

EUROPEAN UNION CITIZENSHIP AND ITS IMPACTS ON THE  
FORMATION OF EUROPEAN POLITICAL IDENTITY

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## **ABSTRACT**

# **EUROPEAN UNION CITIZENSHIP AND ITS IMPACTS ON THE FORMATION OF EUROPEAN POLITICAL IDENTITY**

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This thesis aims at evaluating the impacts of European Union Citizenship on the development process of European political identity. With the introduction of European Union citizenship upon the ratification of the Treaty of Maastricht, a breath of fresh air has been brought to the ongoing debates and a new form of citizenship has taken its place in the literature. The “workers’ right to free movement ” which was the core of the push for European citizenship, has played a pioneering role for the rights engendered thereunder. In due course, new rights have been entitled to the citizens and the scope of these rights has been broadened. From the 1950s to the present, EU citizenship has continued its evolution and, rather than being referred to as a common market citizenship, it became a highly political concept during this period. In the context of these developments, this thesis view the historical background and the legal framework

of the concept and, in light of these insights, analyze the impacts of European Union citizenship upon the formation of European political identity. In this study, European citizenship has been defined as a form of political identity, whose emergence , in turn , was a consequence of citizens' relationships with the political entity-European Union- . On account of the inadequacy of the elements that constitutes the identity under normal conditions , the existence of the political identity has been emphasized as a the key concept in order to attach the citizens to the political entity and the role of the citizenship has been stated as comprising a common basis within the EU in order to constitute a political identity.

**KEYWORDS ;** European Union , citizenship , political identity, political community

## ÖZ

# AVRUPA BİRLİĞİ VATANDAŞLIĞI VE AVRUPA POLİTİK KİMLİĞİNİN İNŞASINDAKİ ETKİLERİ

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Bu tez Avrupa Birliği Vatandaşlığı'nın, Avrupa politik kimliğinin gelişim sürecindeki etkilerini değerlendirmektedir. Maastricht Anlaşması ile Avrupa Birliği Vatandaşlığı'nın ilan edilmesiyle süregelen tartışmalara taze bir soluk gelmiş ve yeni bir vatandaşlık tarzı literatürdeki yerini almıştır. Avrupa Birliği Vatandaşlığının çekirdeğini oluşturan “İşçilerin serbest dolaşımı hakkı “ daha sonra gelecek olan haklar için öncü bir nitelik sağlamıştır. Zaman içerisinde vatandaşlara verilen hakların sayısı artmış, kapsamı genişletilmiştir . 1950'lerden günümüze AB Vatandaşlığı evrimini sürdürmüş ve bu süreç içerisinde “Ortak Pazar vatandaşlığı” olarak anılmaktan çıkıp siyasi bir kavram haline gelmiştir. Bu tez , bu gelişmeler bağlamında, kavramın tarihsel arkaplanı ve hukuksal çerçevesini incelemeyi ve bu bulgular ışığında Avrupa Birliği Vatandaşlığı'nın , Avrupa siyasi kimliğinin oluşumuna etkilerini analiz

etmektedir . Bu alıřmada , Avrupa Birlięi Vatandaşlıęı siyasi kimlięin bir formu olarak anılmıř ve bu siyasal kimlięin de vatandařlar ile siyasi kiřilik -Avrupa Birlięi- arasında doęan iliřkinin sonucu olarak ortaya ıktıęı ileri srlmřtr. Normal kořullar altında kimlięi inřa eden ortak unsurlar AB iersinde mevcut bulunmadıęından , vatandaşların siyasal kiřilięe baęlanmasında anahtar kavram olarak politik kimlięin varlıęı vurgulanmıř ve vatandaşlıęın Avrupa Birlięi ierisindeki rolnn politik kimlik inřası iin ortak bir zemin teřkil etmek olduęu belirtilmiřtir.

**ANAHTAR KELİMELELER ;** Avrupa Birlięi , vatandaşlık ,siyasi kimlik , siyasi topluluk

To My Beloved Mother, Father and Grandmother



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## LIST OF ABBREVIATIONS

AD	: After birth of Jesus
EC	: European Community
ECJ	: European Court of Justice
EEA	: European Economic Area
EEC	: European Economic Community
EFTA	: European Free Trade Area
EU	: European Union
Ibid	: From the same book, writer, or article as the one that has just been mentioned
MPs	: Members of the European Parliament
TEU	: Treaty on European Union

## **INTRODUCTION**

Citizenship and identity have become two of the most highly disputed issues over the past decade, most notably in recent years. Particularly, debates on citizenship became the focus of policy makers and scholars, not only on the international but also on the trans-national level. Citizenship in terms of economic, social, and political impacts is strictly supervised by the different departments of social sciences, insomuch as “citizenship” courses have been introduced as required courses in the high schools to advance political knowledge and increase participation in social debates starting in one’s youth. Notably, the development of European citizenship brought a breath of fresh air to the ongoing debates about citizenship since it is considerably different from the usual concept of citizenship models and was, thereby, superseded in the literature as a new kind of citizenship.

Through the past decades, the issue of European citizenship has been debated, studied, reinterpreted, and undergone scholarly analysis by many people. After a long-lasting integration process, the concept of citizenship, which acquired its features through the historical context of economic integration as a common market citizenship, turned into a political citizenship of the EU that gained ground with a European political identity. European citizenship was regarded as an

evolving concept starting with the free movements of persons, through its legal formalization, to a fully-fledged identity.<sup>1</sup>

With the Treaty on the European Union, which is more widely known as the Maastricht Treaty, the evolution of European citizenship acquired a new dimension. It has been introduced as a new tool to drive the integration process, not only by the new entitled rights but also with the symbolic importance for the formation of the “united” and “closer” political entity similar to the formation of a nation with the new citizenship concept. With the establishment of the European citizenship concept, a new attachment or bridge was created to be used as an integrative element between the European communities. Considering European citizenship in the context of “a membership to a political community,” this symbolic value creates the attachment of individuals to the political unity that identifies the cohesion and, by this means, strengthens the legitimacy of the Union. The underlying base of citizenship is tied to one’s belonging to a specific political community; therefore, the citizens identify themselves according to their political identity, which is rooted in the political entity.

As a point of fact, the historical background of citizenship dates from time immemorial. Throughout history, there have been many attempts to create connections between the political order and its citizens. Likewise, the EU has endeavored to make its own kind of citizenship enforceable within its sui generis

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<sup>1</sup> S. O’Leary, *The Evolving Concept of Community Citizenship* (The Hague: Kluwer Law International, 1996), 23.

structure. Because of citizenship's vulnerability to any kind of historical evolution, the concept has changed dramatically throughout history.

From a historical context, Europe is considered to be the originating point of the concept of citizenship. Starting with the Greek city-states, citizenship that bonded the political entity to its citizens or loyalties evolved and broadened its scope according to the conjuncture of the political entity. Following the Greek city-states, respectively, the Roman Empire, Enlightened Absolutism, The French Revolution, and the emergence of nation-states affected the evolution of the concept significantly.

Although these important cornerstones have impacts on the development of citizenship, European Union citizenship, beginning in the early days of European Community, started to develop its own characteristics and continuously evolve from the 1950s to the present.

During the 18th and 19th centuries in Europe, the political conditions birthed a citizenship concept that started to represent a homogeneous community or ethnic group; thus, citizenship started to align with the nation-state concept. It has become broadly accepted that citizenship exists within the nation-state conformation. With the emergence of EU citizenship, theorists, academicians, politicians, and even Eurocrats have begun to wonder whether citizenship can exist without a nation-state. The relationship between the EU (in the role of nation-states) and the community was not familiar to the usual state-individual relations throughout history. The boundaries were ambiguous; the political center

with a multi-level structure was not as strong as a nation-state. For this reason, the development of EU citizenship has proven to be more challenging than would have been a citizenship process under normal conditions.

In contrast with nation-state citizenship, the concept of European citizenship<sup>2</sup> is mostly considered an empty context because of the aforementioned reasons. Because the details of the context have not yet been fulfilled, the EU refers to European citizenship as “a developing concept” that will be shaped in due course. Although the concept of European citizenship was introduced with the Maastricht Treaty, it has been an evolving concept since the beginning of the European Integration. The first step of citizenship was considered as the free movement of persons and the final intention was to create a common identity for the EU. Since EU citizenship is a supranational citizenship, which is unprecedented, it is an issue of concern how it would be differentiated from citizenship models to which we are accustomed at the national level, as well as other pre-existing models, and whether it can continue its existence.

In the notion of European citizenship, the multi-dimensional structure of the EU reveals itself; therefore, the study of EU citizenship needs a multifaceted analysis in order to be able to appreciate its infrastructure. Citizenship cannot only be

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<sup>2</sup> Within the scope of this thesis, the term “European citizenship” is going to be used as a synonym with the notion of “European Union citizenship,” but it should be stated that there is an ongoing debate in the literature to separate these two notions. According to this view, since the EU does not consist of every country in Europe, the inclusive usage of the term is illegitimate. As a matter of fact, our definition of an “EU citizen” remains limited by the legal definition in the 17th Article of the Treaty Establishing the European Community. Therefore, there are countries that are European but not members of the Union; moreover, there are residents living in the member states, attached to the country in which they live, who feel European but who are not citizens of the member state. Nevertheless, the usage of both term as synonyms is widely acclaimed; therefore, the generally accepted usage will be observed in this study.



considered as a legal framework because it also has social, economic, and political aspects that embody the concept ab initio. In this thesis, the focus will be on the legal framework and political context of the notion and European citizenship will be analyzed in terms of political identity.

When citizenship is defined in terms of membership to a political community or relationship vis-a-vis state, it also brings out the question of a political identity. When this definition is taken into account, it is coherent to make such a deduction. If citizenship and the political community have a relationship, then a political identity should naturally emerge therefrom. This political identity, in this respect, is derived from the political entity and makes us belong to itself as a member of this society. Bruter defines the political identity of an individual as such:

*A citizen's political identity can be defined as his sense of belonging to politically relevant human groups and political structures. It has long been understood by political theorists that the emergence of a corresponding political identity can be considered as the primary source of legitimization of a political community.*<sup>3</sup>

Parallel to these, EU citizenship is also entitled as a form of common political identity. The relationship of the European community to the EU constitutes a political identity and EU citizenship is not only the outcome of this identity but also the tool for further identity building.

Before analyzing the concept of citizenship in the context of the historical background and legal framework and coupling it with the political identity, the

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<sup>3</sup> Michael Bruter, *Citizens of Europe? The Emergence of a Mass European Identity* (London: Palgrave Macmillan, 2005), 1.

different definitions and approaches to citizenship are going to be taken into consideration in order to both help evaluate the notion from a broader perspective and also to build the foundation for the information that shall be determined in the following chapters.

### **Definitions of the Concept**

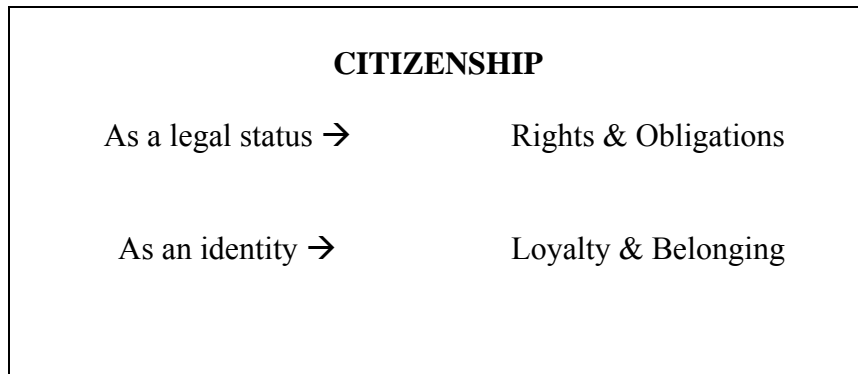
Citizenship is a political concept that determines individuals' relationships to their state. It is not a static term; in other words, every era embodies its unique citizenship formation according to the prevailing circumstances. It is a kind of dynamic identity that gives form to the changing needs of both the community and the individual.<sup>4</sup> This dynamic structure shapes itself according to the social and the political conjuncture. In brief, citizenship states a relationship between the individual and the political entity. This relationship functions in a reciprocal way: the political entity anticipates loyalty from its citizens, while the citizens demand protection from the state.

In order to outline the concept of citizenship with the most general and widely accepted terms the determinants would be specified as follows:

#### **Table 1** The outline of the citizenship concept

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<sup>4</sup> Keith Faulks, *Citizenship* (Oxon: Routledge, 2000), 6.



As a legal status, citizenship is constituted of two intertwined elements: rights and duties. The state or the political entity confers certain rights to the citizens and on conditions that impose certain obligations. Citizenship in terms of identity is twofold: on the one hand, “belonging,” which is created by a “sense of commonness” and is enhanced with “protection against the outsider”; on the other hand, the “loyalty” of citizens, which is anticipated by the political entity. Every model of citizenship from past to present has been broadly composed of these elements.

T.H. Marshall’s definition of citizenship, which has been widely acclaimed since the 1950s, defines citizenship as “a status bestowed on those who are full members of a community. All who possess the status are equal with respect to the rights and duties with which the status is endowed.”<sup>5</sup> In this respect, any citizenship model, including EU citizenship, would comprise a set of rights and duties regarding the citizens. But it is a deficient characterization if we define citizenship only in terms of rights and duties. Will Kymlicka,<sup>6</sup> in his book

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<sup>5</sup> Thomas Humphrey Marshall, *Citizenship and Social Class and Other Essays* (Cambridge: Cambridge University Press, 1950), 12.

<sup>6</sup> Will Kymlicka, *Multicultural Citizenship* (Oxford: Oxford University Press, 1995), 20-43.

*Multicultural Citizenship*, assesses citizenship within three different contexts. The first dimension is the *legal framework* in terms of rights, which means the citizen is a legal person; as such, he is holder of a right to demand legal protection if required.

Next, Kymlicka analyzes citizenship in terms of *politics*, which is basically going to be the main focus of this study concerning political identity – citizens' relationships with the third dimension. The citizen is a political creature, "*homo politicus*," and its political participation is required for democratic governance.

The last dimension of Kymlicka's study is the identity side of the concept, which has an ambiguous and complicated context in general. The other two dimensions are bounded by certain limitations or configurations; but citizenship, in terms of identity, is a highly controversial topic. Hence there have been written many articles and books about the issue, but most of them take different approaches and it is difficult to find a generally accepted mainstream among the established studies.

Besides Marshall's definition, there are many other broadly accepted definitions. Heater characterizes citizenship as a form of socio-political identity.<sup>7</sup> According to Dell'Olio, we can define citizenship as a set of rules that defines citizens as

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<sup>7</sup> Derek Heater, *A Brief History of Citizenship* (Edinburgh: Edinburgh University Press Ltd, 2004), 1-2.

components of polity.<sup>8</sup> Neither the rights nor the content of citizenship is constant but rather dynamic and they are affected by the circumstances of the polity. For the creation of a political community citizenship concept endowed with certain rights is required. Karolewski also notes, “The construction of collective identity in its political meaning, as a general commitments to the public interest, proceeds under the influence of different forms of citizenship.”<sup>9</sup>

Samur approaches the issue from a different standpoint: in addition to the political and identity perspectives, he emphasizes the economic aspect of citizenship by anticipating citizens to be a part of the market and citizenship based on a market-oriented form of economic culture,<sup>10</sup> which is also a convenient point of view for EU citizenship.

Citizenship, as a matter of course, requires full and equal membership for every citizen of a society in terms of both obtaining equal rights for all citizens and protecting every citizen separately from its social status. According to Marshall’s theory, social class has an unequal structure that is the result of the system of hierarchy and citizenship is the concept that evens up and equalizes this gap.

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<sup>8</sup> Fiorella Dell’Olio, *The Europeanization of Citizenship: Between The Ideology of Nationality, Immigration, and European Identity* (Burlington: Ashgate, 2005), 7.

<sup>9</sup> Ireneusz Pawel Karolewski and Viktoria Kaina, *European Identity: Theoretical Perspectives and Empirical Insights* (Münster: Piscataway, 2006), 298.

<sup>10</sup> Hakan Samur, *Market Citizenship: The Most Important Dimension of Common European Union Identity* (Diyarbakır: Elektronik Sosyal Bilimler Dergisi, 2005), 13.

As it is clearly seen, there are many different views for the definition of citizenship. Undoubtedly that , all these above-stated definitions comprise the essential elements of citizenship , however , the adopted view in the following chapters of this study will be the definition of Samur that analyzes citizenship with a broad perspective including the economic point of view and the European Union citizenship will be analyzed within this context.

In order to provide a framework for further analysis , this part of the thesis was devoted to the different definitions of the citizenship concept. In the following chapter , the evolution of the concept will be analyzed under two sections. In the first one, the development of the citizenship in general will be dissected in the light of the Eder and Giesen's clasificacion .In the second section of the chapter , the cornerstones of the establishment of EU citizenship will be demonstrated in depth to enable a better understanding how the unique type of citizenship has been progressed and come to these days in the Union.

## **CHAPTER 1**

### **THE HISTORICAL BACKGROUND OF THE EVOLUTION OF THE EUROPEAN CITIZENSHIP CONCEPT IN EUROPE**

As a matter of fact, citizenship is not just a contemporary issue. From the Ancient Greeks to the modern day, by any means, citizenship has been a key issue of political debates. It has evolved throughout the years due to the effects of political, social, and economic determinants. While the egalitarian structure of citizenship did not emerge at the beginning, because the status of citizenship was initially a privilege limited only to a part of society, the concept evolved in due time and has been re-shaped as a complicated notion that embodies rights, duties, and a civic identity.

To make the issue of citizenship clear cut, the origin of political organizations should be subject to review on different regime levels throughout history. The states pretend that their citizens (or subjects, in some instances) are loyal; this loyalty maintains the durability of the state. In every model that plays a significant role in the evolution of European citizenship, the citizens were provided different roles by the ruler of the political entity. It would be inconvenient to characterize EU citizenship as a sum of these models, but it is an undeniable fact that it acquired the main principles from the experiences of the historical models and created its unique model according to current conditions.

In the first part of this chapter, the historical models of citizenship will be analyzed according to the classification of Eder and Giesen, starting with the Greek city-states, and the Empire model and Enlightened Absolutism will be also touched upon. Lastly, the nation-state model of citizenship, which has been the main subject of socio-political debates for the last two centuries, will be scrutinized in detail and comparisons will be made with EU citizenship. Then, in the second part, the evolution of citizenship in Europe will be broadly analyzed in light of the developments in the European Community from the Treaty of Rome to the Lisbon Treaty and will review how the deep-rooted citizenship tradition in Europe has been reshaped within the past 50 years.

## **1. 1. Transformation of Citizenship in the History of Europe : From City-State Citizenship to EU Citizenship**

### **1. 1. 1. The European City-State**

From the emergence of the concept of citizenship in the Greek city-state systems, citizenship has undergone a drastic change. The practice of citizenship found its first institutional expressions in the Greek polis.<sup>11</sup> This is not just the birth of the idea of citizenship in the region we call Europe today, but also for the whole world. It is assumed that the earliest form of citizenship was Greek citizenship. Although it is quite improper to contrast the concept of so-called Greek

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<sup>11</sup> Faulks, 14.



citizenship with present-day citizenship, we can nevertheless mention a kind of community involvement activity and participation in public issues. It cannot be denominated as the establishment of a modern citizenship but rather as the entitlement of citizens with certain rights, thus a crucial step was taken in the issue of citizenship.

The origin of the word “citizen” dates back to the ancient Roman Empire. In Latin, the term “civitas” expresses a condition of citizenship and inclusion in one respect. However, the first formation of a quasi citizenship emerged in the Greek polis with the archetype of a political order. Solon, who was a statesman in Ancient Greece, initiated the early ideas of citizenship and made contributions to the development of democracy in Greece in the 6th century BC. He not only introduced laws called the Solon Laws, which arranged the obligations of Greek citizens to participate in politics, but also classified citizens according to their financial level. Certainly, it is incomparable with today’s world but, considering the time period, the system of the Greek city-states was both enormous and well coordinated.

The Greek city-states, called “polis,” had a distinctive organizational form and segregation of citizenship. Dell’Olio characterizes the citizenship of city-states as small-scale, discriminatory, active, participatory, and communitarian.<sup>12</sup> In polis, women and slaves were excluded as a consequence of their situation in society. This kind of citizenship was also labeled as “localized” because it took effect in a

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<sup>12</sup> Fiorella Dell’Olio, *The Europeanization of Citizenship: Between the Ideology of Nationality, Immigration and European Identity* (Burlington: Asgate Publishing Limited, 2004), 18.

specific area and upon specific individuals who met the necessary conditions to be a “citizen.” Therefore, being a citizen represented a high status. Another condition to be regarded as a citizen was to be a politically active individual. Active citizenship was fulfilled via participation in political life.

There was a strong commitment between the city-state’s citizens and the political entity. As it shall be analyzed in the following section, in contradistinction to empires and enlightened absolutist rulers, the citizens of the Greek polis were active participants like the nation-state and EU citizens.

According to Eden and Giesen, the European city-state was an institutional seedbed for the idea of citizenship.<sup>13</sup> Similar to European citizenship, citizens in the Greek city-states were exceptional to the members of the community at large and were endowed with the required conditions. (In the EU’s case, the condition is to hold the nationality of any of its member states). The unifying factors for the “states” were merchants and commerce, which can be generalized under the concept of “market dynamic,” which is similar to the emergence of the idea of the EU and the first phase of economic integration. The governors of the city-states were the elites and the administrative acts were possessed by those elites, as in the case of the EU.

The city-state had a structure similar to that of the EU in terms of being a multipartite and collective entity. Aristotle’s political theory drew attention to

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<sup>13</sup> Klaus Eden and Bernhard Giesen, *Citizenship and the Making of a European Society, From the Political to the Social Integration of Europe: The Challenge of European Citizenship* (London: Oxford University Press, 2001), 248.

citizens in Athens' city-state as distinguished from other inhabitants, such as resident aliens.<sup>14</sup>

The citizens were named as a part of a polity and, similar to modern citizenship concepts, they had rights and duties as well. In the polis, there used to be a single center of political movement at which citizens convened to vote, elect, and participate in any kind of political debates. The Athenian polis specifically, and democratic cities generally, aimed at wide participation of the citizen body in all forms of government.<sup>15</sup> The system of Greek city-states strengthened the virtue of its citizens. In Greek city-states, the citizens had a de facto role through which they directly participated in policy making by "direct democracy." Lailas describes this as "governance was citizenship and citizenship was governance,"<sup>16</sup> which indicates the intertwined relations. Nevertheless, citizenship in a city-state was only the prerogative of those people who were eligible for it.

### **1. 1. 2. The Roman Empire**

The traditional empires and their model of citizenship were different than the city-state system. The citizens in the empires were subjects of the ruler (king, monarch, padishah) and obedient servants of the system. Like the EU, the empires had a multi-cultural, multi-lingual, and multi-religious structure that needed to

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<sup>14</sup> Fred Miller, "Aristotle's Political Theory," Stanford Encyclopedia of Philosophy, <http://plato.stanford.edu/entries/aristotle-politics/>.

<sup>15</sup> R. James Ferguson, "The Polis, The City-State and Urban Life," in *Journey to the West: Essays in History, Politics and Culture, Background Briefing* (Queensland: Bond University, 1998), 9.

<sup>16</sup> Elaine Andrews Lailas, *John Dewey's Theory of Citizenship and Community in the Developing American Democracy as Seen Through the Philosophy of Pragmatism as a Public Administration Model for the Citizen's Role in Public Governance* (Ph.D. Dissertation, Virginia Polytechnic Institute and State University, 1998), 81.

stick together for the sake of the continuation of governance. Empires were based upon the diversity of nations, as in the case of the EU. The sovereign was the ruler and the community took a passive role in policy making.

After the new expansion of an individual-state relationship format of citizenship in the Ancient Greek polis, the next progress happened within the Roman Empire. Provisions laid down by Roman law developed the idea of citizenship further and assigned a legal procedure to codify the acquisition of citizenship. In the Roman Empire, the social layer contained free citizens, slaves, and adventitious free individuals, which were emancipated slaves or “freedmen.” The Roman type of citizenship was a universal one rather than the restricted citizenship of the Greek city-state. To be born in Roman Empire was not an obligation to acquire citizenship.

The Greek type of citizenship, as emphasized previously, was limited to the community of the Greek city-states. The Romans faced the task of codifying a concept of citizenship that could apply to their entire empire, which formed the bulk of the then-known world.<sup>17</sup> In the Roman Empire, citizenship status was used as a tool to integrate the different nations/societies of the Empire, which was intended to strengthen the common identity.

The Roman Empire reigned for a long period of time; during this period, several amendments were made Roman law. The Roman citizens were called Quirites;

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<sup>17</sup> Charles Pattie, Patrick Seyd, and Paul Whiteley, *Citizenship in Britain: Values, Participation and Democracy* (London: Cambridge University Press, 2004), 3.

they were attached to full civil citizenship and rights.<sup>18</sup> The social structure was reasonably similar to the multicultural conformation of the EU. Furthermore, there were different citizenship levels according to one's religious beliefs and ethnic origin. According to Roman law, there may be a difference between an inhabitant, a subject citizen, and a resident, which is still a part of law today.<sup>19</sup> Some of the citizens in the empire were concessionary right holders who were viewed differently from the rest of the society, while full Roman citizens had the right to vote, make a "legal" civil marriage and undertake a contract, trade and join the commercial activities, go to court against other citizens' acts of injustice, and hold property and legal recognition and protection against other people in foreign countries.

As in the modern concept of citizenship, Roman citizens were not only beneficiaries of the rights imparted to them but also obliged to duties, such as military service and taxes. Besides these, the denizens owned universal rights, but these were not as large scaled and sweeping as the others. The conditions of competence for being a Roman citizen were determined by an elaborate body of rules. In the beginning of the AD 200s, every "free" inhabitant (excluding slaves) acquired citizenship status independently from their social class. The citizenship was acquired by birth into a Roman family or by marriage with a Roman citizen. The inhabitants of the territories that did not belong to Rome but were occupied at a later time were not regarded as citizens; however, they possessed another status

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<sup>18</sup> His Church at Summer Lake, *Was Paul a Roman?* (Summer Lake, 2008), <http://www.hisholychurch.net/pdffiles/law/Roman.pdf>, 3.

<sup>19</sup> The Church at Summer Lake, 4.

that entitled them a variety of rights but considered them a lower class of citizenship. The case of this class citizenship could be compared with the EU's denizens who are entitled with certain rights but are treated differently than full citizens and do not have all the rights that full citizens do.

The typical characteristics of empires were a strong governor, an emperor, and a firmly established bureaucracy. The empires were multi-ethnic political entities and every ethnic group was the subject of the emperor. There were local governors who were accountable for the emperor and his commandments; the governor was the high authority. The policies of the empires were not exclusionist like the city-state policies. The empire was tolerant to different cultures in order to provide social coherence between the composers of the empire. Citizenship did not require an active form; rather, the citizens were passive participants. The citizens were called to be "subjects" rather than citizens. Even though we define citizenship of empires as an advanced form of the city-state citizenship, the status of the citizens and their relationship vis-a-vis the ruler were not further evolved than the Greek type.

### **1. 1. 3 . Enlightened Absolutism**

The modern territorial state of the era was targeted to construct a uniformed citizenry.<sup>20</sup> Enlightened absolutist rulers claimed to apply the best policies for the sake of their community and the center, which was the absolute monarch or the

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<sup>20</sup> Giesen and Eder, 251.

emperor, was strongly effective but less power-centric (compared to traditional absolute rulers) for himself and his sovereignty. Instead, it was a body that tried to generalize the popular terms of the era like human rights and rule of law. The citizen of Enlightened Absolutism was not only an object of taxation and accountability, but also a subject to be enlightened in order to respect the law and correspond to the developments of science and technology.<sup>21</sup>

According to the Enlightenment movement of thought, the state was an institution that was constituted for the prosperity of the individual. The reason that the state existed was to guarantee the rights of the citizens. The most distinct characteristic of the era was the rulers were affected by the thoughts and the principles of Enlightenment. The citizenship was not active as it was in the empires, but more attention was paid to the status of the citizens. The citizens were entitled to more rights, like freedom of speech or private property, which were protected by the ruler; nonetheless, the monarch was the absolute ruler in spite of the changes. The improvement in the social position of citizens were purposed to secure the authority of the absolute ruler.

The citizens of enlightened absolutist societies, differently from the era of empires, were regarded as citizens again rather than “subjects.” However, the passive situation of the individuals continued, and citizenship was tantamount to obeying the commands of the absolute ruler. The idea of citizenship was insignificant in comparison to the Greek and Roman ages.

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<sup>21</sup> Ibid., 252.

#### **1. 1. 4. Nation State**

With the Renaissance, the concept of citizenship, which used to be a city-related one, transformed into a republican tradition that not only includes rights but also incorporated citizens' participation as a required component. The other significant step was made with the Peace of Westphalia. The Peace of Westphalia, which revolutionized the discipline of international relations, also had an impact on the evolution of citizenship. Ever since Westphalia, the notion of citizenship is associated with nationality and a state territory. By the time EU citizenship emerged, the concept had been de-territorialized.

With the 18th and 19th century in Europe, maturing conditions comprised a citizenship concept that started to represent a homogeneous community or ethnic group; thus, the concept of citizenship began to be commemorated in conjunction with the nation-state. It has received broad acceptance that citizenship exists within the nation-state conformation.

Since the 1800s, the concept started to be associated with the idea of nation and its political form, the "nation-state."<sup>22</sup> The French Revolution was the most important step for the development of the nation/nation-state/nationalism terms. The nation-state, as an ideal type of political entity, emerged after the French Revolution. The new formation, different from the previous multi-cultural empire models, was homogeneously composed. The elements that were unheeded for the coherence of

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<sup>22</sup> Giesen and Eder, 246.



the empire emerged as the constitutive elements of nation-state, hence common culture, common language, and common roots underlay the nation-state model. The concept of citizenship correlated with “nation” and for nearly two centuries they have been used as synonyms in the literature.

The era of the French Revolution caused the fragmentation of national developments concerning the perception of citizenship.<sup>23</sup> With the Revolution, the rights that were once entitled only to the privileged were expanded to the other sections of the community. The citizenship has been reshaped as a universal and egalitarian concept thanks to the ideas promoted by virtue of the Revolution. The French Revolution was the key event that fused the cultural idea of nationality with the political status of citizens.<sup>24</sup> In the following process, for nearly two hundred years, the nation-state has been the major actor of the political arena.

With the nation-states, the idea of citizenship started to transform. The citizens who were passive obedient of the state in the previous models began to be active participants with the ability to affect their rulers. The terms political representation, social contract, and public opinion became the significant impulse in the shaping of political life.<sup>25</sup> The citizens could be defined as “passive” in the nation-state in a sense, but this time they transferred their authority to the institutions and representatives who were determined by the votes of individuals

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<sup>23</sup> Klaus von Beyme, *European Citizenship between National Legacies and Postnational Projects: Citizenship and the European Union* (London: Oxford University Press, 2001), 62 .

<sup>24</sup> Keith Faulks, 166.

<sup>25</sup> Dell’Olio, 24.

during elections; therefore, the passive status became active in a sense. During the development phase of the nation-state a transformation from subject to citizen, religiosity to secularism, and feudal society to capitalist society ensued.<sup>26</sup>

Concurrently, the national system became based upon a homogenous structure at every level of the state; as a consequence, the boundaries that separate the insider and outsider started to be stricter in terms of citizenship. A new model was created in which the citizens were legally equal and the actions and participation of citizens embodies and affects the legal system. Citizens of nation-states started to have certain rights that were granted by national laws, and they also had obligations with regard to their national community.

Citizenship became national and was limited by the state to belonging to a territory through one's link to a sovereign power and by the achievement of certain benefits in exchange for certain responsibilities. With the appearance of modern nations, sovereignty was the responsibility of the nation as a whole (national sovereignty) or of the people defined as a group formed by all individuals (popular sovereignty).<sup>27</sup> Besides emphasizing "equality," the nation-state has extant exclusion grounded in territorial limitations or internal affairs.

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<sup>26</sup> Nevzat Güldiken, *Ulus, Ulus-Devlet Ve Uluslaşma Kavramlarına İlişkin Tartışmalar Ve Türkiye* (C.Ü. İktisadi ve İdari Bilimler Dergisi, Cilt 7, Sayı 2, 2006), 160.

<sup>27</sup> Universidad de Valencia, *Education for Citizenship and Human Rights* <http://www.edu.gva.es/educationforcitizenship/txt/unidad%204/4.3.pdf>, 1.

Nation-states employed nationalist discourses to provide the unity of society by creating a collective identity. Within the nation-state system, the notion of identity restricted citizenship. Nation-states combined the diversity in the society in the same 'pot' in order to create a homogenous structure and united them under the umbrella of "citizenship." Citizenship thus contributed to the development of the nation-state's position through the sense of belonging. Nation-states applied citizenship policies as an assimilation tool; hence citizens are assumed to be and are treated as "equal." Therefore, not only are the citizens attached to the state, the state is also legitimized.

## **1. 2. The Cornerstones for the Establishment of the European Union Citizenship**

Like any of the other states that have been established through history before the EU, neither Europe nor the EU were established in a few years' time. It is correct to say that the EU was inspired by certain components from the aforementioned state systems during its process of formation; but it is, in fact, a completely different "creation" from the sum of these models and it needs to be analyzed in terms of its unique circumstances.

From Rome to Maastricht, the rights attached to citizens expanded their contents according to the renewed regulations. The core right of EU citizenship was freedom of movement, which was introduced to enable the mobility of labor and

then justified as a measure to complete the single market.<sup>28</sup> The “free movement of workers” which, at the beginning, only applied to workers and their family members started to be the subject of different groups of citizens: students, self-employed, pensioners, etc. The right shifted from being an economic one to a social phenomenon. It makes sense to analyze this shift in light of European economic communities (EEC) and their role in the EU’s transformation. When considered from this point of view, it is seen obviously that EEC; which, in the first phase, appeared as an entity that intends to substantiate the economic integration and considers it a priority to evolve over the years, started to focus on social and political integration. The rights which, in the beginning, tended toward the economic issues started to incorporate more inclusive social rights. After the free movement of workers, forward-looking expectations developed in accordance with the widening of the scope of rights and granting emergent rights. In the long run, in consideration of all the expectations, European citizenship emerged in order to satisfy all the requirements. After abolishing restrictions in the trade-related issues and the economic integration gained ground, the next step was to abolish the national boundary lines that separate the citizens from each other.

With every deepening, the concept of European citizenship has been shaped further; it has broadened its scope; and the entitlement of new rights with new regulations has ensued. From the Treaty of Rome to the Treaty of Maastricht, an EU citizenship has been developed, the scope has been broadened with time, and

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<sup>28</sup> Willem Maas, (2005), “The Evolution of EU Citizenship.” *Memo for Princeton workshop on the State of the European Union* 8 (2005): 14.

took its final shape with the Lisbon Treaty. Accordingly, the stages of the progress of European citizenship will be dealt with hereafter.

### **1.2.1. The European Convention on Human Rights (1950)**

The European Convention on Human Rights is, basically, not a constructive step in the formation of European citizenship concept; nevertheless, it is a significant document regarding the protection of human rights and, therefore, plays an important role in the awareness of “rights” in Europe.

The European Convention on Human Rights was signed in 1950 by the member states of European Council. The objective of the Convention was to protect human rights and fundamental freedoms; hence, the European Court of Human Rights was established. Individuals were thus able to appeal to the court and sue against the state in case of any maltreatment or violation. The signatory states are in charge of protecting the human rights in their area of jurisdiction. It is an obligation for the state parties to the Convention to apply it in their national courts.

The European Convention of Human Rights and the ensuing document that includes similar issues, the Charter of Fundamental Rights of the EU, are commonly misunderstood in such a way that the European Convention is assumed to be a product of the EC/EU rather than the Council of Europe. The Council of Europe is not an institution of the EU; however, being a member of this Council is

a precondition to be a member of the EU. Any state that wants to be a member of the Union should have also ratified the European Convention on Human Rights. Certain parts of the Convention have also been effective in the composition of the Charter of Fundamental Rights; therefore, it would not be wrong to state that the Convention has a significant role in the historical development of the concept of European citizenship and the protection of rights.

### **1.2.2. Treaty Establishing the European Community (1958)**

The Treaty Establishing the European Community did not make reference to human rights or the fundamental rights of the individual, either citizen or resident. Since the Community was established on an economic basis, these issues were out of the Community's scope and were ignored, in a sense, during the first phase. With the Treaty of Paris, the free movement right was exclusively conferred to the workers of the coal and steel sectors as an outgrowth of the establishment of the European coal and steel community. With the Treaty of Rome, 1957, all laborers and the service sector became the object of the free movement right. Under favor of the European Court of Justice's decisions, the free movement right extended its scope from being an economic right to a social one regarding the whole of society and became a fundamental right for all Union citizens.

The Treaty Establishing the European Community embodies citizenship of the Union in its second part in detail. It is stated in Article 8 that citizenship of the Union is established by this treaty and every person holding the nationality of a

Member State shall be a citizen of the Union. These persons do not only enjoy the rights conferred by the Treaty, but are also subject to certain duties.<sup>29</sup> For an economic community whose objective was to compose a common market initially, the small-scaled regulations in the establishing treaty cannot be underestimated for the future developments. The Treaty Establishing the European Community demonstrates its intention to create “An Ever Closer Union between the Europeans” with its small steps.

In Treaty Establishing the European Economic Community (the Rome Treaty), the signatory states assert their intention for further integration in other areas by declaring that “an ever closer union among the peoples of Europe” is an objective of the EEC in addition to the economic objectives and, in this manner, clear the way for future developments.

### **1.2.3. Copenhagen Summit (1973)**

The beginning of the construction process for a European community did not initially include the social components and identity because the integration was targeted at the economic level. With the Copenhagen Summit in 1973, the member states finally considered the issue of identity a necessary one; hence, and “Document on The European Identity” as established by the European 9. The dynamics of Europe during those days were taken into account and the following statements ensued to define the European Identity:

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<sup>29</sup> Treaty Establishing the European Community, Part 2, Article 8 (1958).

- *Reviewing the common heritage, interests and special obligations of the Nine, as well as the degree of unity so far achieved within the Community,*
- *Assessing the extent to which the Nine are already acting together in relationship to the rest of the world and the responsibilities which result from this,*
- *Taking into consideration the dynamic nature of European unification.*<sup>30</sup>

With these developments, the Document on The European Identity has been the first considerable document that emphasized the issue of European identity.

#### **1.2.4. Tindemans Report (1976)**

In 1974, nearly two decades after the EC was established, the Community intended to go further than the economic issues and common market during an Intergovernmental Conference in Paris and conceived the importance of citizens within the community. At the Paris Summit, EC officials realized that popular identification would be achieved only if the European enterprise became less elitist and more citizen-friendly.<sup>31</sup> The Tindemans Report, which was given by Belgian Prime Minister Leo Tindemans to the European Council in 1975, was requested by the Conference to go further on the subject of citizens. In order to actually define and implement such policy, the Tindemans Report called for existing national governments to work together to concede and confer authority upon a European Union to exercise four specific values: authority, efficiency,

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<sup>30</sup> Nine Foreign Ministers, *Document on The European Identity* (Copenhagen, 1973).

<sup>31</sup> Bui Hai Dang, "Building the EU Identity" (Palacky University Eurocultural Programme, 2006), 7.



legitimacy, and coherence.<sup>32</sup> Thanks to the Tindemans Report, the integration has shifted from the economic aspects and common market objectives to the issues concerning the citizens.

In a meeting of Heads of State in Paris in 1974, the idea of Union citizenship was brought up for the first time. The point of origin of the idea was to create a common area so that every Union citizen has the same rights in any member state. Equality and social justice for the citizens of the EC was promoted in the report and it has been emphasized that the creation of a “People’s Europe,” a community strengthened by the support of its citizens, could be effectuated by the progress within the scope of common rights.

Recognition and protection of fundamental, social, political, and economic rights by not only member states but also by the institutionalized EC is discussed in the report. The report proposes that the free movement of people without passports and facilitated controls between member states, improved health system procedures for the EU citizens living in another member state, and educational exchange between member states would be implemented to bring the citizens closer to the Union and accelerate the integration.

In The Tindemans Report, which is also called “the Report on European Union,” Tindemans refers to the term “European” and shapes his own definition of the community and Europe in terms of the current situation, crisis, public opinion, and

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<sup>32</sup> Michael Burgess, *Federalism and European Union: The building of Europe (1950–2000)* (Oxford: Routledge, 1989), 66.

elites. He designates the importance of citizens as a “voice of Europe” to construct a well-functioning union and a united Europe. According to Tindemans, a European Union that is supported by its citizens and affects their daily life through a set of institutions and policies will never lack either power or impetus.<sup>33</sup>

In his report, Tindemans defines the construction of Europe as follows:

*The construction of Europe is not just a form of collaboration between States. It is a rapprochement of peoples who wish to go forward together, adapting their activity to the changing conditions in the world while preserving those values which are their common heritage*<sup>34</sup>

and emphasizes the importance of citizens for the creation of a new Europe.

Within the Tindemans Report, it was mentioned to strengthen the role of citizens in the integration process and to facilitate their identification with the European Community, with the aim of promoting Union citizenship. Although the report did not have a considerable influence in the intergovernmental sphere, it paved the way for the further steps of the community on the issue. It was followed by a major step in 1976: the enablement of universal suffrage in the European Parliament elections, which is the first noticeable change in the area of democratic participation in the EC.

### **1.2.5. Fontainebleau Council and Adonnino Report (1984–1985)**

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<sup>33</sup> Leo Tindemans, “Tindemans’ Report” (report presented at a meeting of the European Council, Paris Summit 1976), <http://www.ena.lu/report-tindemans-report-council-europe-september-1976-020005353.html>, 12.

<sup>34</sup> Tindemans, 26.

At a European Council meeting in Fontainebleau in 1984, it was decided to frame up a Committee to promote the idea of “European identity.” The committee was chaired by Italian MEP Pietro Adonnino and published a report called “On A People’s Europe,” which is also known as the Adonnino Report. The main idea of the decision was to make the EC closer to its citizens by creating a so-called European identity from above. In the report, the European Council considers it essential that the Community should respond to the expectations of the people of Europe by adopting measures to strengthen and promote its identity and its image of the Community vis-a-vis its citizens and for the rest of the world.<sup>35</sup> This was a complementary assignment if we take into account the previous declarations. The intention mentioned “an ever closer union among the peoples of Europe.” The Treaty of Rome and the statement “Europe must be close to its citizens and a European Union could only become reality if people supported the idea” in the Tindemans Report were the forerunners of this idea.

At the Fontainebleau Council of 1984, further measures to create a closer Union were discussed. One of the most important step taken in the Council was the idea to set up a Committee called the Adonnino Committee in order to actualize the “Citizens’ Europe.” The Committee composed a series of proposals on the issue of citizenship; its targets were, in fact, not enthusiastic about such a formation but unintentionally aided the development of the concept.

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<sup>35</sup> European Council, “Conclusions of the Presidency, Bulletin of the European Communities, Supplement 7/85, A People s Europe” (paper presented at European Council meeting, Fontainebleau, France, 1984), 4.

This ad hoc committee on “A People’s Europe” is one of the important steps in the evolution of European citizenship. The Committee worked on the convenient tools for the realization of the “Ever Closer Union” and laid emphasis on the closer cooperation and solidarity between the Europeans.

The Committee states that it is desirable to increase the citizens’ involvement in and understanding of the political process in the European Community;<sup>36</sup> the idea of direct universal suffrage in European Parliament elections emerged with this report. Additionally, the right to vote and stand as a candidate in any member state has also been suggested to be implemented as soon as possible for the upcoming elections. Citizens’ right of petition in terms of transparency policy in the Community and the role of Ombudsman in the investigations were the other issues discussed in the report.

The recommendations of the report were crucial on the determination of the rights entitled to the citizens and the creation of a common European identity. All the recommendations have been composed regarding the needs of citizens in order to make their life easier with observable changes. The Committee also intended to create a standpoint in the mind of citizens on the scope and objectives of the Community.

#### **1.2.6. Maastricht Treaty (1992)**

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<sup>36</sup> European Council, 6.

The discourse on citizenship practice in the early 1990s showed that although the historical element of *belonging* was continuously addressed, the focus was shifted from creating a *feeling* of belonging to establishing the *legal ties* of belonging<sup>37</sup> and an EU citizenship was the fundamental legal tie to bind the Community and its citizens.

The idea to add a chapter on EU citizenship to the Maastricht Treaty was the last-minute goal of the Spanish Presidency. A treaty that should be ratified by the citizens without any regulation that directly concerns the citizens would not be approved within the society. In order to make them closer to the Union and feel attached to it, such an intervention was required. Despite the fact of establishing the concept of Union citizenship for the “people of Europe,” it was never asked of them if they wanted to acquire the status of Union citizenship or not, which revealed a dilemma in the conceptual framework. Requiring such a status automatically would not pose a problem under the recent circumstances in which the citizens are entitled with rights but not inculcated with legal duties. In the Article 17 of the Treaty Establishing the European Community, the concept is legally announced thus: “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.”<sup>38</sup>

As it is seen from the definition, EU citizenship is per se attained by a citizen who

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<sup>37</sup> Antje Wiener, “Assessing the Constructive Potential of Union Citizenship - A Socio-Historical Perspective.” *EloP* 1 N° 017 (1997): 13.

<sup>38</sup> The Maastricht Treaty, Part II, Article 8, <http://www.eurotreaties.com/maastrichtec.pdf>, 5.

has the nationality of any EU Member State. For instance, a citizen of Spain is automatically an EU citizen and does not lose his citizenship rights in his own state but gather more rights courtesy of his EU citizenship.

Due to the aforementioned reasons, the Maastricht Treaty is a breakthrough in the development process of Union citizenship. Union citizenship, as a concept whose first steps dates back to the entitlement of free movement and residence rights, is legally established with the Maastricht Treaty. With Maastricht, the free movement and residence of people has been affiliated with the citizenship concept. The right of free movement, which used to be correlated with economic activity and enjoyed by workers or job seekers, was granted to all nationals of member states; in other words, Union citizens.

With this Treaty, the Union citizenship became a part of the Community primary law. The democratic deficit problem was enhanced by the provisions of Maastricht and a more citizen-friendly Union was created. The Maastricht Treaty represented the beginning of a process through which the liberal economic principles of the single market were equated with democratic rights.<sup>39</sup>

Until the time the Maastricht Treaty was signed and EU citizenship was introduced, the institutional recognition of citizenship did not exist. Maastricht made no amendments to the national legislation of citizenship in the member states, hence there were made no differences in terms of national citizenship;

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<sup>39</sup> Dell'Olio, 69–70.

therefore, the member states reserved their authority to determine their national citizenship criteria. However, they have undertaken the function to assess who may become European citizens in an indirect way since national citizenship is a prerequisite to becoming a European citizen.

The below stated rights were also rights entitled to the citizens with the Treaty:

- The right to write to any of the institutions or bodies referred to in one of the recognized languages of the Member States and receive an answer in the same language.
- The right to access Parliament, Council, and Commission documents, under specified conditions.

In the Maastricht Treaty, it is indicated that “to strengthen the protection of the rights and interests of the nationals of its Member States through the introduction of a citizenship of the Union”<sup>40</sup> is set as one of the main targets for EU. In the Treaty it was also touched upon the issue of identity by saying, “The Union shall respect the national identities of its Member States, whose systems of government are founded on the principles of democracy.”<sup>41</sup>

According to Ünsal, the regulation of European citizenship status within the scope of the Maastricht Treaty means that the specification of rights will be made by EU laws, the exercise of the rights will be implemented by EU institutions, and The

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<sup>40</sup> Article 2, Treaty on European Union, <http://www.eurotreaties.com/maastrichtec.pdf> , 5.

<sup>41</sup> Treaty of Maastricht (1992), Article F(1) , <http://www.eurotreaties.com/maastrichtec.pdf> , 6.

Court of Justice of The European Communities will be in charge of resolving conflicts concerning this issue.<sup>42</sup>

The aspect of national identity is regulated more clearly in the provisions of the Maastricht Treaty by decoupling citizenship from the concept of *demos*<sup>43</sup> and detaching it from the ground of nation-citizenship substitution. In this manner, the doubts of the “No Demos” supporters have been blighted; additionally, it has been demonstrated that a citizenship that binds individuals emotionally is not intended by the EU but rather a constitutional patriotism is the desired form of the new citizenship of the Union.

To sum up, Maastricht was a turning point in the formation of the EU. As Delanty states, Maastricht was a significant departure from the model of European integration established by the founding Treaty of Rome in that for the first time it defined the EU in terms of a relationship to the individual citizen.<sup>44</sup> The original emphasis, which focused on “community” or “society,” shifted to the “individual” and indeed “citizen.”

### **1.2.7. Turin Report (1996)**

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<sup>42</sup> Hande Ünsal , “Avrupa Birliđi Vatandaşlıđına Bađlanan Sonular ve Bu Sonuların Vatandaşlık Hukukunun Genel Kuralları erevesinde Deđerlendirilmesi” ,(paper presented at I. Uluslararası Avrupa Birliđi, Demokrasi, Vatandaşlık ve Vatandaşlık Eđitimi Sempozyumu,Uak,Turkey,2009),252.

<sup>43</sup> von Beyme, 74.

<sup>44</sup> Gerard Delanty, “European Citizenship: A Critical Assessment.” *Citizenship Studies*, 11 No. 1 (2007): 63–72.



European Commission publishes a report on the activities that occurred to promote citizenship and suggest proposals that could possibly turn into a right in the future; these reports are established every three years to promote the concept and make it more beneficial for the citizens. One of these reports was published in 1996 and is commemorated as the Turin Report. The Resolution on the European Commission in Turin emphasized it is of prime importance for the Intergovernmental Conference to ensure that significant progress is made in the area of citizenship and that it is imperative for the European Union to respond to the concerns of its citizens.<sup>45</sup>

With the Turin Report, it has been displayed that the EU aims to get to the root of the problem through the participation of the people who are influenced thereby and the co-operation of the citizens thus comes into prominence.

### **1.2.8. Treaty of Amsterdam (1997)**

In fact, the Treaty of Amsterdam, which came into force in 1999, did not make remarkable contributions to the Union citizenship concept and embodied no new provisions to EU citizenship. Rather, it accounted for the already established rights to make them more comprehensible and advanced the regulations of Maastricht. The Treaty of Amsterdam clarified the national citizenship and Union citizenship relationship by indicating that citizenship of the Union shall

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<sup>45</sup> The European Council, “Resolution on the European Council in Turin: A Citizen’s Europe” (paper presented at the European Council meeting, Turin, Italy, 1996), 1.

complement and not replace national citizenship.<sup>46</sup> This sentence effectuates one of the key features of the concept by its complementary aspect and helps to eliminate the bias of European citizens about the legal status of their Union citizenship vis-a-vis their national citizenships.

The EU as a legal body has had many modifications since the Maastricht Treaty but the Union citizenship concept, excluding some minor amendments done with the Treaty of Amsterdam, did not have any legal changes. The Treaty of Amsterdam provided convenience in some issues. For instance, Union citizens are entitled to have the right to access all documents of EU institutions. Moreover, it has been added to the Treaty that every citizen of the Union may write to any of the institutions or bodies in one of the Union languages – Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish, and Swedish – and receive an answer in the same language to facilitate relations between citizens and institutions.

The introduction of Union citizenship is stated as an objective to strengthen the protection of the rights and interests of the nationals of its member states.<sup>47</sup> More democracy in the EU is also encouraged in the Treaty and more powerful European Parliament in order to provide further representation of the citizens is pointed as a target.

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<sup>46</sup> Treaty of Amsterdam, Part 2 Article 17, <http://www.eurotreaties.com/amsterdamtreaty.pdf>, 25.

<sup>47</sup> Ibid., Article 2, 26.

### **1.2.9. Tampere European Council (1999)**

During the 1999 European Council, the issue of third-country nationals and migration was added to the agenda of the EU. In Tampere, “A Common EU Asylum and Migration Policy” envisages fair treatment for third-country nationals;

*The European Union must ensure fair treatment of third-country nationals who reside legally on the territory of its Member States. A more vigorous integration policy should aim at granting them rights and obligations comparable to those of EU citizens. It should also enhance non-discrimination in economic, social, and cultural life and develop measures against racism and xenophobia.*<sup>48</sup>

Again in the Tampere Council, it was declared that the legal situation of third-country residents in member states should be close to that of their own citizens and that, under certain conditions, they should be accepted to national citizenship after a certain period of time.

### **1.2.10. Charter of Fundamental Rights of the EU (2009)**

The Charter of Fundamental Rights was a major breakthrough for the development of fundamental rights. The Charter was approved by the European Council, Parliament, and the Commission and came into force with the Lisbon Treaty in 2009. It has the same legal status as the other Treaties, but it was neither directly enforceable in the ECJ nor in the national courts of member states on

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<sup>48</sup>Tampere European Council, Presidency Conclusions , article 18, (Tampere,Finland,1999), [http://extranjeros.mtin.es/ES/UnionEuropea/ConclusionesConsejosEuropeos/documentos/Tampere\\_European\\_Council\\_en.pdf](http://extranjeros.mtin.es/ES/UnionEuropea/ConclusionesConsejosEuropeos/documentos/Tampere_European_Council_en.pdf)

account of the unratified Constitution. However, with Lisbon's coming into force, the Charter has been legally binding for all the member states.

The Charter is applicable to the member states in the cases that the member state codifies an issue which is under the common area of jurisdiction but it is not applicable if the issue is related to the member state's own area of jurisdiction, in which the EU does not intervene.

The Charter is a remarkable progression for the protection of rights because it is legally binding for all member states. The Charter provided its basis and context from different related formations including the regulations of the former treaties, national laws of the member states, case-law of the ECJ, and the European Convention on Human Rights. With the Charter, all the fundamental rights conferred on the European citizens are added up in the same legal document and made the rights more perspicuous for the citizens. There are no original emergent rights in the Charter, but the rights that are specified in the different areas –like the Treaties and European Convention on Human Rights – are gathered under the roof of the Charter as a formal document of the EU.

The rights in the Charter are generally entitled to everyone, including citizens and third-country residents; however, there are exclusive rights that are limited to EU citizens and Articles 39–46 refer to the rights of EU citizens that have formerly been established by the Maastricht Treaty. Although it is still inadequate as an “established” concept, it is an important document for the protection of human

rights within the EU and the European Court of Justice makes references to the Charter in the appropriate cases.

According to Article 22 of the Charter, *the Union shall respect cultural, religious, and linguistic diversity*. According to Article 21, any discrimination based on ethnic origin, sex, language, political group membership, religion, and a variety of other grounds is prohibited. The sub-paragraph of the same article indicates the situation about nationality as follows:

*Within the scope of application of the Treaty establishing the European Community and of the Treaty on the European Union, and without prejudice to the special provisions of those Treaties, any discrimination on grounds of nationality shall be prohibited.*<sup>49</sup>

In the Charter, it is again stated that the Union is based upon the principles of democracy and rule of law and the citizen is the main focus of promoting and strengthening these fundamental rights.

### **1.2.11. Treaty of Lisbon (2009)**

Treaty of Lisbon, which amended the Treaty on the European Union and the Treaty Establishing the European Community, came into force on 1 December 2009 with a motto of “a more transparent and democratic Union.” The provisions on the issue of citizenship are not amended by the Treaty of Lisbon; nevertheless, new improvements have been made regarding the position of Union citizens within the EU.

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<sup>49</sup> Official Journal of the European Communities, C 364/1, *Charter of Fundamental Rights of the European Union* (European Community, 2000), 13.

With the Treaty of Lisbon, The Charter of Fundamental Rights has been legally binding for 24 of the member states but there are also opt-out provisions claimed by the Member States.

The rights of citizens' initiative have been implemented with the Lisbon Treaty, which enables citizens to propose a draft law from the Commission on the condition that they must collect 1 million signatures from the member state's citizens, which means citizens now have the right to suggest law to the Commission. The goal of the initiative was not only to lay a bridge between the institutions and citizens but also to promote the participation of citizens in the EU system. Relationships among institutions, citizens, and civil society organizations have been strengthened with the provisions of Lisbon and the decision-making process has been more democratized. Treaty of Lisbon led the citizens to create a "Citizens' Union"; and, by increasing the power of the European Parliament, which is directly elected by the citizens, it makes EU citizens a more effective element of the decision-making process and lets them shape their own future.

With the emergence of the European Citizens' Initiative, citizens will be directly effective in the Union's policies for the first time in EC/EU history. The Citizens' Initiative plays a complementary role to the Right to Petition and the Right to Appeal to an Ombudsman. Although the Initiative was enabled with the Treaty of Lisbon, the required regulations must still come into force to adjust its access procedures. The amendments of the Treaty not only strengthen the citizens' role within the Union but also create a more transparent, citizen-friendly, and democratic Union that encouraged citizens to contribute more.

The European Parliament strengthened its capability in accordance with the improvements of the Lisbon Treaty. The Treaty of Lisbon created a legal status that is similar to a “state” in the general sense; for instance, EU citizenship was yet again reshaped with the new regulations of the Treaty. In other words, as the European Center for Law and Justice argues in their analysis, the Lisbon Treaty, since it creates a new international legal personality for the EU that did not exist before, also creates a new type of EU citizenship.<sup>50</sup>

Within the context of Chapter 1 , firstly , the evolution of European citizenship has been built on solid basis and laid stress on the conversion of the concept from Greek city states to nation-states. Later , the development of the citizenship in EC/EU , “evolution from a single right to a fully-fledged body of rights guaranteed by the Treaties ” has been studied under determinant cornerstones . In the next chapter ,the European Union citizenship will be evaluated within a theoretical framework . In addition , the rights that have been entitled to the citizens will be disclosed , following this further , the subject will be corroborated with the case studies from ECJ decisions in respect to citizenship rights.

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<sup>50</sup> European Center for Law and Justice, *Legal Analysis of Select Provisions of the Lisbon Treaty* (Strasbourg,France: ECLJ, 2008), 6.

## CHAPTER 2

### LEGAL FRAMEWORK OF EUROPEAN CITIZENSHIP

#### 2.1. General Information

The establishment of European citizenship in addition to national citizenship raised doubts inside the Union – even in member states, such as Germany, which promoted the idea of a more integrated Europe – that the European Union would eventually interfere with and suppress member states' national areas of jurisdiction. Thus they were opposed to renouncing some of their rights to resolve issues concerning citizenship such as migrant policies and carry out more quasi-nationalist policies. The citizenship that ensued as a result of previous developments and the expectations of the member states made EU citizenship conditional on national citizenship and entitled member states to designate who would be citizens of the EU, in a sense. Article 17 of the Treaty Establishing the European Community states that every person holding the nationality of a Member State shall be a citizen of the Union. It means that condition sine qua non of EU citizenship is the nationality of a member state and every national citizen of the member states is automatically a citizen of the EU without any precondition. According to the definition of European citizenship in the Treaty European citizenship is not optional; in other words, the legal structure of citizenship doesn't allow the individual to choose if he wants to be an EU Citizen or not. Instead, it assumes every national citizen of a member state is a Union citizen; as



such, it is impossible for anyone to acquire or forfeit the status of Union citizenship separately from national citizenship.

The acquisition of citizenship is the nation-state's scope of authority, which means the nation-state laws determine who may acquire nationality on what conditions and the EU does not have any authority to designate who may be its citizens and who may not. In addition to the acquisition of European citizenship, the loss of citizenship is *intra vires* of the member states and also tied to national citizenship status. Namely, if a national citizen loses his *status civitatis* in the nation-state legal system, he automatically loses his European citizenship.

Again, according to Article 17, citizenship of the Union shall complement and not replace national citizenship; in other words, Union citizenship is an additional status and neither eliminates the national citizenship status of the member-state citizens nor dispossesses their rights resultant of their national citizenship, but entitles them with new rights instead. In the Edinburgh Agreement, the European Council declares the legal situation as follows:<sup>51</sup>

*The provisions, of Part Two of the Treaty establishing the European Community relating to citizenship of the Union give nationals of the Member States additional rights and protection as specified in that Part. They do not in any way take the place of national citizenship. The question whether an individual possesses the nationality of a Member State will be settled solely by reference to the national law of the Member State concerned.*

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<sup>51</sup> Edinburgh European Council, "Conclusions of the Presidency, Part B, Decision Of The Heads Of State or Government, Meeting Within the European Council, Concerning Certain Problems Raised by Denmark on the Treaty on European Union, Section A" (paper presented at a meeting of the European Council, Edinburgh, 11–12 December 1992), 4.

Another document, The Hague Convention on Certain Questions on Nationality Laws, also clarifies the issue: “It is for each State to determine under its own law who are its nationals. This law shall be recognised by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognised with regard to nationality.”<sup>52</sup> Since every state acts upon its own laws to implement the naturalization process, there occurs an inequality to acquiring European citizenship. In the member state in which citizenship is based on *jus soli*, acquisition of citizenship is easier than in the member states with *jus sanguinis*. In the current situation, the diversity of the laws on naturalization processes result in inegalitarian policies among the member states; this differentiation, in turn, results in legal discussions within the Union. Nevertheless, harmonization of the national laws on the acquisition of citizenship is not a top priority of the Union for now; therefore, the discussions on the issue seem to be self-perpetuating.

Thanks to the treaties and amendments, EU citizens acquired additional rights to those they have because of their national citizenship as a consequence of their Union citizenship. These rights are granted to the national citizens of the EU member states; however, there are not any duties appointed to the citizens presently. In the regular concept of citizenship, rights and duties are the basic components to make up a ‘model of citizenship.’ In the draft report of the European Parliament, it is emphasized that the objective of EU citizenship should not be to create a legal status that is separate from national citizenship, but to

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<sup>52</sup> *The Hague Convention on Certain Questions of Nationality Laws* (12 April 1930), Chapter 1, General Principles, Article 1.

promote people's integration in their country of residence.<sup>53</sup> In the first phase, putting the citizens under obligations would obstruct the settlement of Union citizenship and circumvent the integration process. Since the legal status of EU citizenship is not a voluntary status and citizens do not have a say in their acquisition of citizenship, rights would be a facilitatory tool for the formation of the concept, but the obligations would lead to crisis. Consequently, the concept of citizenship does not impose any duties, yet; but as a matter of fact, the issue of "duties" will be a contentious issue in forthcoming times.

Even though rights are an integral part of Union citizenship, in some cases, they could be limited or would be entitled in due course according to transition periods that are determined by EU decisions before the accession of the member states. For example with the 2004 and 2007 enlargements, the "free movement of workers" right, which was hitherto not limited after any enlargement, has been blocked for the citizens of new member states (except Malta and Cyprus). According to Kochenov, as a result of a transitional period, two or more classes arise within the Union citizenship that enjoy rights based on their nationality; this undermines the very foundation of the concept.<sup>54</sup> With the derogations under the name of "transition period," the citizens are obstructed from enjoying their rights and the concept loses its significance, in a sense, because of the discriminative enforcements. The latest enlargements are not the only ones with limitations but

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<sup>53</sup> Committee on Civil Liberties, Justice and Home Affairs, *Draft Report on the Commission's Fourth Report on Citizenship of the Union* (2005), 5.

<sup>54</sup> Dimitry Kochenov, "Discrimination of European Citizens on the Basis of Nationality Institutionalised by the Acts of Accession," *Murdoch University Electronic Journal of Law*, 13, No. 1 (2006): 211.

during the time that EC limited the free movement right of other member states' citizens, there was no such concept called Union citizenship and the rights were not entitled as a part of *acquis communautaire*. As Kochenov states, any analogies to the pre-Maastricht enlargement practices are misleading since citizenship did not legally exist back then.<sup>55</sup> In conclusion, the subsequent situation brings into disrepute the reliability of the EU, which emphasizes the importance of omnipresent equality among its citizens. A citizenship that intends to make its citizens closer to the Union and equalize them in terms of rights and duties discriminates against them and, additionally, distracts them from being attached to the Union.

## **2.2. Rights**

As indicated in the “Definitions” part previously, apart from its *sui generis* framework, Union citizenship, like its counterparts, is composed of 3 major elements: identity, commitment to a political community, and rights. Citizenship, as a legal status, reveals rights and obligations to the persons who are subjected thereto; hence, the rights are the result and also the proceeding of citizenship status. In order to create an identity attached to the EU and involve people in the conception and implications, Santiago thinks that the rights required with Union citizenship are fundamental.<sup>56</sup>

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<sup>55</sup> Ibid., 223.

<sup>56</sup> Marta Ballester-Santiago, *Union Citizenship: The Long Path of a Concept* (Berkeley: University of California, 2009), 12.

The rights of EU citizens have a long-standing background that takes its roots from the Treaty of Paris. In accordance with the development phase of the community, the first emergent right, the free movement right of workers, was an economic-based right that has a limited scope. In due course, as the community evolves, the rights entitled to the citizens did not remain limited to market-oriented rights and the European citizens subsequently became the beneficiaries of social and political rights. The inclination of the EU, by establishing a citizenship concept, was to create an identity based upon “interest” rather than “common shared values”; giving people concrete rights was the most effective way to attach them to the Union. With the establishment of Union citizenship in 1992 in the Maastricht Treaty, the rights of EU citizens are also defined.

The protection of citizens’ rights is under the guarantee of the ECJ, the national laws of the member states, and the EU Charter of Fundamental Rights. It is underlined that any discrimination against citizens is prohibited and all are equal before the law. Any discrimination by the law enforcement body of the host state against a Union citizen based on nationality is prohibited. In this part of the chapter, the rights will be analyzed in depth.

### **2.2.1. Free Movement**

The Treaty of Rome created an origin for the concept of Union citizenship but early on, in 1951, the free movement right was entitled to workers to provide economic mobility especially in the coal and steel sectors with the establishment of the Coal and Steel Community with the Paris Treaty. Within the scope of the

Treaty, the right of free movement was not connected to the concept of citizenship but rather was the facilitator of the common market activities and the economically based community. Over the years, new regulations emerged and the free movement right transformed from being an economically based right to an inclusive one. Thus, the amendments transformed the right from a narrow scope to a broad one and other categories of the community were included to enjoy the right.

Subsequently in 1957, the Treaty of Rome broadened the scope and conferred free movement rights upon both workers and services. Single-market strategies have been supported by free movement for the economic purposes. As time passes, this right has achieved social characteristics in addition to economic ones.

As it is indicated in the Treaty on the Function of the European Union, the right of free movement includes persons, capital and services , according to the scope of this thesis , the free movement of persons will be subject to review. The right that marched forward in time was established in the Article 17 TEC<sup>57</sup>, as all national citizens of the EU member states can freely move to another member state country with a passport or an ID card, without a visa required, for visits lasting less than 3 months. The right to acquire permanent residence is not tied to any condition; the only exception is to leave the country of residence for more than 2 years. EU citizens residing in a host EU state are subject to equal treatment with the

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<sup>57</sup> Article 20 of the Consolidated Version of The Treaty Functioning of the European Union

nationals of the host state in the areas that are under the Union's area of jurisdiction.<sup>58</sup>

As shall be touched upon broadly hereinafter, according to Directive 2004/38/EC, "The free movement of persons constitutes one of the fundamental freedoms of the internal market, which comprises an area without internal frontiers, in which freedom is ensured in accordance with the provisions of the Treaty."<sup>59</sup> Free movement is a right that is entitled to every Union citizen and it is conferred to their family members irrespective of nationality.

According to the Parliament and the Council, the enjoyment of permanent residence by Union citizens who have chosen to settle long-term in a host Member State would strengthen the feeling of Union citizenship and is a key element in promoting social cohesion, which is one of the fundamental objectives of the Union.<sup>60</sup>

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<sup>58</sup> In the case of Rudy Grzelczyk, for the first time in an ECJ case, the right of free movement of the economically inactive people was considered. Grzelczyk, a French man, was a student at the Catholic University of Louvain-la-Neuve, in Belgium. While he was studying and enjoying the free movement and residence right, he was also studying to afford his studies. In his fourth year in college, he stopped working to concentrate his attention on his studies. In order to maintain his studies, Grzelczyk made an application to get a minimum subsistence allowance from the Belgian government. Centre Public d'Aide Sociale, which was the competent authority to pay the money, decided that he was capable to be the holder of the grant, considering his earlier effort for the last three years. After paying the money, Centre Public d'Aide Sociale applied to the government for reimbursement of the money paid to Grzelczyk, but it was refused on the ground of Grzelczyk's not being Belgian. As the EC Treaty clearly emphasizes, it is prohibited to discriminate against Union citizens on the ground of nationality. (Judgment of the Court of Justice, Grzelczyk, Case C\_184/99 (20 September 2001))

<sup>59</sup> *Official Journal of the European Union L 158/ 77 Directive 2004/38/EC of the European Parliament and of the Council*, 29 April 2004.

<sup>60</sup> *Ibid.*, 6.

Union citizens may also freely reside in a host country without imposing a burden upon the social assistance system that provides insurance for the nationals of the host country. The right of free movement and residence is not under any administrative procedures because the right is determined by the Treaty and functions automatically.

The right can be revoked if the citizen engages in activity to disturb the social order or any similar threat. As an accepted rule, national citizens and the other member state national cannot be discriminated against and should be treated equally. Offenses against public safety can also disbar the right of free movement. For instance, disclosure of prohibited information for political or military espionage is a reason to disbar the free movement right. If the host country conceives that the residence of the citizen poses a threat to public health, public security, or public policy, it reserves the right to impose restrictions upon free movement and residence rights. By virtue of not adjusting the demarcation of the terms public health, public security, and public policy by certain rules, the terms result in ambiguity and give the state broad authority to determine the boundary of the terms.

In the cases of death, divorce, or determination of partnership in the relationship, family members or registered partners who are not nationals of any member state but who are residing in a member state by the virtue of the Union citizen are protected and their legal status is not affected.



Beside the articles in the Treaties, the most important regulation on the right of free movement is “Directive 2004/38/EC of the European Parliament and of the Council on the Right of Citizens of the Union and their Family Members to Move and Reside Freely Within the Territory of the Member States.”<sup>61</sup> The Directive binds the established two regulations and nine directives on the issue of “rights to freely move and reside” together in a single document. With this directive the EU citizens and their families are entitled to the right to move and reside in a member state’s territory and also that of EFTA members Norway, Iceland, and Liechtenstein.

In general terms, the Directive says if the citizen of the other member state is not going to be a burden upon the host country and has the required extensive health insurance, he, then, has the right to freely move and reside in the European Economic Area. Moreover, this right includes family members of citizens who are not citizens of the EEA countries and, after 5 years of continuous legal residence, the residency becomes permanent. Five years of residence is not obligatory under certain cases, such as self-employed citizens and workers, including their family members. Once the permanent residence allowance is acquired, it is not tied to any condition; herewith, EU aims to enable the integration process. If the citizen is eligible to acquire permanent residence, this right covers the entire territory of the host member state.

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<sup>61</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:229:0035:0048:EN:pdf>

As in the case of Oteiza Olazabal, the right of free movement can be restricted under certain conditions. Olazabal was a Spanish national living in France, enjoying the free movement of workers/persons. He was not allowed to enjoy his right in a certain territory of France on the ground that he served a sentence in France because of his relationship to and participation with an armed terror group in France. His situation was disturbing the public order. The ECJ concluded that, under these conditions, the Community law cannot constrain the authority of a member state not to restrict Olazabal's right to free movement. ECJ states that:

*Neither Article 48 of the EC Treaty nor the provisions of secondary legislation which implement the freedom of movement for workers preclude a Member State from imposing, in relationship to a migrant worker who is a national of another Member State, administrative police measures limiting that worker's right of residence to a part of the national territory.<sup>62</sup>*

The family members, even they are not nationals of any member states, are entitled to this right because of the Union citizen and they cannot be discriminated against on grounds of nationality.

Article 2 of Directive 2004/38 also defines family members. As clarified by the Directive, these include:

a- the spouse;

b-the partner with whom the Union citizen has contracted a registered partnership, on the basis of the legislation of a Member State, if the legislation of the host Member State treats registered partnerships as equivalent to marriage and in

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<sup>62</sup> Judgment of the Court of 26 November 2002. - *Ministre de l'Intérieur v Aitor Oteiza Olazabal*. - Reference for a preliminary ruling: *Conseil d'Etat - France*. - Freedom of movement for persons - Restrictions - Public policy (*ordre public*) - Police measures limiting the right of residence of a national of another Member State to part of the national territory. - Case C-100/01.

accordance with the conditions laid down in the relevant legislation of the host Member State;

c-the direct descendants who are under the age of 21 or are dependents and those of the spouse or partner as defined in point (b);

d- The dependent's direct relatives in the ascending line and those of the spouse or partner as defined in point (b)<sup>63</sup> are considered to be the members of family who could enjoy the free movement of the person's right.

The Directive also clarifies the situation of couples who are not married and allow the registered partners to reside freely even if they are not married, depending on certain conditions. The right is not subject to an administrative act but if the state of residence demands any registration with national institutions, the citizen is obliged to fulfill the requirements and these demands are under the state's freedom of will to define. According to European Parliament and the Council,

*Citizenship of the Union confers on every citizen of the Union a primary and individual right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaty and to the measures adopted to give it effect.*<sup>64</sup>

It is accentuated that the Member States may adopt the necessary measures to refuse, terminate, or withdraw any right conferred by this Directive in the case of abuse of rights.<sup>65</sup> Furthermore, the regulation does not affect the applicability of any other existing regulations more beneficial than this provision in the national laws of member states.

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<sup>63</sup> Directive 2004/38/EC, 12.

<sup>64</sup> Ibid., 42.

<sup>65</sup> Ibid., 44.

### **2.2.2. Right to Access Documents**

Right to access documents was developed as a consequence of the more transparent, democratic, and citizen-friendly policies of the Union. According to Article 15 of the Treaty on the Functioning of the European Union<sup>66</sup>, Union citizens and the other residents of the member states who are registered to the required body of the host state can enjoy the right to access the European Union institutions' documents in terms of transparency. This regulation provides public access to the documents of Parliament, Council, and the Commission and enables citizens to be clear about the legitimacy of a democratic Union. With this transparency, further relations are established between the citizens and the decision-making process, which is considered to be the citizens' responsibility.

After the emergence of this right with the Maastricht Treaty, it has also been supported and advanced by ECJ case law. Not only the Court but also other institutions have played an active role in the fulfilment of this right. The role of the institutions is very constitutive in the actualization of this right, because it is the duty of the institutions to deliver the document to the person who demanded to access in the first place.

In the Treaty on European Union under the title of provisions on democratic principles, it is specified in the Article 10 that "every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as

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<sup>66</sup> Ex Article 255 of the TEC

openly and as closely as possible to the citizen.”<sup>67</sup> The new regulation broadens the scope of the access to include the other EU institutions, agencies, and bodies in the accessible entities and indicates that they should be implementing the openness policy in order to create a Union that is closer to its citizens; in other words, to create a citizen-friendly Union.

European Parliament resolution of 17 December 2009 on improvements needed to the legal framework for access to documents following the entry into force of the Lisbon Treaty, Regulation (EC) No 1049/2001<sup>68</sup> states,

*Whereas in accordance with the basic principles of democracy citizens have a right to know and to follow the decision-making process and that enhanced transparency should be guaranteed by the EU Institutions and the Member States.*

The right to access the documents is not a remarkable tool when compared to other rights and their effects to the citizen’s rights; however, better than nothing at all, it is effective to close the gap between the Union and its citizens and reduce the democratic deficit. The data of the requested access is collected in the Annual Reports; they clearly demonstrate that the number of the requests is increasing day by day, which means the consciousness of citizens on the issue is increasing. Citizens want to explore the activities of the EU further and fulfill the requirements of democracy by being a part of the decision-making process.

The applications to enjoy this right show that citizens’ awareness of this right is not as high as the other ones; namely, the citizens do not know or are not well-

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<sup>67</sup> Treaty of Lisbon ,Article 8A, [http://www.lisbontreaty2009.ie/lisbon\\_treaty.pdf](http://www.lisbontreaty2009.ie/lisbon_treaty.pdf) , 17.

<sup>68</sup>Lisbon Treaty, Regulation (EC) No 1049/2001,<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2009-0116+0+DOC+XML+V0//EN&language=EN>

informed that they can access the documents of the institutions by merely completing an application. The more the EU provides the openness and transparency of its documents, the more citizens will support the Union's decisions and policies because there will no longer be any question marks raised in the minds of citizens; thus, the legitimacy of the Union will be enabled.

As Article 1 of the Treaty on European Union also states, "decisions are taken as openly as possible and as closely as possible to the citizen"<sup>69</sup> and this right is a supportive tool for the indicated openness policy; but at this point, an important problem occurs. There are ongoing arguments on the violation of the right of privacy and confidentiality of the information; at this point, a paradoxical situation occurs. To what extent would the documents be accessed? At what point would the problem of confidentiality start to arise? The discussions are still proceeding and the institutions are working on it to develop a more functional regulation that does not violate the privacy and also provides the required access to the documents for citizens.

### **2.2.3. Right to Vote and Stand as a Candidate**

The first attempt to reveal such a right within the Community was made in the 1960s by the European Parliament. Before the 1970s, the Council did not make any noticeable change in the situation of Union residents in the other member states. In 1976, however, the Council adopted the Act Concerning the Elections of the Representatives of the Assembly by Direct Universal Suffrage and the first

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<sup>69</sup>European Council, "*Presidency Conclusions*", (Birmingham,1992), [http://aei.pitt.edu/1455/01/Birmingham\\_oct\\_1992.pdf](http://aei.pitt.edu/1455/01/Birmingham_oct_1992.pdf)

concrete step was taken. During the 1980s, Parliament was more ambitious about adopting the concerned measures. The right to vote and stand as a candidate in elections, in fact, emerged as a consequence of the free movement and residence right. With the heavy increase in the enjoyment of the free movement right, new complementary rights became compulsory.

In 1993, Council Directive 93/109/EC brought an arrangement on the right to vote and stand as a candidate in a Member State in which the citizen is not a national for the elections of the European Parliament. According to the aforementioned Directive, citizens of the member states can enjoy the right to vote and stand as a candidate in European Parliament elections even when they are residing in one of the other member states of the Union; this does not have an effect on the situation of the member states' own nationals. The right to vote and stand as a candidate prevails only for the elections of the European Parliament and is not applied to the national elections of the Member State.

Even though the right is entitled to Union citizens, the Directive confers the enjoyment under certain conditions. First of all, the citizen who wants to enjoy the right should be a Union Citizen and be resident of the Member State in which he wants to vote or stand as candidate. Then the citizen should fulfill the same requirements as the Member State's nationals must to vote and stand as a candidate in compliance with the principle of equal treatment.

A citizen may enjoy this right only in one member state: the state of residence or state of nationality. The citizen should indicate for the registration of the electoral roll that he wants to vote in the state of residence; therefore, he cannot vote or stand as a candidate in his own state. In order to register for the roll, the citizen should fulfill the same required documents as the national citizens but if it is regarded as necessary, an extra document may be demanded. In principle the person who wants to vote and stand as a candidate should be eligible to vote and stand as a candidate in his country of origin to be able to enjoy this right in the state of residence and he should certify that when it is required by the host state.

In the first article of the Directive 93/109/EC , it is stated that nothing in the Directive shall affect each member state's provisions concerning the right to vote or to stand as a candidate of its nationals who reside outside its electoral territory.<sup>70</sup> The case of Eman and Sevinger has a significant place for the application of this right at this point. Mr. Eman and Mr. Sevinger, who are citizens of the Kingdom of Netherlands, are from the island of Aruba, which is a territory of the Kingdom. According to the national law of the Kingdom, all the citizens living in the territory of the Kingdom of Netherlands have the same nationality. In 2004, the two Dutch men applied to vote and stand in the elections of the European Parliament. On the ground that only persons who are residing in the European territory of the Kingdom could vote in the national and European elections, the applications of Mr. Eman and Mr. Sevinger were rejected. The case has since been submitted to the jurisdiction of the ECJ. According to the

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<sup>70</sup>EC Treaty, Article 19 , [http://eurlex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexplus!prod!DocNumber&lg=en&type\\_doc=Directive&an\\_doc=1993&nu\\_doc=109](http://eurlex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Directive&an_doc=1993&nu_doc=109)



Community Law, the determination of the persons who are entitled to vote and stand for the elections of European Parliament are under the member state's national area of jurisdiction but the law should be compatible with the Community Law. ECJ decided that the member states are to determine the conditions to vote but the principle of equal treatment should be taken into account for persons living in overseas territories and other applicable situations.

Another provision that came into force with the Directive is the obligation of a certain period of residence in the state in which the citizen would like to vote or stand as a candidate. This period is indicated to be under the authority of the member states to be composed.

European Union election law is regulated by EU treaties and directives as well as by the jurisprudence of the European Court of Justice.<sup>71</sup> However, every member state also applies its own national law for the procedure of the European Parliament elections and the harmonization issue poses problems; cases of double-voters in the host state and the home state have especially perplexed the states.

Although , the member states gave the right of voting and standing as a candidate for the residing citizens of the other member states' nationals, there are still obstacles for party membership of these people and founding a new party in the host state. The legislatures differ from one member state to another and some of

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<sup>71</sup> Jurji Toplak, "European Parliament Elections and the Uniform Election Procedure" (paper presented at the 7th World Congress of the International Association of the Constitutional Law in Zappeion Megaron, Greece,, 2007), 3.

them reduce limitations for the mentioned actions, which comprises a dilemma. The EU Network of Independent Experts on Fundamental Rights conducts an important survey called “Opinion of the EU Network of Independent Experts on Fundamental Rights Regarding the Participation of EU Citizens in The Political Parties of the Member State of Residence” to evaluate if there are any restrictions or barriers to enjoying these rights in the national legislation of the member states or if they recognize the exercise of these rights by the Union citizens who reside in their country.<sup>72</sup> According to the report, what is meant by non-discrimination also includes taking part fully in the political life of the resident state, such as affiliation to existing parties or founding new political parties,<sup>73</sup> but there is no certain rule that is agreed upon in the literature if the scope of the right includes the stated situations.

#### **2.2.4. Consular and Diplomatic Protection Right**

As the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations both state, European citizens are under the protection of their states when they travel within the Union due to their embassies or consulates. But what if they travel to a country in which their state has no embassy or consulates? According to the data given in the *Action Plan 2007–2009; Effective consular protection in third countries: The contribution of the*

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<sup>72</sup> *Opinion of the EU Network of Independent Experts on Fundamental Rights Regarding the Participation of EU Citizens in The Political Parties of the Member State of Residence*, (The E.U. Network of Independent Experts on Fundamental Rights, 2005), [http://cridho.cpd.r.ucl.ac.be/documents/Avis.CFR-CDF/Avis2005/CFR-CDFopinion.1\\_2005\\_en.pdf](http://cridho.cpd.r.ucl.ac.be/documents/Avis.CFR-CDF/Avis2005/CFR-CDFopinion.1_2005_en.pdf), 5.

<sup>73</sup> *Ibid.*, 6.

*European Union*, there are just three countries – the US, the Russian Federation, and the People’s Republic of China – in which all 27 member states of the EU have diplomatic representatives,<sup>74</sup> which means there is a considerable deficiency for the protection of Union citizens in foreign countries. What if a citizen loses his passport in a country in which his home state doesn’t have a diplomatic representative? What happens if the citizen has a bad accident? Who would provide assistance in cases of emergency? In order to overcome the deficiency, the Treaty on the Functioning of the European Union Article 20 and the Charter of Fundamental Rights, Article 46, with the same words, state, “Every citizen of the European Union located in the territory of a third country is entitled to consular and diplomatic protection.”<sup>75</sup>

According to EC law, the citizens of any member states of the Union whose country has no consular or diplomatic representative in the state the citizen is visiting is under the protection of any other member states of the Union who have a diplomatic authority in the mentioned country that is outside the Union. Non-discrimination and equal treatment are the basic principles of this right, as with the other rights of EU citizenship mentioned previously, hence the citizen cannot be discriminated against nationals of the protector country and must receive equal treatment. With the establishment of this right, common strengthened identity between Europeans is intended with common protections.

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<sup>74</sup>COM, *Action Plan 2007–2009; Effective consular protection in third countries: the contribution of the European Union* (Brussels: 2007), 2.

<sup>75</sup> Maastricht, Article 46.

The right to be protected by the diplomatic or consular authorities of any other member state of the Union is entitled to EU citizens as a consequence of their Union citizenship. In order to demand protection, the citizen should have a passport or identity card to certify his country of nationality. The embassy of the applied member state should contact the citizen's own member state and act in concert. The embassy is in charge to inform the family members in home state, the doctor in case of illnesses or serious accidents, or the other required people under favor of the Ministry of Foreign Affairs of the citizen's own state.

Council Decision 95/553/EC regarding protection for citizens of the European Union by diplomatic and consular representations states cases in which the citizen should demand assistance, such as:

- Assistance in cases of death
- Assistance in cases of serious accident or serious illness
- Assistance in cases of arrest or detention
- Assistance to victims of violent crime
- The relief and repatriation of distressed citizens of the Union.<sup>76</sup>

The assistance does not include financial aid, apart from cases of emergency, without the permission of the citizen's state's Ministry of Foreign Affairs. If, nevertheless, the citizen applies for financial support in an emergent case, and the Ministry of Foreign Affairs denies the financial assistance demands, the citizen is expected to sign documents in order to secure reimbursement by the authorities of the other member state's embassy.

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<sup>76</sup>Council Decision 95/553/EC regarding protection for citizens of the European Union by diplomatic and consular representations, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:41995D0553:EN:HTML>

### **2.2.5. Right to Petition and Complain to the Ombudsman**

Right of petition and complain to the ombudsman creates a direct link between the citizens and the MPs who are elected by the citizens directly. As regards that right, any Union citizen or any person residing in one of the member states registered can petition the European Parliament to indicate their complaints or requests. The citizen should write in any of the official EU languages and should receive an answer in the same language. The subject of the petition should be under the jurisdiction of EU and the subject should affect the petitioner firsthand. Again, the same indicated persons can complain to the Ombudsman for all maladministration activities of the EU institutions or bodies except the ECJ and European Court of First Instance decisions.

In Article 24 of the Treaty on Functioning of the European Union , these two rights are conferred to every EU citizen. Again, Articles 227 and 228 make clarifications about proper use of these rights.

The right of petition has been applied, since 1963, as a procedure of the European Parliament. But the institutional application of the right arose in 1992 with the Treaty of Maastricht. With the right to complain to an Ombudsman, the right of petition enables citizens to follow the administrative activities of institutions and legislations in a democratic manner; however, the areas of petition are limited and citizens do not have the right to petition in the areas of Common Foreign and Security Policy nor Police and Judicial Co-operation in Criminal Matters.

In the body of the European Parliament (EP), there is a committee called the European Parliaments Committee on Petition that decides the admissibility of the petition. At the end of the inquiry, allowable precaution will be taken to settle the petitioner’s problem. In the required cases, the Ombudsman and the Committee refer to each other and coordinate. Differently from the right to petition to the EP, the cases do not have to be personally related.

**Table 2** Themes of the Petitions<sup>77</sup>

<b>PETITION THEMES</b>	<b>NUMBER OF PETITIONS</b>	<b>PERCENTAGE</b>
Environment	309	12%
Fundamental Rights	208	8.6%
Property&Restitution	149	6.1%
Justice	147	6.1%
Internal Market	130	5.4%
Social Affairs	118	4.9%
Transport	117	4.8%
Health	116	4.8%
Education&Culture	105	4.3%
Employment	89	3.7%
Others	940	38.7%

Source: Mairead McGuinness, Report on the deliberations of the Committee on Petitions during the parliamentary year 2008, 2008/2301(INI) (Strasbourg: European Parliament , 2009), 16.

According to the data of the Report on the Deliberations of the Committee on Petitions during the Parliamentary Year 2008, with 12.7%, the biggest percentage of the petitions concerned environmental issues. Following this, fundamental rights and property and restitutions are the other commonly petitioned issues of the EU citizens.

<sup>77</sup> Mairead McGuinness, *Report on the deliberations of the Committee on Petitions during the parliamentary year 2008, 2008/2301(INI)* (Strasbourg: European Parliament , 2009), 16.

The position of ombudsman is a product of the Maastricht Treaty. Since the petition right and the inquiry applications are the fundamental and democratic rights of the citizens, Ombudsman is a tool to provide more citizen-friendly Union that cares about the concerns of its community and deals with their problems. He can open an investigation on the subjects he considers to be inquired. Article 228 of the Treaty on Functioning of the European Union<sup>78</sup> states,

*In accordance with his duties, the Ombudsman shall conduct inquiries for which he finds grounds, either on his own initiative or on the basis of complaints submitted to him direct or through a Member of the European Parliament... Where the Ombudsman establishes an instance of maladministration, he shall refer the matter to the institution concerned, which shall have a period of three months in which to inform him of its views.*<sup>79</sup>

The Ombudsman should also inform the European Parliament and the institution that has been the subject of inquiry. The final consequences should be declared to the owner of the complaint.

As mentioned above, the citizenship rights had a wide progress in parallel with the development process of EU itself. The content and the essence of the rights have been shaped with every legal regulation and enhancement of the rights has been reflected to the situation of the citizens. Meanwhile, an attachment between the citizens and the Union started to emerge as a consequence of these

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<sup>78</sup> Ex Article 195 TEC

<sup>79</sup> The Consolidated Version of the Treaty on European Union, <http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/ce321/ce32120061229en00010331.pdf>, 55.

developments. In the light of these analyzes , the next chapter will deliberate how this citizenship effected the formation of the European political identity and draw a connection between the political identity and citizenship by touching upon the process of identification.



## **CHAPTER 3**

### **EUROPEAN UNION CITIZENSHIP AND ITS IMPACTS ON THE FORMATION OF EUROPEAN POLITICAL IDENTITY**

The concept of European citizenship has been debated, in detail, in the course of the first three chapters. The definitions of citizenship in general, the development of European citizenship over the course of time, the re-shaping of citizenship in the European community, the legal framework and finally the resultant right of Union citizenship has been analyzed from a to z. After clarifying the concept in every aspect, henceforward, the last dimension of European citizenship will be the main focus: identity, specifically political identity.

The issue of identity, apart from being an extensive issue that needs to be analyzed with a multi-directional approach, has sub-categories that should be studied within the context and light of identity. Within the scope of this chapter the specified area of focus will be the “political identity” and the political identity of the European Union will be analyzed.

#### **3. 1. European Political Identity**

Although the concept of political identity is generally associated with the nation-state, the nation-state was not the only provenance of political identity. As mentioned previously, starting with the Greek city-states, “polity” and political

entity pre-existed, thus political identity occurred long before the emergence of nation-states. Political identity has always been socially constructed, negotiated, and re-negotiated through the practices of daily life.<sup>80</sup> Based on this information, like the previous political communities, the EU has its own political identity that has been under construction from the beginning of its establishment.

The EU has played a major role in creating its own society from the dual form that consists of both national and supranational elements. Meanwhile, it not only has to recognize and respect pre-existing national identities but also create a detached identity as well. Since its foundation, the European Union has evolved with every widening and deepening trend, which can be called an “open-ended evolution.” This evolution is imposed by the constructivist approach of the EU, which aspires to go further with the new expansions; therefore, the EU is considered a progressive, instead of a “static,” political entity. The creation of the political identity within the Union develops in parallel with the deepening measures of the EU.

In the establishment phase, identity was not a problematic issue because the priority of Europeans in the 1950s was to construct a new “unity” to avert another war after two very destructive world wars in a 30-year period. The European Community was envisaged as an economic entity and the newcomers were considered as “new markets.” For this reason, Schmitter states, citizens are accustomed to economic citizenship by exercising their rights to free movement

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<sup>80</sup>Darren J. O’Byrne, *The Dimensions of Global Citizenship: Political Identity Beyond the Nation-State* (London: Frank Cass & Co. Ltd, 2003), 158.

of people, goods, and services but they have not generated a high level of political identification with the institutions of the EU.<sup>81</sup> As a point of fact, the establishment of the EC/EU was not completely isolated from the political purposes or political identity. The integration in terms of economy was the first step of a bigger project and a political community. As O'Grada states, all the transformations and economic evolvments were merely accessories to the first stage of a yet greater political revolution.<sup>82</sup> In the early phases of the integration, the founders of the Community revealed their intention to constitute a political community by the entitlement of the "free movement of workers" right, preliminary to the future estates and the cornerstone of the prospective citizenship of EU, and they laid the foundations to develop a political identity in the European community. The common market was a thoroughfare for the creation of the political community.

Even as late as 1957, the founding fathers anticipated a political union like that of the United States as a long-term outcome of their initiative. The architects of the European institutional framework, like Jean Monnet and Robert Schuman, pursued the goal of the unification of Europe through the driving force of economic priorities.<sup>83</sup> The political dimensions of the integrationist framework

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<sup>81</sup> Philippe Schmitter, *European Citizenship Between National Legacies and Postnational Projects: The Scope of Citizenship in the Democratized European Union* (London: Oxford University Press, 2001), 110–111.

<sup>82</sup> Cormac O'Grada, 1969, "The vocational training policy of the EEC and the free movement of skilled labour." *Journal of common market studies*, Vol 8 No 2, (1969): 83–88.

<sup>83</sup> Peter A. Kraus, "Introduction: The Dynamics of European integration." In *A Union of Diversity: Language, Identity and Polity-Building in Europe*; (London: Cambridge University Press, 2008), 3–4.

featured in the Schuman Plan were anchored in the belief that closer co-operation would create a broader and deeper community.<sup>84</sup> The Treaty Establishing the European Communities also communicates the intention for political integration.

According to neo-functionalists like David Mitrany and Ernst Haas, economic integration of the European Union would engender a “spill-over effect.” Any kind of integration would be a repulsive factor for further integration in the other areas. As the neo-functionalists indicated, the economic indicators evoked further developments and the integration process of Europe, which started as an economic construction plan that engendered cultural, social, and political reforms.

Identity formation was not like a political decision or an economic implementation; it was not effectuated by a decision taken by an institution of the EU. As the social constructivist theory clarifies, the identities are evolving concepts in compliance with the time and place under certain circumstances. The Community, which was formerly established for economic purposes, was institutionalized in the course of time, turned into a “Union,” and started to need a specific identity of its own.

On the EU level, developing a common European identity was not similar to the nation-state level. First of all, on a national level, there is a long historical process to form the nation’s identity that begins in the past. It does not emerge over a limited period of time, but as the consequence of a long time period. For this

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<sup>84</sup> Theodora Kostakopoulou, *Citizenship, identity, and immigration in the European Union: between past and future* (Manchester: Manchester University Press, 2001), 40.

reason, a collective European identity cannot be developed from historical elements since it is not deep-rooted, but instead the identity formation of Europe must progress along a different path that is shaped by common political practices. The formation of a common political identity in the EU requires a feeling of belonging to the political unity and a conviction about the common future that is determined by common purposes and acts. This identity within the Union started to be composed as a political identity that would be formed by the concept of “European citizenship” that would unite people by attaching them to the European Union. Due to inadequacies in cultural experience throughout history, the EU struck out and tried to compose its sense of community through political community-building methods.

The concept of political identity has been related to a nation-state for the last two centuries. As the nation-states were homogenous in terms of culture, citizenship models were diverted to be one “core” nation and the political identity was shaped in parallel with this cultural fact. However, with the emergence of the EU, attitudes toward the relationships between political identity, citizenship, nation, and state changed dramatically. The question of how to define political identity under contemporary conditions, in which the nation-state is no longer the central social institution and there is a separation of nation and state,<sup>85</sup> emerged. From this point of view, in order to analyze the political identity of the EU under its unique circumstances, the decomposition of the concept is required. Here, the

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<sup>85</sup> Joanna Ewa Ziolkowska, *Beyond Nation-state? Problem of Political Identity and Post-national Citizenship in the Context of Common Europe and Globalization Processes* (Warsaw University: European Political Science Network, 2006), 5.

concept of political identity would be decomposed to the elements that constitute it. For the development of European political identity, there are two essential conditions. Firstly, a political context is required in order to develop a political identity in the EU. Therefore, Hollman states that:

*Collective political identity has to be based on a community with certain common beliefs like trust in a common political system, acceptance of political processes and support of a political elite group. The most important feature for political identity is the shared values which play a key role in the community's political context.*<sup>86</sup>

Secondly, there is a need for a political community. Again, according to Hollman, the political community is the only collective that is capable of establishing a political identity; in order to develop a political identity, with a fixed and transparent political framework, the political community has to be considered as the starting point.<sup>87</sup> The political community is constituted from two integral parts: a ruler (mostly a government) responsible to the community it governs and citizens who are governed by a ruler. The relationship between these two performs in accordance with the determined rules.

Considering the case of the EU, the abovementioned requirements for the development of a common political identity are prevalent in its makeup. There is a developing but established political context; the ruling, different from the nation-state system, is performed by the institutions of the EU; and there are “ruled”

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<sup>86</sup> Lisa Hollmann , *European Identity: Conditions for a European Political Identity* (Blekinge : Blekinge Institute of Technology European Spatial Planning and Regional Development, 2008/2009), 8.

<sup>87</sup> *Ibid.*, 10

individuals that make up a European Community which is created by the efforts of the EU. As Maas remarks, the purpose of creating European citizens was to reflect the will to create a community of people rather than simply a free market area;<sup>88</sup> when this succeeded step by step, the two components of the political identity were both provided. In other words, if we look from this point of view, there is no obstacle to the development of the European political identity that has been attached to the nation-states for many years.

On the other hand, the political concepts reflect political changes and shape it at the same time,<sup>89</sup> which means they are reciprocally influenced and the political identity that develops within these changes is constituted according to the present conditions. Any democratic state or political entity, in our case the EU, has a consequential role to provide a common political identity that is carried along by the state's citizens. Political identity is a significant determinant since a stable foundation of legitimacy for the EU will only be achieved when Europeans perceive a European political identity<sup>90</sup> that would give rise to support for the EU's political system. The EU tries to develop the relationship between the institutions and the European citizens in order to incorporate them into the process of decision making. When the citizens feel that their opinion is considered by the policy makers, accordingly, the political identity develops and consolidates. The

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<sup>88</sup> Willem Maas, *Creating European Citizens*, (Plymouth : Rowman & Littlefield Publishers, Inc., 2007), 7.

<sup>89</sup> Dieter Gosenwinkel, *European Citizenship Between National Legacies and Postnational Projects: "Citizenship, Subjecthood, Nationality"*, (London: Oxford University Press, 2001), 17.

<sup>90</sup> Ingmar Karlsson, "How To Define The European Identity Today and In The Future? European Citizenship and Identity" (Paper presented at the annual meeting of the American Political Science Association, Mannheim, 2005 ), 57.

political actions of the member states and EU Institutions are also dependent on public support. Consequently, the motivation of the citizens is highly effective for the accomplishment of further actions in terms of identity. Hence, the increase of citizens' participation to a political stance, which would promote democracy in the EU, becomes essential for this political identity building.

If the EU intends an accomplished integration throughout Europe, it is obvious that it cannot continue to be barely recognized by interstate relations in the political arena. Any attempt that leaves the citizens out of scope falls through as a consequence. If the political achievements would not be spread to the base of Europe; in other words, the citizens, a common comprehension cannot be created in the Union. Bruter defines a citizen's political identity as his sense of belonging to politically relevant political structures and remarks on the emergence of a corresponding political identity as the primary source of legitimization of a political community.<sup>91</sup> In order to develop common comprehension within the European Community, EU citizenship has been created as a type of political identity tool. In the next part of this chapter, the relationship between European citizenship and the formation of political identity will be analyzed and the outcomes will be evaluated within the process of the EU's development.

### **3. 2. European Union Citizenship and the Impacts on the Formation of European Political Identity**

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<sup>91</sup> Michael Bruter, *Citizens of Europe? The Emergence of a Mass European Identity* (Hampshire: Palgrave Macmillan, 2005), 10.



As has been indicated in the previous chapters, citizenship as a concept is not complicated in the context of “rights and duties.” However, when it refers to “identity,” the issue gets more complicated. The community, naturally, is aware of the “rights” side of their citizenship but identity as a part of citizenship is commonly skipped over. The scope of this section will be on the political side of citizenship implications and refers to its impacts on the formation of a common political identity. European citizenship will be defined as a type of common political identity and its role to strengthen and build up the sui generis identity of EU will be the focus.

Theoretically, the authorities generally interpret the relationship between the European political identity and European citizenship from two points of view. One claims that identity is an integral part of Union citizenship. According to the other view, citizenship’s role is to provide a basis for the creation of a European political identity and the development of European citizenship. This is an important step for the creation of a European political community, which is a precondition to build up a European political identity. Galabuzi thinks that citizenship is not only a *source* of identity but also a *determinant* of identity,<sup>92</sup> which demonstrates the interactive relationship between citizenship and identity. In all these views, it is clear that EU citizenship and EU common political identity are concepts that are interconnected and inseparable; thus, any research that does not analyze the two concepts together would be deficient.

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<sup>92</sup> Graze Edward Galabuzi, *Introduction to Politics and Governance, Section, Representation and Political Participation*, 1/2/3/7 (Toronto: Ryerson University, 2007), 12.

The participation of citizens in the integration process is substantiated by the legal framework of Union citizenship and, with a reciprocal relationship, this citizenship concept nourishes the identity. Bauböck describes citizenship as a symbolic expression of membership in a self-governing political community.<sup>93</sup> The EU, as a political community, has its own political identity and this political identity is highly attached to citizenship.

As mentioned in the beginning of the third chapter, the concept of political identity is very contagious and is related to national citizenship in general. Similarly, since the 18th century, citizenship has been bound closely to the institution of the nation-state<sup>94</sup>-like political identity. But with the peculiarly formed citizenship of the EU, the attachment of citizenship to the nation-state system was adversely affected. Citizenship was allocated from its attachment with the nation-state and the nation lost its position in the new politics of identity that emerged in recent years.<sup>95</sup> It has been discussed thoroughly whether a citizenship beyond the national level is possible or not. Herein, the emergence of Union citizenship serves the purpose of the de-attachment of citizenship concept and composes a sui generis type. In an effort to establish a new supranational community, which has its own kind of institutions, policies, norms, and implementations, the EU has transformed the prescriptive structures of the nation-

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<sup>93</sup> Rainer Bauböck, *Citizenship and National Identities in the European Union* (New York: Jean Monnet Center for International and Regional Economic Law and Justice, 1997), 19–20.

<sup>94</sup> Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (London: Harvard University Press, 1992), 60.

<sup>95</sup> Percy Lehning and Albert Weale, *Citizenship, Democracy, and Justice in the New Europe*. (London: Routledge, 1997), 29.

states. Kostakopoulou evaluates the situation by this means: “Constructive citizenship capitalizes on the emergent opportunities for the formation of a European polity beyond the nation-state and for multi-level governance.”<sup>96</sup> Since the collective identity is a pre-condition of a democratic political entity and decision making process, the role of citizenship in that sense becomes more of an issue.

A collective political identity constitutes a political community and the idea of a political community, in turn, is closely correlated with the concept of citizenship.<sup>97</sup> Starting from the origins of the EU, which date back to the European Coal and Steel sectors, a desire to create a political community by uniting the Europeans and giving them concrete rights was prevalent. The whole project of European integration, in any case, embodies political identity in a sense. Considering that the core of European citizenship was the free movement right, which was granted from the beginning of the European integration, it is a stubborn fact that the concept of European citizenship, as a political identity, was also in existence from the beginning of the European Project.

After the political and economic levels of integration, the construction of the European identity was an expected outcome of the process. With the introduction of EU citizenship, the EU aimed to strengthen the unity of Europe. The Union

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<sup>96</sup>Kostakopoulou, 42.

<sup>97</sup> Angelika Scheuer and Hermann Schmitt, “Dynamics in European Political Identity” (Paper prepared for presentation at the Spring Conference 2006 of the European Election Study convened at the Institute for Social Sciences, University of Lisbon, 2004), 2.

desired to develop a broader identity in the context of Europe to contain other identities and avoid fragmentation. What was expected by the EU was to compose an institutional structure that would create a common shared identity with the notion of European citizenship. The purpose was to create a political community by providing the “Ever Closer Union” through coordinated citizens. The prospective outcome of the establishment of Union citizenship was not only to increase the level of attachment but also constitute a political reference point for the further integration. In order to give a political characteristic to European identity to legalize it, EU citizenship was created. Samur thinks that:

*The general route of this citizenship-centered common political identity is simple: in the absence of a European ethnos, constructing a forward-looking European demos and its identity based on civic virtues and democratic-liberal values which have already have strong roots in the member states societies is the best choice.*<sup>98</sup>

On the other hand, to let people legitimize the system of rights, they need to identify themselves with the institution that comes up with these rights; hence identity should not be left out from the citizenship concept.<sup>99</sup> Political identity emerges when individuals define themselves with the elements of the polity and political entity. European citizenship is, therefore, one of the most functional tools to attach individuals with a political identity by giving them concrete rights and making them a part of the polity, in a sense. In this manner the political entity also legitimizes itself in such a way that the more strongly the citizens are convinced that this institutional structure corresponds to their own values and priorities, the

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<sup>98</sup> Samur , 303.

<sup>99</sup> Margriet Goos, *Citizenship Concept: European Citizenship as ‘National’ Identity? Subtheme 4: “Political and legal definitions of the citizen: the dynamics of inclusion and exclusion,”* (Groningen: 2005), 11.

more they evaluate the regime to be legitimate.<sup>100</sup> Besides the more people benefit from EU citizenship and the rights provided by it, the more they feel European in terms of identity. However, identity is a voluntarily accepted concept that citizens cannot be forced to adopt if the community doesn't feel it belongs to the political entity. Citizenship in terms of identity is, therefore, a compulsive process in which there is much effort needed. If the EU succeeds in establishing a democratic, operationally efficient, and actively participatory political system for the Union, the creation of such an identity will no longer be a problem.

However, granted that the perception for the EU's policies is not adequately supportive compared to the support for the nation-states' policies, it is not acceptable for European citizens to approve of the decisions made by the EU in the supranational level under all circumstances. Therefore, in order to strengthen the acceptance of decisions, the creation of an EU political identity is influential. The EU, as a political entity, needs an identity to provide the legitimacy of its actions and create a more democratic Union in coherence, not only to gain the support of its citizens for the policies of the EU, but also for the continuity of future enlargements; therefore, public opinion is an irrevocable factor. Dell'Olio states that the function of European citizenship is increasingly to legitimize the new order and to internalize notions of Europe into the new identity of each member state.<sup>101</sup> European citizenship is, hence, more than a tool to build a bridge and more than concrete rights or duties; it has a symbolic value. Considering

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<sup>100</sup> Dieter Fuchs, *European Identity and the Legitimacy of the EU*, "Democracy, Legitimacy and Identities: Citizens on the Construction of Europe", (Lodz,2008), 3.

<sup>101</sup> Dell'Olio, 148–149.

European citizenship in the context of ‘a membership of a political community,’ this symbolic value creates the attachment of individuals to the political unity that identifies the cohesion and, by this means, strengthens the legitimacy of the Union. The EU intended to make use of the integrative power of citizenship in terms of politics. Citizenship, therefore, was an adhesive bond in the non-homogenous contexture of the Community. Nevertheless, the above-mentioned circumstances would not materialize as straightforwardly as they are specified. The theoreticians study convenient and applicable theories to demonstrate the relationship between EU citizenship and political identity.

Habermas, considering all these factors, brings up the approach of “Constitutional Patriotism.” It emerged as a ‘non-national’ form of civic attachment,<sup>102</sup> which was the exact kind of attachment to which the EU aspires for its community. According to Constitutional Patriotism, if a European identity emerges, it will be through common political practices among member states and strong institutions in terms of function. This view removes the cultural components from identity building and constructs it upon the political elements that enable the process of integration in societies, like the EU, that are multi-cultural. The inadequacy of a shared, historical, and deep-rooted identity is trying to be recovered through constitutional rights. The notion of citizenship is, likewise, not as part of a homogenous community attached by a common history but rather shared values within the context of political community.

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<sup>102</sup> Jan-Werner Müller, “Is Europe Converging on Constitutional Patriotism?.” *Critical Review of International Social and Political Philosophy* 10 no. 3 (2007): 377–387.

Constitutional patriotism is based on rational elements instead of national values. It develops an alternative model of citizenship and assumes that the constitution determines the attachment of citizens to the state through elements that are not related to any cultural components. This model favors the states or entities that have a multi-cultural structure and it also separates the concept of citizenship from “national values,” which were obtained during the French Revolution. According to Topuzkanamış, citizenship cannot be defined in terms of references to the past and the “nation” cannot be based on the myths of shared heritage.<sup>103</sup> An EU whose community does not have a common past or shared heritage seems to be a convenient scope of application for the theory. The theory states that if the administrators of the EU use their power for the sake of all the community pro rata, the integration of the citizens to the system would be easier. The attachment of the citizens in terms of a political community can be provided by the rights that are the fundamental parts of the citizenship concept; in other words, identification with the polity is provided by the rights guaranteed by a constitution. The community is gathered around the principles of rule of law and democracy which are situated in the core of the EU in the first place. For a democratic Europe, Habermas suggests a model with a constitution to promote democracy. If the EU could be a political entity with a constitution, the political will of the citizens would be represented.

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<sup>103</sup>Şafak Evran Topuzkanamış, *Anayasal Yurtseverlik” Kavramının Avrupa Birliği ve Türkiye İçin Anlamı* , (paper presented in the I.International European Union ,Democracy, Citizenship,and Citizenship Education Symposium,Uşak:2009),411.

Although the theory seems appropriate to apply for the case of a multi-cultural EU, the future of the theory is still ambiguous. Besides being one of the most broadly discussed theories presently, time will show if the discourses of Constitutional Patriotism will suffice for the creation of an integrated European political community.



## **CHAPTER 4**

### **CONCLUSION**

As has been mentioned in the course of this thesis, the European citizenship that was constituted from the contributions of Greek city-states, Roman Empire, Enlightened Absolutism and Nation-state elements has taken its recent form within the contexture of the EU. The evolution starting with the “Free Movement of Workers’ Right” has been the forerunner of the subsequent rights and the scope of the rights has been expanded with each passing day. However, the evolution of rights and the Union citizenship concept are developing correspondingly to the integration and developing processes of the EU.

The establishment of EU citizenship as a legal concept was an expression of the intention to constitute a political union between the member states which, from the beginning of the EC, had already existed but were overshadowed by economic integration. The economic characteristic of European citizenship that fits the economic integration intention of the EC transformed, increased in importance, and appeared in the heart of the political debates and, thereby, became an institutional priority in due course.

As it is obviously understood from the analyses, creating a particular identity for the EU has been a sine qua non of the European integration process. As for any

other polity; so, for the European Union, a sufficient sense of citizens' shared identity is a necessary condition for both its legitimacy as a body politic and the solidarity of its citizens.<sup>104</sup> However, the discussions up to now show that the EU has a sui generis structure that is not similar to the nation-state and this multi-cultural structure poses an obstacle for the identity-building within the European Community. As the analyses show, the way to overcome this obstacle is to detach the cultural and historical components that are the identity-building tools for nation-states and build the Europeans' identity upon the rule of law and citizenship rights within a political institutional framework. The task of creating a European citizenship has already been seen as a means of articulating a European identity built on the recognition of diversity.<sup>105</sup> Res ipsa loquitur, political identity has been placed as the key concept to attach European citizens with diverse elements to the EU. In the inadequacy of a common historical heritage and cultural elements, the way to create a sense of togetherness within the EU via political norms appears to be the most appropriate and applicable way to build an identity for the Union; thus, the identity that would engage the citizens should be a political identity and the inadequacy of common elements would be fulfilled through common political values and objectives.

Considering the general definition of citizenship, it is not only a structure that embodies the set of "rights and duties"; furthermore, it constitutes a relationship

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<sup>104</sup> Thomas Meyer, *European Identity*, [www.ieem.org/mo/nescal/European\\_Identity\\_korrigiert-Meyer.doc](http://www.ieem.org/mo/nescal/European_Identity_korrigiert-Meyer.doc), (2006), 1.

<sup>105</sup> Gerard Delanty, "Beyond the Nation-State: National Identity and Citizenship in a Multicultural Society – A Response to Rex." *Sociological Research Online* 1 no. 3 (1996): 13, <http://www.socresonline.org.uk/1/3/1.html>.

between the political entity and the citizens by creating a sense of togetherness and attachment, hence this citizenship plays the role as a political identity unit and comprises a common basis for the European community. From this point of view, cultural and historical identifiers will eventually be requirements for identity building, and citizenship assumes this role.

European citizenship is, besides being a tool for identity building, a considerable step for creating a closer Union to its citizens – “the real owners of the Union” – and for the transformation of a so-called Elite Project to a citizen-friendly one. The success of the European integration process is contingent upon the existence of Europeans who own the process,<sup>106</sup> hence a common European identity and European citizenship have constitutive roles herein. The European Constitution referendums also clearly revealed that the will of the European citizens is a very important determiner for the future of the Union and its legitimacy. The more a European political identity is provided, the more the citizens will support the policies of the Union and the Union is thereby legitimized. Hence, the fate of European citizenship and of the EU itself is due to the common will of the citizens; the way to acquire and strengthen this will is to enable citizens’ political identity within the Community.

Obviously, the establishment of European citizenship has created a legal bond between the citizens and the political entity. In this point, Haas’ “spill-over effect”

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<sup>106</sup> Semra Eren Saylan, *Avrupa Birliđi Vatandaşlıđı Kavramı ve Gelişim Süreci* , (Ankara Üniversitesi Sosyal Bilimler Enstitüsü Avrupa Birliđi ve Uluslar arası İlişkiler Ekonomik İlişkiler (Hukuk) Ana Bilim Dalı, Master’s Thesis, Ankara:2007) , 173.

would be applied to the relationship through transformation and the theory would be interpreted as such; as the economic integration would give way to the further integration in other areas, then we would reach the conclusion that this citizenship would make the same effect and leads a spill-over effect on the creation of political identity as a repulsive factor. It once more points out that political identity and European citizenship are highly attached and mutually dependent; in order to be more precise, any progress in one of these two areas would also have a positive effect on the other.

The concept of European Union citizenship is still very adolescent and has rough edges that have been criticized by many scholars, politicians, and even the Europeans themselves. It is still far from being a masterly concept; *id est*, the support for the concept is still not adequate; there are still un-solved problems in terms of third country nationals; it is still an exclusionist concept; the acquisition of citizenship is through national citizenship and therefore it still cannot exist without the connection of the nation-state; but, as the Commission has stated many times, it is still an evolving/developing concept. As the EU transforms, European citizenship will continue to develop accordingly and will satisfy the expectations of the discontented circles who do not believe in the future of the concept as an operational one.

In conclusion, European citizenship plays a significant role for the political future of the Union and its deepening and widening success. If European citizenship would serve an equal and inclusive base for the whole community, it would gain

broad acceptance within the citizens, thusly, not only the Union would be legitimized but also an identity based upon political values would be created. All rights entitled to the European citizens thus far, as well as the evolution of EU citizenship, aim to substantiate the “Ever Closer Union” and ensure the “solidarity” and “loyalty” of European citizens to the European Union. However, neither the EU nor European citizenship has completed its evolution; therefore, the success of the process will become clearer in the long term.

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