choice between the law of domicile and the law of nationality should be extended at least to all matters of party autonomy as matrimonial property and wills.

3.5. PROCESS OF NATURALISATION

Naturalisation is an administrative process where a person fulfilling the requirements that the national legislation sets becomes a national of a given State. The Court again with its decisions and way of thinking provided some useful insights into this matter.

3.5.1. Timepoint of naturalisation

Arguments have been raised concerning the way or the time point nationality is acquired but again the main focus is on the enjoyment of a right rather than the raising of obstacles and further formalities. In Auer the Court took the view that the Treaty did not include a provision which allowed for differentiated treatment towards nationals.

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50 There, a dispute arose over whether the children of a Spanish man and a Belgian woman who were residents of Belgium and bore both the Spanish and the Belgian nationality had a lawful right to carry a surname according to the Spanish legal tradition because the Belgian law set totally different requirements for surname giving.


52 Case C-136/78.
of a Member State\textsuperscript{53}, so long as this specific nationality had already been possessed before resorting to Community law provisions in order to gain some kind of benefit out of them. It is in other words of no significance whether a person became a national of a Member State at a very late stage in his life. What matters generally is that the status of a national has already been activated when recourse is made to Community law.\textsuperscript{54}

3.5.2. Naturalisation in one Member State for the advantages provided by another Member State

National legislations are not in a position to question the motive behind which a person requests naturalisation in a Member State. In this way, there may appear cases of forum shopping since third-country nationals can gain an EU Member State nationality in a relatively easier way in order to move and reside freely in the territory of the Member State they initially intended to do so. However, such a tactic is not placed under criticism neither by EU nor by national legislations. An example is found in Zhu and Chen.\textsuperscript{55} There, the Court\textsuperscript{56} did not raise any objections or expressed any doubt on the fact that a non Member State national deliberately gave birth to a child in a Member State in order to make use of Community benefits according to the acquisition of the European citizenship. Mrs. Chen, a Chinese national, admitted that her intention was to have her baby daughter in Ireland so that they could both very easily travel to the United Kingdom and gain a long-term right to reside there. As long as Ireland, which was an EU a Member State, was the only responsible to lay down the conditions for granting and abstracting the Irish nationality, then Mrs. Chen’s child lawfully\textsuperscript{57} acquired the Irish nationality by birth. The new dimension is that the Court here adds a new category of family member to those in the Directive. Where EU children exercise their EU movement and residence rights, the person primarily responsible for their care is

\textsuperscript{53} based on the way or time point acquisition of that Member State’s nationality took place.
\textsuperscript{54} Auer Case, observations of the Committee p.443.
\textsuperscript{55} Case C-200/02.
\textsuperscript{57} for the United Kingdom to impose further criteria in order to recognise the Irish nationality which was gained under these particular circumstances would be unacceptable since this tactic would impede the exercise of the fundamental freedoms that the Treaty catered for.
granted parallel rights of movement and residence, irrespective of the carer’s nationality.\textsuperscript{58}

\textbf{3.5.3. Naturalisation by deception}

National legislations are exclusively competent to determine not only who can become their national but also who can lose his nationality under extenuating circumstances. Losing one Member State’s nationality leads to the loss of European citizenship as well. However, the repercussions that the latter entails are dire concerning the enjoyment of Community’s fundamental freedoms and gained rights.\textsuperscript{59} This became clear in \textit{Rottmann}\textsuperscript{60} where the Court for the very first time directly assessed Member State nationality rules in the light of Union law\textsuperscript{61}. The reference for a preliminary ruling by Freistaat Beyern wished to know the outcome that was produced when a person who had acquired the German nationality\textsuperscript{62} fell into the criteria which imposed the State to withdraw naturalisation from the applicant Janko Rottmann\textsuperscript{63}. Awareness of accused past activities initiated denaturalisation, which the Court did not oppose on the ground that naturalisation took place through deception at first hand. The Court had to formulate a thinking method on how to approach the fact that although sovereignty issues on setting the procedure for acquisition and loss of nationality were out of its jurisdiction, not only rendering a person stateless but most importantly depriving that person of the enjoyment of rights and freedoms outlined in the Treaties after the withdrawal of naturalisation had to be viewed under the prism of EU law. Of course, deception on the part of an applicant could not be condoned for matters of public interest but then the Court was faced with a situation that overwhelmingly led to serious repercussions. For that reason recourse was made to the principle of


\textsuperscript{59} Under this perspective it is imperative that Member States pay due regard to EU law when they apply the process of denaturalization to a national of their home State because this national happens to be a European citizen at the same time.

\textsuperscript{60} Case C-135/08.

\textsuperscript{61} Nathan Cambien, “European Citizenship and Immigration”, European Journal of legal studies (vol.5 no 1) 2012, p.8.

\textsuperscript{62} through the process of naturalisation thus losing his original Austrian nationality.

\textsuperscript{63} because a national warrant had been issued by the Austrian authorities a year before his naturalisation in Germany, which he was careful enough not to disclose.
proportionality\textsuperscript{64}, which meant that EU law obliged Member States to examine the seriousness of the offence and draw safe conclusions on the degree of appropriateness when imposing the penalty of withdrawal of naturalisation.\textsuperscript{65} It can be therefore supported that the fundamental importance that EU law attaches to the status of EU citizenship allows EU law to interfere in nationality laws of the Member States when a situation under consideration is within the scope of the Treaties.\textsuperscript{66}

4. EU CITIZENSHIP RIGHTS UNDER SCRUTINY

4.1. DIRECT EFFECT OF ARTICLES 18, 20 and 21 TFEU

The main element characterising Articles 18, 20 and 21 TFEU is their direct effect as a result of their direct applicability.\textsuperscript{67} A Treaty provision becomes directly effective when it is clear and precise and when no additional measures are required for it to come into force. The above doctrine leads to the enjoyment of the right in question much more simply and without recourse to formalities that burden or even threaten its very enforceability. In this way, every citizen can make full use of his right under lawful circumstances, the enjoyment of which cannot be conditional upon any additional prerequisite such as another more detailed provision or the issuing of secondary legislation that provides the overall framework for its functionality. The most important parameter of the principle of direct effect is that citizens who feel they are being discriminated against on the ground of the abovementioned Articles can claim their case before their national courts and it lies in the responsibility of their national jurisdictions to form an opinion and make a ruling on the cases presented before them. With the doctrine of direct effect EU law has become more effective through its flexibility and integration procedures have progressed accordingly serving the need to ensure the integration, effectiveness and uniformity of EU law.\textsuperscript{68}

\textsuperscript{64} Nathan Cambien, “European Citizenship and Immigration”, European Journal of legal studies (vol.5 no 1)2012, pp.11-12.
\textsuperscript{65} Hanneke van Eijken, “European Citizenship and the Competence of Member States to Grant and to Withdraw the Nationality of their Nationals”, Merkourios – Utrecht journal of international and European law - Vol. 27/72 2010, p.69.
\textsuperscript{68} Karen Davies, “Understanding Union Law” fifth edition, Routledge 2013, p.73.
A case where extensive attention was paid to the doctrine of direct effect concerning the right of residence for EU citizens who no longer bear the status of migrant workers so as to maintain their residence in the host Member State was Baumbast. The Court despite the claims of the Commission and the United Kingdom that Article 18 EC was not intended to be a free-standing provision found that enjoyment of the right to reside freely within the Community was conditional upon the conduct of an economic activity before the Treaty on the European Union came into force. TEU provisions on EU citizenship did not set an additional requirement such as that of pursuing a profession or carrying out a sort of economic activity, therefore the right to reside within the territories of other Member States applied directly to all those nationals of a Member State who wished to do so. The EC Treaty limitations on this aspect continue to give their effect, which according to the Court should be viewed by national courts as to their enforceability. National courts are under the obligation to check that the use of Community principles, the most important of which being the principle of proportionality, ensures the appropriate extension of the limitations set out in Article 18 EC. In the aforementioned case the family had been in the United Kingdom for some time, had never been a burden on the state in the past and it seemed harsh to deny them further residence for a breach which had not actually cost the United Kingdom any money and was, it seemed, fairly minor.

Trojani repeated the doctrine of direct effect of Article 18 EC. Authorities were allowed to impose limitations such as the requirement of sufficient recourses in order for the person not to become a burden on the host Member State’s social system but

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69 Case C-413/99.
70 Mr. Baumbast claimed before the Court that he drew the right of residence in the United Kingdom even if he may have travelled to other parts of the world for work because despite the restrictions which followed Article 18 EC on the right of residence, the Article retained its direct effect.
72 Paul Craig, Grainne de Burca, “EU Law, text, cases and material” fourth edition, Oxford University Press, pp.850-853.
75 Case C-456/02.
76 The Court held that a person not fulfilling the requirements that Articles 39, 43 or 49 about the right of residence is entitled to call on Article 18 EC because it applied directly to EU citizens automatically recognising this special status.
once he was granted with a residence permit then he could not be refused benefits or privileges of social nature. The final protection offered by ECJ is that recourse to the social assistance system cannot automatically lead to revocation of residence permit or deportation.\footnote{Paul Craig, Grainne de Burca, “EU Law, text, cases and material” fourth edition, Oxford University Press, p.861.}{77}

### 4.2. ARTICLE 18 TFEU AND PRINCIPLE OF NON DISCRIMINATION

Practice has proven that the right of non-discrimination is usually invoked in correlation with other Treaty provisions\footnote{mainly with the provisions on free movement and residence.}{78} and is there to ascertain that the status of an EU citizen is retained and made use of under the specific conditions of the movement to the territory of another Member State.

#### 4.2.1. Is there discrimination when there is comparison with nationality of non-Member States?

In \textit{Vatsouras and Koupatantze}\footnote{Joined Cases C-22/08 and C-23/08.}{79} it was emphasized that equal cases should be treated in the same way, or else there is no point in claiming there is a case of discrimination on the ground of nationality. It is common ground that nationals of a Member States who are looking for a job in another Member State must have established some sort of link with the labour market of that State in order to receive a benefit of a financial nature aimed at smoothing and enhancing conditions for further access to the labour market.\footnote{According to the Advocate General’s Opinion, the objective of the benefit must be analysed with regard to its expected results and not its formal structure.}{80}

The Court was asked to clarify the fact that Article 12 EC concerning non-discrimination because of different nationality was addressed to Member State nationals only and not nationals of non-Member countries. Under that perspective the Court’s ruling was that it was acceptable for Member States to leave out of social assistance benefits nationals of Member States of the European Union and grant them only to nationals of countries which are not members of the European Union.
4.2.2. Tourists as EU citizens

With Cowan, the Court exemplified the fact that recipients of services were covered by the freedom of movement because they constituted aspects of this very essential principle. Therefore, compensation to a British tourist for physical injury because of assault during a visit to France could not be conditional on a residence permit or an inter-State agreement. Tourists do not lose their EU citizenship status when travelling to an EU Member State and must be treated in the same way as nationals when encountering difficulties or - worse - suffering from criminal activities. Since freedom of movement is guaranteed in the Treaty, it is unquestionable that there should be no discrimination on the ground of nationality when protection towards a recipient of services against criminal activities is sought. Again it is clear that the thrust of such rights is primarily framed in terms of commercial or economic rights although they mask deeper ones. This effectively entrenches the idea of the vulnerable traveller although that was not the chief raison d’ etre of protection.

4.2.3. Students being discriminated against

With Grzelczyk, the European Court of Justice reinforced the meaning of the principle of non-discrimination as far as nationality is concerned and in consequence its application in cases of claiming certain types of rights conferred in the Treaties such as social or cultural ones. What was stressed among others with this case was the fact that all those who found themselves in the same position received the same treatment no matter what Member State nationality they held. As Union citizenship was destined to be the fundamental status of nationals of the Member States according to the Court’s findings, it catered for the equal treatment of those who happened to be in the same position. In light of this analysis it was deemed a prohibitive practice the setting of conditions for the enjoyment of a non-contributory social benefit on the part of non-national students when students who were residents of that Member State could freely

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81 Case 186/87.
83 Case C-184/99.
enjoy it. The Grzelczyk case clearly raised the profile and status of EU citizenship as it was the starting point of considerations that a category of EU citizens, namely the students, enjoyed or at least were not excluded from social benefits as nationals.

Another safe conclusion is drawn with the findings of D’Hoop. The granting conditions of a tideover allowance in Belgium concerned the Court but this time because a national complained about being discriminated against her decision to move freely and reside in another Member State. Under no circumstances should the decision on pursuing education in a different Member State place the person who took this decision at a disadvantage according to national legislation because this unequal treatment threatened the concept of EU citizenship and acted as a deterrent to free movement within the territory of the Member States. The result of that case law is that not only discrimination on the basis of nationality is prohibited, but also discriminatory treatment due to a change of residency.

4.2.4. Article 18 TFEU read in conjunction with other fundamental freedoms

It very often is the case that EU citizenship provisions accompany provisions on the fundamental freedoms which specify the role of the person who makes use of them. For example, the right of equal treatment enjoyed by a citizen of the Union can be combined with the freedom of establishment in a host Member State under the conditions laid down for its own nationals. An example can be given with Collins. The right to equal treatment put forward in Article 48 of the EC Treaty, was read in conjunction with Articles 6 and 8 of the EC Treaty. As a result of the above, the Court came to the conclusion that a jobseeker’s allowance, which was practically a financial benefit granted for facilitating access to employment in a Member State labour market,
could not be refused to non-nationals unless there were objective considerations independent of the nationality of the persons concerned which were at the same time proportionate to the legitimate aim in question. The judgement was an answer to the viewpoint that Member States accept migrants coming to look for work, but do not wish to provide them financial support to do so. Apart from that, in theory a person could stay in a Member State a lot longer, although the Member State is allowed to lay down a reasonable time limit. EU citizenship has become a ‘genuine constitutional tool’ for interpreting the rights to free movement and residence regardless of which status those EU citizens would otherwise hold under EU law.

4.2.5. Restrictions justified by objective considerations of public interest

Under specific circumstances a Member State is allowed to take measures which may place at disadvantage nationals who have exercised their freedom to move and reside. It especially happens when the setting of the abovementioned restrictive measure is impelled by the so-called objective considerations of public interest which are independent of the nationality of the persons concerned coupled with the principle of proportionality. It is important to bear in mind that the aim of preventing migrants from draining public resources needs to be balanced against the openness and solidarity inherent in the idea of EU citizenship. This became evident in the findings of De Cuyper. According to Belgian legislation on unemployment, Belgian nationals who had exercised the right to freely move and reside within the territories of the Member States were treated in a discriminatory way compared with the rest of Belgian nationals, which in itself was inexcusable because it posed obstacles to EU legislation on free movement and residence. The judgement placed considerable emphasis on the limitations and

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96 Case C-406/04.
conditions of the “equal treatment’ principle.\textsuperscript{97} However the restriction was deemed imperative because it served specific considerations that overwhelmed the implementation of Article 18 EC and it was combined with the requirements of proportionality.\textsuperscript{98}

\textbf{4.3. ARTICLE 21 TFEU ON THE FREEDOM OF MOVEMENT AND RESIDENCE}

It is the main provision that safeguards the right of EU citizens for mobility and for change of residence within a given area, which is extended to the territory of all the EU Member States. Very important rights are conferred on EU citizens under Article 21 TFEU, mainly relating to social welfare but also of cultural and financial nature as well. Some are summed up in the indicative cases that follow:

\textbf{4.3.1. Child raising allowance}

In \textit{Martinez-Sala}\textsuperscript{99} a German non-national who did not hold a residence permit was refused a child-raising allowance for her newly-born child on the ground that she held the Spanish-and not the German-nationality besides the lack of a residence entitlement or a residence permit.\textsuperscript{100} This uneven treatment caused issues of discrimination according to nationality since a non-German national could not account for the time consuming administrative procedures of being granted with a residence permit. The Court rested on the fact that a Member State could not set requirements for entrance to and residence in its territory to EU citizens who were authorized under the Treaty provisions to reside and move freely within the territory of any Member State in order to enjoy a child-raising allowance. This administrative procedure created issues of discrimination on the ground of nationality when nationals of the Member State in question were treated in a totally different way. For its time the decision was regarded as groundbreaking when it chose to adopt an approach to protecting the rights of a

\begin{footnotes}
\item[98] i.e. a measure is proportionate when it does not go beyond what is necessary in order to attain its objective.\textsuperscript{99} Case C-85/96.
\item[99] German nationals received this family benefit with no restrictions whereas Member State nationals were obliged to have a residence permit in order to claim it lawfully.
\end{footnotes}
long-standing and apparently well integrated member of German society who none the less retained Spanish citizenship which cut across its previous case law on migrant workers and workseekers.\textsuperscript{101}

\subsection*{4.3.2. Unemployment benefits}

In \textit{Ioannidis}\textsuperscript{102} the granting of unemployment benefits was refused on the basis of completion of secondary education. Mr. Ioannidis’ application for a tideover allowance was refused by the Belgian authorities\textsuperscript{103}. This tactic placed not only Mr. Ioannidis at a disadvantage but any non-Belgian national because the discrimination on the ground of nationality in order to receive the specific allowance was more than evident. The real link must be searched not in the acquisition of the secondary education degree in another State but in the intention of the applicant to further his studies in a Member State, which is indicative of his will to pursue an economic activity there as well. The fact that Ioannidis had completed a diploma in Belgium had already provided such a link.\textsuperscript{104}

\subsection*{4.3.3. Study loans and maintenance grants}

\textit{Bidar}\textsuperscript{105} is another case that established advantages for EU citizens according to the interpretation of Articles 12 and 18 EC made by CJEU, this time in the area of education. Assistance granted to students with the aim of covering their maintenance costs was until that judgement thought to be an issue that the EEC Treaty did not provide with a provision for. That assumption was drawn with the Court’s \textit{Lair}\textsuperscript{106} and \textit{Brown}\textsuperscript{107} judgements. The Court in its findings stated that Community law developments of that time considered that student assistance for maintenance and training could not be relied on EEC Treaty provisions because it was an aspect of education policy not within the powers of Community institutions. However, the passing of time helped so that

\textsuperscript{102} Case C-258/04
\textsuperscript{103} having completed secondary education in Greece, he went to Belgium to continue with higher secondary education but worked at the same time.
\textsuperscript{104} Nigel Foster, “Foster on EU Law” fifth edition, Oxford University Press 2015, p.342.
\textsuperscript{105} Case C-209/03.
\textsuperscript{106} Case C- 39/86.
\textsuperscript{107} Case C-197/86.
circumstances matured enough concerning the status and the rights conferred on EU citizens. In the Bidar Case the Court stressed the importance of the principle of non-discrimination due to different nationality. Equal treatment necessitated the implementation of measures that ensure less discriminatory practices on the part of national legislations. Moreover, requirements that might have a discriminatory dimension should be justified by national legislations only if they were in line with the principle of proportionality. Based on the above considerations the Court ruled that subsidised loans fell within the assistance that a Member State could grant to students and within the scope of application of the EC Treaty according to Article 12 EC. The same Article was interpreted as precluding national legislations from rendering the abovementioned benefit conditional upon criteria which did not exist for the nationals who were found in the same position. It certainly seemed that in Bidar the Court established a right for students to a maintenance grant. Indeed, clearly some strings were attached to this right, but as long as the student could prove some degree of integration in the host society and was legally resident, he or she had a strong case.\(^{108}\)

In \textit{Förster}\(^{109}\) the Court followed in the footsteps of the Bidar case and its findings. It attempted to support the freedom of a student’s movement to an EU Member State in order to pursue academic goals and set issues of discrimination under consideration. However, it accepted that the criterion of a five-year residence which the Dutch legislation imposed as a means of proving the degree of integration in the Dutch society was objective and proportionate to the aim it wished to achieve. The unusual aspect of Förster is that the Court did not see the Dutch rule as violating the principle of non-discrimination. This reflects cultural reality to some extent, but is nevertheless odd because it is precisely such reality that one might think EU citizenship aims to overcome.\(^{110}\) The Förster case now appears not only to confirm Collins but also to roll back slightly the previous generous interpretation of an individual’s rights.\(^{111}\)


\(^{109}\) Case C-158/07.


4.3.4. Language use rights

In *Bickel and Franz*\(^{112}\) two non-Italian EU citizens were accused of certain crimes that took place in the German-speaking province of Bolzano, therefore criminal proceedings had to be followed. The accused requested that proceedings take place in the German language since they were not acquainted with the Italian language at all plus under Italian law the German-speaking citizens who formed a minority in the Province of Bolzano were granted with the right of making use of German in formal proceedings. The Court found that it constituted a discriminatory practice and a breach of Article 6 EC the fact that a Member State treated its nationals in terms of linguistic rights more favourably than other EU citizens who happened to use the same language as the one allowed in some parts of that State. In this case we can detect traces of the Court's initial uneasiness with deciding a case solely on the basis of one of the citizenship's provisions: although the case could easily and perhaps more aptly be decided by simply applying Article 21 TFEU in combination with Article 18 TFEU as was done in the case of *Rueffer*\(^{113}\) -on civil proceedings this time but in the Province of Bolzano again- the Court appears to have had its reservations.\(^{114}\)

4.3.5. Pensions or similar benefits

*Tas-Hagen and Tas*\(^{115}\) provided an interpretation of Article 18(1) EC on claims put forward by civilian war victims who were refused the granting of a benefit.\(^{116}\) The Court stressed the fact that although the issue in question fell within the Member State’s exclusive competence, it deserved attention because basically every decision had to comply with the Treaty provisions on EU citizenship rights. Departing from the fact that the exercise of a Community right could in no way bring a national of a Member State into a disadvantageous position, the Court found that the connecting factor of residence

\(^{112}\) Case C-274/96.

\(^{113}\) Case C 322/13.


\(^{115}\) Case C-192/05

\(^{116}\) due to the fact that they submitted their application for the grant of the benefit while being in a different Member State from theirs.
as a condition for the grant of the benefit had to be so strong as to influence its enjoyment as far as the parameter of public interest and the principle of proportionality are concerned. In the abovementioned case, the mere fact that two Dutch nationals moved after their retirement to Spain and afterwards applied to the Netherlands for a civilian war victim benefit is just an indication of the strong impact of the EU citizenship right of free movement and residence within the territory of the other Member States. Union citizenship becomes constitutive of a new dimension to the welfare relationship between individual and state and arguably of a new welfare relationship between the individual and the Union.\textsuperscript{117}

4.3.6. Taxation issues

Article 21 TFEU steps in when objectively comparable situations are treated differently by national law\textsuperscript{118} because lack of harmonisation on taxation issues may lead to discrepancies that do not necessarily hide some form of discrimination. In \textit{Zanotti}\textsuperscript{119} the Italian legislation excluded from the right to deduct tax on tuition fees that incurred in another Member State, which the Court dismissed as unacceptable. But the Court accepted that such a deduction could take place up to the limit that is established with national tuition fees. This suggests that an effective and practical balance could be struck between, on the one hand, the free movement and citizenship rights of students and, on the other hand, the financial equilibrium of the educational system.\textsuperscript{120}

4.4. DIRECTIVE 2004/38

A series of regulations and directives augment the rights set out in the Treaty.\textsuperscript{121} Directive 2004/38\textsuperscript{122} is now considered to be the most important legal tool of secondary legislation that serves as a response to the numerous difficulties stemming from EU

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\textsuperscript{119} Case C-56/09.

\textsuperscript{120} Wolf Sauter, “Public Services in EU Law”, Cambridge University Press 2015,p.97.


\textsuperscript{122} on the Rights of Citizens and their Family Members to Move and Reside Freely within the Territory of the Member States(often called the ‘Citizens directive’).
citizens’ will to exercise the rights conferred on them under Article 21(1) TFEU. Through Directive 2004/38, the concept (of the free movement of workers) is gradually being transformed into a more general one of citizenship, which works through consideration of other freedoms.\textsuperscript{123} Its implementation put an end to uncertainty caused by the question of who can be regarded as a beneficiary of free movement because until then case law proved that it was hard work to stretch the law to its limits in order to consider certain categories of people under the prism of EU citizenship rights. The Directive specified the categories of citizens who were provided with the right to freely move and reside within the territory of the Member States and set the parameters of such moves. The right of entry and residence is limited to a time period of three months since the main idea is that the persons who are engaged in an economic activity enjoy a more prolonged period of stay through other more detailed provisions.\textsuperscript{124} Attention is paid to the careful examination of parameters that are related to a person being likely to become an unreasonable burden to the host State social assistance thus on the one hand enhancing the concept of solidarity between nationals and non-nationals of a host Member State and on the other protecting public finances. In other words, it is now only those who are an unreasonable burden, which is a quite different matter and category. It remains to be answered who defines reasonableness here: the Court of Justice or the Member States?\textsuperscript{125}

4.4.1. The Court’s ruling on Brey\textsuperscript{126}

The case dealt with the interpretation of the 2004/38 Directive. The Court interpreted under this Directive the term social assistance as all assistance introduced by the public authorities and concluded that the compensatory supplement was assistance provided

\textsuperscript{124} After the lapse of the three-month period the Directive recognises the competence of host Member State legislations to set conditions which abide by the principle of proportionality in order to prolong a person’s residence and avoid expulsion measures.
\textsuperscript{125} John Tillotson, Nigel Foster, “Text, cases and materials on European Union law” fourth edition, Cavendish Publishing Limited 2003, p.347.
\textsuperscript{126} Case C-140/12.
by public authorities. However, it went on to point out that a conclusion on how burdensome the social assistance system would become by granting the compensatory supplement required thorough assessment taking into account the person’s general situation and not exclusively a fixed amount of money received monthly in the form of pension. Once again with its decision the Court emphasized the fact that Member States were found under the obligation when setting limitations and requirements and when turning a Directive into a national law to exercise all the tools at their disposal so as to attain the aim they desired with the least obstructions possible. It was a ruling in which the CJEU weakened the legal status under EU law of economically inactive EU citizens who, while residing in another Member State, are or become in need of social assistance.

4.4.2. The Court’s ruling on Teixeira

With Teixeira the Court ruled that the requirement for maintaining a special dignified level of living conditions should not be met in the case of a parent who was the prime carer of child that was already following the educational system of that State. Here, the Court found that the child was already exercising the right of pursuing education under Article 12 of Regulation No 1612/68 and as a result no condition could be applicable under these specific circumstances. In this striking example of judicial activism the Court here seems to imply nothing less than that earlier legislation such as that under consideration in this case should in certain circumstances be interpreted with a view to objectives of and the evolving purposive framework of subsequently adopted EU measures or even subsequent treaty amendments at a more general level. Again here the Court endeavoured to interpret the whole concept of the 2004/38 Directive, which

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127 Mr. Brey held a residence certificate and for that reason he was refused compensatory supplement since being a resident in Austria after the three-month period required sufficient resources not to be regarded as a burden to the Austrian social assistance, yet the compensatory supplement was granted to those who needed assistance.


129 Case C-480/08.

130 in order for a person not to become a burden to the social assistance system of the host Member State.

131 on freedom of movement for workers within the Community.

is to be supportive of a migrant’s choices to reside in a place where he could enhance his living conditions. On the other hand, this could increase the number of potential ‘welfare tourists’ in the case of non-economically active Union citizens being unconditionally granted with a residence permit. 133

4.5. POLITICAL RIGHTS UNDER ARTICLE 22(2) TFEU

In Spain vs the UK 134 Spain initiated a series of attempts to annul a British Act which gave non-Community nationals in Gibraltar the right to vote and stand as candidates for the European Parliament. 135 Article 19(2) EC provided the room for Directive 93/109 to lay down the detailed arrangements for the exercise of the right to vote and be a candidate and in a sense to illustrate the link which existed between nationality and the right to vote. The Court took the stance that in the absence of provisions stating clearly and without further doubt which persons have the right to vote and to stand as a candidate in elections to the European Parliament, it did not seem that the United Kingdom’s decision went against the Treaties.

In Eman-Sevinger 136 things had to be examined the other way round, i.e. it had to be clarified whether a Member State (the Netherlands) had the legal power to exclude from the right to vote certain categories of its nationals during the European Parliament elections because they lived in the Netherlands Antilles and Aruba. The Court did not accept the exclusion, which was indicative of the stance that the absence of a clear-cut reference in the Treaty does not allow Member States to create exclusions themselves. It seems possible that it is this case rather than the more immediately politically sensitive Gibraltar case that may have the greatest long-term repercussions for the development of EU citizenship. 137

133 Nathan Cambien, “European Citizenship and Immigration”, European Journal of legal studies (vol.5 no 1)2012, p. 32.
134 Case C-145/04.
135 Due to its long and turmoiled history, Gibraltar had many deeply-rooted connections to the United Kingdom, which led the latter to continue to accord the franchise to resident citizens of other Commonwealth countries.
136 Case C-300/04.
5. THE ROLE OF THE COMMISSION

As the Treaty watchdog, the Commission has undertaken various tasks with the aim of establishing the concept of EU citizenship and making the rights conferred on Member State nationals comprehensive as well as accessible. Its functions elevate it far above that of a ‘civil service’ for the Union.\(^{138}\)

5.1. ISSUING THE CITIZENSHIP REPORTS

Useful insights can be gained through the study of the Commission Reports on the Citizenship of the Union since they constitute an invaluable and mostly reliable source of information on the strengths and weaknesses when addressing this significant concept. They are envisaged in TEU and TFEU provisions, which oblige the Commission to undertake the task at regular intervals of time to present the progress that has been made so far and to mention the factors that contribute to the malfunction of the provisions.

5.1.1. Developments at a glance

The First Citizenship Report\(^{139}\) was obliged to cover only a few weeks period since the EU Treaty came into effect ten months later than expected; therefore it was restricted to an analysis of concepts and definitions rather than practical issues.

The Second Citizenship Report\(^{140}\) was better organized and tried to address three main issues: the implementation of the new rights under TEU, the evaluation of the already existing rights in the EC Treaty and future prospective. Legislative initiative was put forward, shortcomings were discussed in the area of codifying secondary legislation but mostly it was discovered that exercise of EU citizenship rights suffered from lack of information and awareness actions. Therefore initiative was proposed towards this direction.


Apart from statistical analysis and presentation of Union Body activities such as legislative measures and programmes, the Third Citizenship Report\(^{141}\) focused on two major developments of the time and their impact to citizenship provisions: the proclamation of Charter of Fundamental Rights and the adoption by the Commission of the proposal of a directive which turned out to be Directive 2004/38. The Commission in a way deviated from the usual task assigned under the Treaty provision but did so in order to show that all aspects of discrimination were interlinked.

The twelve years of existence produced fruitful results for the Fourth Citizenship Report\(^{142}\). The Court’s rulings which made remarkable references to the principle of non-discrimination reinforced the concept of EU citizenship. Also, it was found that implementation of the Treaty provisions and secondary legislation was mainly hampered by incorrect practices, which had to be corrected through information. Once again, information is deemed the most powerful tool for raising awareness in the area of EU citizenship rights.

The first Report\(^{143}\) under the TFEU provisions\(^{144}\) saw that obstacles concerning the enjoyment of EU citizenship rights lay first in the way Directives were turned into national legislation, second in time-consuming and bureaucratic practices and third in lack of awareness. The target of the report was to provide necessary insights in order to work towards the enhancement of everyday life of EU citizens in as many situations as possible, which judging by the 25 KEY ACTIONS to improve citizens’ life\(^ {145}\) proved to be a step towards the right direction.

In the 2013 Report\(^{146}\) efforts were made towards raising awareness on the electoral rights that all EU citizens held in order to promote democratic practices and to achieve higher percentages of participation in the 2014 European Parliament elections.

\(^{143}\) A very-well drafted report with adequate statistical data which provided the ground for the evaluation of the period at hand.
Developments were presented concerning the work of the Commission in tackling issues of discrimination and actions related to the European Year of Citizens 2013 were put forward.

The findings of the 2016 Report will reveal if the people of Europe have been influenced by major political turbulences with tremendous social consequences which are yet to come. It will be interesting, however, to see how the Commission will handle the findings\textsuperscript{147} so as to promote the concept of EU citizenship which has been lately under attack.

5.2. CARRYING OUT EU PROGRAMMES

The Commission is actively involved in the running of programmes that are addressed to the citizens of the Union so as to raise their awareness on the rights they are free to enjoy.

5.2.1. ‘Europe for Citizens’ programme

Its main aim\textsuperscript{148} is to contribute to citizens' understanding of the Union, its history and diversity, and to foster European citizenship and improve the conditions for civic and democratic participation at Union level. The Regulation\textsuperscript{149} has its legal foundations on Articles 10 and 11 TEU and takes into consideration the 2010 Commission Communication.\textsuperscript{150} It very correctly departs from the fact that the abundance in EU policies on so many factors may have addressed serious economic and social matters but may have still not enough been enough so as to instill in EU citizens the feeling of belonging to a wider Union. For the 2016-2020 period according to the Priorities of the programme emphasis is placed on two strands: on European remembrance and on Democratic engagement and civic participation. Under this respect, participation levels are expected to increase and the outcome will be very enlightening since through these


\textsuperscript{148} stated both in the Preamble and in Article 1.


\textsuperscript{150} entitled “Europe 2020-A strategy for smart, sustainable and inclusive growth”.
projects democratic achievements will be stressed though useful results will be produced on citizens’ levels of integration, on the developments in the area of solidarity and even on expectations of the future of Europe while sensitive issues such as tolerance towards immigrants and refugees are touched.

The framework for such a move had already been set with the ‘Europe for Citizens’ programme for the period 2007-2013.\(^{151}\) Its aim was to contribute to a higher degree of interaction through actions which included twinning of towns and creation of networks, support measures, actions in commemoration of historic events and numerous innovations for raising public awareness\(^{152}\) among Member State citizens and through the mutual understanding of their sociolinguial, cultural and territorial diversities to encourage them to focus on aspects that can unite them towards the common goal of togetherness.

5.2.2. The 2014-2020 ‘Rights, Equality and Citizenship Programme’

The 2014-2020 ‘Rights, Equality and Citizenship Programme’\(^{153}\) encompasses actions which are oriented towards the development of all the rights that are included not only in the Treaties but also in the Charter of Fundamental Rights of the European Union and in international conventions to which the Union has acceded. Citizens of the European Union should be provided with as much encouragement as possible to make use of their rights when they are found in various situations under numerous statuses such as travellers, consumers, workers, students within the territories of the Member States and should be made to feel comfortable and confident when they exercise any of the above\(^{154}\). There may be obstacles to the enjoyment of all these rights but with the right information techniques recipients will be in position to understand and take them into consideration. Overall, the idea of closer cross-border cooperation can turn into mutual understanding and trust among the recipients of the programme through actions that combat all forms of discrimination.

\(^{152}\) according to the 2013 Programme Guide.
\(^{154}\) according to Preamble 13 of the Programme.
It can be said that the 2014-2020 ‘Rights, equality and citizenship programme’ is a continuation of the 2007-2013 specific programme ‘Fundamental rights and citizenship’ which was part of the general programme ‘Fundamental Rights and Justice’ though broader in scope.\textsuperscript{155} Besides, it follows in the footsteps of the 2010-2014 Stockholm Programme\textsuperscript{156} according to which “European citizenship must become a tangible reality”. Migration aspects are touched with the aim of projecting its beneficial side and establishing the concept that Europe protects and cares for its citizens and their needs.

6. PARLIAMENT AND COUNCIL CONTRIBUTION

The creators of the European Year of Citizens 2013 wished to celebrate the twentieth anniversary of the legal establishment of the term European citizenship with the Treaty of Maastricht. They thought it served as perfect timing for coordination of efforts towards raising public awareness on the rights and responsibilities attached to the European citizenship. With this general objective in mind the European Parliament and the Council proceeded to a Decision\textsuperscript{157} declaring Year 2013 as the official European Year of Citizens.

The Decision spotted that a serious issue rested in ignorance and lack of full information on the part of member State nationals as to the exercise of the rights stemming from the special status of EU citizen. Dissemination of information was therefore proclaimed as the main helping tool for making EU citizens understand that they could take important decisions to enhance or even change their life. Most importantly, the 2014 elections were approaching and it was a good opportunity to let citizens know what they were voting for. It was an attempt to fight the wariness, the cautiousness and the reluctance of many skeptics who found the idea of opening up to the EU world as daunting and prohibitive.

\textsuperscript{155} Council Decision of 19 April 2007 establishing for the period 2007-2013 the specific programme ‘Fundamental rights and citizenship’ as part of the General programme ‘Fundamental Rights and Justice’.

\textsuperscript{156} “The Stockholm Programme – An open and secure Europe serving and protecting the citizens”, was presented by the Presidency on 16 October 2009 and adopted by the Council.

Objective of European Year of Citizens was to promote the enjoyment of all those rights that an EU citizen has at his disposal through initiatives that brought about public awareness. Events included conferences, debates, workshops, promotion of information materials, testimonials, media coverage, running of projects, educational activities, information stands, film festivals and similar cultural activities, social media actions.\textsuperscript{158} All implemented activities were monitored and evaluated accordingly afterwards both at a national\textsuperscript{159} and an EU level.\textsuperscript{160} The limited in scope budget and the limited distance between the issuing of the decision and the starting point of activities were two parameters that hindered the extent of success\textsuperscript{161}.

7. CURRENT CONSIDERATIONS ON MIGRATION POLICIES

The Court of Justice has so far not allowed unconditional access to social assistance benefits by EU citizens.\textsuperscript{162} And not few have been the times when the Commission was the applicant initiating a procedure before the Court. Being the respondent of numerous complaints from other Member State nationals, the Commission has had to intervene for starters through its Communication to Member States so that they could spot and subsequently stop inequality and discrimination. This happened with Commission v the UK case\textsuperscript{163} as well; however after unsatisfactory clarifications on the part of UK the Commission took the dispute to the European Court of Justice. The whole issue was about refusal of a social assistance benefit to migrants by imposing specifications in its granting. The Commission claimed that the right to reside test in order to be treated as habitually resident in the United Kingdom - and thus become a recipient of the benefit - could be easily passed by nationals and this practice constituted a discriminatory

\textsuperscript{158} Annex to the Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation, results and overall assessment of the 2013 European Year of citizens.
\textsuperscript{159} Public Policy and management Institute, Evaluation of the 2013 European Year of citizens, National Case studies: Denmark, France, Lithuania, Romania and Spain, May 2014.
\textsuperscript{161} Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation, results and overall assessment of the 2013 European Year of citizens, Brussels 31-10-2014.
\textsuperscript{163} Case C-308/14.
precedent on the ground of nationality. The British part\textsuperscript{164} took the side that no such practice was discriminatory since it was fully justified under the provisions of Directive 2004/38, according to which restrictive measures could be taken in the case of economically inactive persons so as to safeguard public finances. In its 2016 decision the Court is making an astonishing turn and is all the more hesitant to recognise EU citizenship rights under Directive 2004/38.

Unlike most of the previously mentioned cases which were hailed as bold, innovative and groundbreaking and which paved the way for important developments in the area of social integration, decision on \textit{Case C-308/14} reveals the reluctance of official EU bodies to criticise a national practice which is obviously either directly or indirectly discriminating concerning nationality. The decision followed in the footsteps of \textit{Dano}\textsuperscript{165} where ECJ ruled that nationals of other Member States are excluded from entitlement to certain special non-contributory cash benefits. Based on the above judgements and since the underlying effect of the Court’s case law is to reshape the entire policy and decision making system applicable to the territoriality of the national welfare state\textsuperscript{166} things are made easier for countries to limit migrants’ benefits.\textsuperscript{167} Migrant issues have started to be looked upon as cumbersome and demanding, requiring a more meticulous inspection. In the past, they met the barriers that national legislations set in order not to exacerbate their bad financial position of social assistance systems but the CJEU was there to interpret the concept of fundamental freedoms and rights securing the position of non-nationals in a host Member State... This decision is indicative of the aura of Euroscepticism that is looming over the European Union, since the future of the EU is a prevalent topic now discussed more and more in all of Europe\textsuperscript{168} and is opening up the hotly debated issue over discriminatory national legislation always in favour of economic stability and always at the expense of EU citizenship rights.

\textsuperscript{165} Case C-333/13.
\textsuperscript{167} The Economist, “Benefits Tourism not OK”, November 15 2014.
8. CONCLUSIONS: WHAT THE FUTURE HOLDS

A lot has been said about the achievements on the establishment of the concept of EU citizenship since its first appearance in the Treaty of Maastricht 23 years ago. The most important aspect of Union citizenship is its dynamic character. Its evolution should mirror the progress achieved by the EU.\(^{169}\) All the steps that secondary legislation followed, the rulings that the Court provided and the mediating role that the Commission played accompanied by the European Parliament set solid foundations for the widespread use of EU citizen rights by various categories of people thus contributing to a deeper integration among societies of EU Member States. However, due to the heterogeneity of the Member States, the possibilities for the creation of a socially integrated Europe are limited.\(^{170}\)

The present does not seem so eager to follow in the footsteps of the past, which is expressed at various levels, may these be politically with Member States wishing to exit the Union\(^{171}\) or judicially with modest Court decisions or even socially with the fear of xenophobia because of terrorist attacks closing one by one the doors to diversity and multiculturalism. The idea of an open Europe can also be opposed to messages conveyed by another euphemism, ‘third-country nationals’ (TCNs), which arguably plays the role of papering over the EU’s inability to negotiate with member states to extend rights to immigrants.\(^{172}\) It seems that European integration has not served to safeguard a European tradition of social solidarity and social citizenship, but neither has it functioned as a bulwark against a European tradition of racialised exclusion, xenophobia, and nationalism.\(^{173}\)

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\(^{171}\) Brexit Referendum results of 23 June 2016 favoured exit EU by 51%.
More stability in national legislation is needed for easier application of rules.\textsuperscript{174} Member States are beginning to safeguard their social security systems with the blessings of EU. They have the possibility of refusing to grant social benefits to persons who exercise the right to freedom of movement solely in order to obtain Member State’ social assistance.\textsuperscript{175} The EU deal between Great Britain and EU that British Prime Minister David Cameron secured in view of the British Referendum is indicative of the trend towards restriction or at least meticulous examination concerning the granting of the freedom of movement. This is targeted at combating social benefit tourism, which many Member States are especially afraid of.

We are in an era of great changes. Only time will tell if these changes will attach a deeper meaning to the already existing status of European citizen or render it a useless concept with no particular dimensions. Until then, we can but enjoy our unique freedoms that the Treaties have granted us.


\textsuperscript{175} European Council Meeting (18 and 19 February 2016)-Conclusions, Brussels, 19-02-2016, p.20.
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