

AMERICAN ENTERPRISE INSTITUTE

**EUROPEAN CITIZENSHIP**

**MYTH OR REALITY**



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**Brief notes**

## I

**What E.U Citizenship is not:**

- **legal belonging to a nation or to a federation:** nothing to be compared to traditional state-nation citizenship;
- **an achieved and final concept:** no longer an empty promise but young concept and as says the E.U Court “*destined to be the fundamental status of nationals of the Member States*”;<sup>1</sup>
- **the expression of values and duties**<sup>2</sup>: mostly focused on rights, effectiveness of rights and education to democratic citizenship<sup>3</sup> (transnational democracy); no **values** expressed: Individual freedom ? Solidarity? Peace? Citizenship without founding values: quite strange as Renaissance and Enlightenment (already “*European*”) generated essential values for democracy and Western civilization... Same situation for **duties** (which exist in national European citizenships): helping others, respecting common goods, paying taxes, being loyal and obeying laws, defending territory and being a patriot...? Nothing of that; just a legal status. Question: would Europeans die for Europe? Would Italians, French or Spanish give their life for Malta or Estonia integrity?
- **a clear and coherent concept;** even with a flag, a territory, an hymn, one motto (*united in diversity*) citizenship content and understanding remains problematic; scholars debate since long: some clearly relate citizenship to legal dimension of free movement<sup>4</sup>, others see in it civic behaviors and representations leading to political recognition through the transformation of perceptions of other nationalities and identification to the E.U<sup>5</sup>; debate remains opened and concept is still not very clear in the people’s mind.

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<sup>1</sup> Citizenship in the MAASTRICHT Treaty was brought at the last minute by Felipe GONZALES the Spanish Prime minister; content was quite amateurish;

<sup>2</sup> To be mentioned: the E.U Council Decision dated April 19<sup>th</sup> 2007 refers to the principles inspiring E.U: freedom, democracy, human rights and the rule of law.

<sup>3</sup> EDC promoted by Council of Europe (Education to Democratic Citizenship) and Fundamental Rights and Citizenship Program of E.U Council, Charter of Fundamental Rights, Decision 2007/252/EC and Regulation (EC) 168/2007, plus European Union Agency for Fundamental Rights (focusing on discrimination racism, xenophobia, etc...).

<sup>4</sup> Astrid EPINEY, the scope of article 12 EC, some remarks on the influence of European citizenship, European Law Journal, Vol. 13, n°5;

<sup>5</sup> Paul MAGNETTE, How can one be European ?Reflections on the pillars of European Civic Identity, ibidem;

## II

### What EU Citizenship seems to be<sup>6</sup> :

- **recent and specific:** like E.U which is a specific and sui generis post-national organization the construction European Citizenship cannot be compared to “common” national citizenship<sup>7</sup>;
- **an automatic complement:** E.U Citizenship does not replace national; it is a complement<sup>8</sup> and it depends on Member State nationality ( article 17 of E.C Treaty: *“Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall complement and not replace national citizenship”* (27 ways to become an EU citizen.); still E.U citizenship remains based on exclusion: same person coming from a third country will not be treated in the same way;
- **functional and moving:** from legalistic and market-based, citizenship becomes social and should be political one day; it certainly became a “social fact”;
- **providing effective rights to:** move and reside with family in another country of the Union<sup>9</sup> (free circulation of persons inside E.U, article 18 of the Treaty, Directive 2004/38/CE Citizenship and E.U Court jurisprudence)<sup>10</sup>, vote and stand as candidate at local elections (article 19, Directives 94/80 CE and 2006/106/CE), diplomatic and consular protection in third country, (article 20), petition before E.U Parliament (article 20) and benefit of E.U Ombudsman (article 21); debate about the type of rights protected; extension of some rights and protection to foreign residents without full citizenship;
- **equal:** E.U Court promotes equality under E.U laws regarding free movement and residence<sup>11</sup>;

<sup>6</sup> See: E.U Commission Fifth Report (SEC 2008 197).

<sup>7</sup> *“Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall complement and not replace national citizenship” (Treaty of AMSTERDAM);*

<sup>8</sup> May be a problem if no national Citizenship, cf. Russian-speaking minorities in Latvia and Estonia regarded as “non-citizens”;

<sup>9</sup> Not to bind Europeans together but to free economic activity;

<sup>10</sup> According to the 5th report of the European Commission on January 2006 **8.2 million** were using their right to reside in another Member state than the one they were from; the Luxemburg Court does have an extensive interpretation of free movement, regarding family life and proportionality, going beyond treaties and related to other basic concepts: C 200-02, C 215-03, C 157-03, C503-03; C 258-04, C 1-05 and C 50-06.

<sup>11</sup> Article 12 of the Treaty, Directive 2004/38/CE and cases C 456-02 & 209-03;

### III

#### What EU Citizenship should be

- **more meaningful**; the issue of values and duties is totally missing; E.U civic education should be based on truth and loyalty plus strong training against all kind of fundamentalisms;
- **more active**<sup>12</sup>; not only active regarding human rights, but in the proper traditional way to use citizenship: to limit public power and to be part of the rule of law making (issue of civic and political participation);
- **more well known**<sup>13</sup>; this is why E.U Commission develops special programming for active citizenship<sup>14</sup> but much more can be done;
- **more vertical**: horizontal dimension does exist from free transnational movement but only vertical dimension can create a real feeling of community;
- **more political**: citizenship was introduced by the Maastricht Treaty in 1992 and then revised by the Amsterdam Treaty but political unity and decision making process does not really exist in E.U (as a unified one); E.U Commission encourages the creation of “*political foundations*”<sup>15</sup> to promote European consciousness and expression of a political will; citizenship is first a membership to a political community and there is still a long way ahead<sup>16</sup>; recent developments show Pdt. SARKOZY like having the capacity to go forward on European political leadership;
- **more Atlantic...**

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<sup>12</sup> The average rate of participation to E.U elections (Parliament) is 45-55%;

<sup>13</sup> Same source : 90 % of E.U citizen say they heard of it but less than a third feel well informed about their rights related to Citizenship;

<sup>14</sup> Europe for Citizen, 2007-2013 ;

<sup>15</sup> Rule n°2004/2003 and article 191 of the Treaty ;

<sup>16</sup> Elvire Letourneur-Fabry, Pour une citoyenneté européenne, Fondation Robert SCHUMAN, Questions d'Europe, 3 mars 2003 ;

## IV

### Why is citizenship almost completely out of public debate ?

Large constitutional and academic debate, important judicial developments but nothing in public debate: which flag did candidate ROYAL in 2007 ask to put in the French gardens?: the French one.... Not the European one (perhaps because she feared the biblical interpretation of the flag...). Why is citizenship so absent of public debate?

- **not a stake** in itself in daily life of Europeans;
- **seen as too abstract** (which is wrong...);
- **unclear** to the People even if everyone wants to make the citizens closer to E.U; European integration, globalization and multicultural societies make clarity more difficult;
- **still no linguistic or cultural homogeneity**; should European be identified by an impossible common cultural identity or specific constitutional principles dealing with duties, rights and freedoms ? If yes which ones? Good suggestions: individual freedom, free expression of opinions, federalist principles, separation of powers, strong and limited government, independence of the Judiciary, etc...
- perhaps **too many rights** protected or not the proper ones; true question: do social and economic rights really build the feeling to belong to the same community ?
- sense of European **identity** more real than European citizenship;
- perception of a **Brussels bureaucracy** and official elites making decisions of economic sort.

**Conclusion:** Europe was not born and made from 13 colonies in the 18<sup>th</sup> century; it was made from the Roman Empire and a long succession of ideas struggles, complicated national constructions, continuous wars and bloody history; legal and economic Europe is still very young; Political Europe and Defense Europe are to come; the way from “*soft citizenship*” to real transnational citizenship will be long and the concept must find a more substantive content; is it the core of E.U integration or a wide-open Pandora Box? Future will provide the response. Making Europe a true federation might be the appropriate solution. Then the dream of Jean MONNET and Konrad ADENAUER would be accomplished: E.U citizens would be citizens of the *United States of Europe*.