# EUROPEAN FORUM

## VOLUME 3
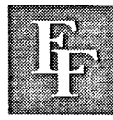
# European Citizenship

## An Institutional Challenge

*edited by*

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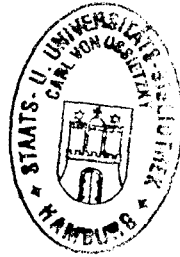European Forum
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# CHAPTER XIX
# PROMISES AND RESOURCES -
# THE DEVELOPING PRACTICE OF 'EUROPEAN' CITIZENSHIP

*Antje Wiener*

The importance of the TEU citizenship provisions lies not in their content but rather in the promise they hold out for the future. The concept is a dynamic one, capable of being added to or strengthened, but not diminished.[1]

## I. INTRODUCTION

Current citizenship debates are ranging between a focus on social discrimination and formal legalistic definitions of the concept. The link between both extremes remains largely a black box. That is, how social relations are represented in constitutional provisions and how changes of one aspect of the debates impacts on the other remain largely unexplored. So far, socio-historical studies about state-making and citizenship have provided most insightful approaches towards an opening of this black box. Both, studies of Bismarckian style of policy-making from above as well as French style collective struggles for citizenship from below have thus contributed to enlighten us about the link between the social context of citizenship on one hand, and the emergent constitutional framework on the other.

While the scholarly debate on Union citizenship has focused mainly on legal aspects, such as for example, the implications of Article 8 EC Treaty and its provisions, recently a number of non-governmental organisations (NGOs) and interest groups as well as committees of the European Parliament (EP) have shown an interest in the upcoming revisions of the Maastricht Treaty by the 1996 Intergovernmental Conference (IGC).[2] Some of these groups demand a revision of the

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[1]  D. O'Keeffe, 'Union Citizenship', in D. O'Keeffe and P. Twomey (eds.), *Legal Issues of the Maastricht Treaty*, London: Wiley Chancery Law (1994), p. 106.

[2]  As the Euro Citizen Action Service (ECAS) notes, '[o]ver 300 NGOs have participated in the two hearings organised by the Institutional Affairs Committee of the European Parliament' (*ECAS Newsflash*, February 1996, p. 1). The hearings were organised by the institutional committee of the European Parliament (EP) on 18-19 October 1995 'with a view to preparing the Dury and Maij-Weggen Reports on revision of the Maastricht Treaty' (Agence Europe (hereinafter 'AE'), 18.10.95, p. 4). According to Agence Europe, the hearings were attended by 'dozens of NGOs' while 'over 300 NGOs had asked to take part' (AE 18.10.95, p. 4 and AE 19.10.95, p. 4, respectively).
   The number of NGO's and interest groups interested in the construction of the Euro-

provisions which define Union citizenship in Article 8 EC Treaty, toward the extension of the political right to vote for third-country nationals. In demanding such an extension of citizenship rights towards currently excluded residents within EU territory, such voices confirm a dynamic Community discourse on citizenship[3] as it has been expressed in the dynamic provision of Article 8E EC Treaty[4] as well as in current Community discourse, which characterises Union citizenship as a 'developing' concept.[5] What this potential for development means in legal as well as in social terms remains a complex question for students of Union citizenship. While some stress the 'promises' of Union citizenship,[6] others point out that it is 'imperfect'.[7]

> polity is often underestimated as is it remains hidden in the overall body of policy-making analyses. For example, with a view to the number of people involved in this process, it is important to note that the participating NGOs often represent a large number of organisations all over Europe. Thus, the participating European Women's Lobby (EWL) represents for example 'more than 2500 non-governmental women's organisations in the European Union' (*EWL correspondence*, 13 March 1996).

3  A Commission document specified that with regard to the dynamic aspect of Article 8 EC Treaty,
> it must be stressed that the provisions of Part II of the EC Treaty are not static, but are essentially dynamic in nature. This is plainly spelled out in Article 8E itself, in so far as it envisages that these provisions be strengthened or supplemented in the future.
> COM(93) 702 final, 21 December 1993, p. 2.

4  As Article 8E EC Treaty states,
> -The Commission shall report to the European Parliament, to the Council and to the Economic and Social Committee before 31 December 1993 and then every three years on the application of the provisions of this Part. This report shall take account of the development of the Union.
> -On this basis, and without prejudice to the other provisions of this Treaty, the Council, acting unanimously on a proposal from the Commission and after consulting with the European Parliament, may adopt provisions to strengthen or to add to the rights laid down in this Part, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.
> Article 8E of the Treaty has indeed been termed the *Evolutivklausel*, meaning that it provides space for further development of citizenship. See for example, M. Degen, 'Die Unionsbürgerschaft nach dem Vertrag über die europäische Union unter besonderer Berücksichtigung des Wahlrechts', *Die Öffentliche Verwaltung*, Heft 17, (September 1993), pp. 749-758. This provision thus keeps to a certain extent with the Spanish proposal's demand for 'dynamic' citizenship (Permanent Representation of Spain, 1991).

5  The term 'developing concept' is used by the European Commission, see: European Commission, 'Report on the Operation of the Treaty on European Union', Brussels, 10th May 1995, SEC(95) final, p. 7; as well as by the European Parliament, see: European Parliament, Task-Force on the Intergovernmental Conference, No. 10, 'Briefing on European Citizenship'; PE 165.793, Luxembourg, 15 January 1996, p. 5. See also Manfred Degen who emphasises the importance of Article 8e as an 'evolutive' provision, that is, as one that entails a potential for further development. Degen, *op. cite.*, note 4.

6  O'Keeffe, *op. cite.*, note 1, pp. 87, 108.

7  U.K. Preuss, 'Citizenship and Identity: Aspects of a Political Theory of Citizenship.' in R. Bellamy, V. Bufacchi and D. Castiglione (eds.), *Democracy and Constitutional Culture in the Union of Europe*, London: Lothian FP (1995), pp. 107-120.

This chapter assumes that the perception of Union citizenship as a 'developing concept' poses a principal challenge to those formal or legalistic approaches to citizenship which rely on legal definitions of who has a right to be member of a community and who has not. This assumption is based on the observation that Union citizenship as a citizenship-in-the-making, raises questions about how this process proceeds, who participates and how Union citizenship grows over time. It is argued in this chapter that this challenge substantiates former work on citizenship which claims that a global framework of increasing migratory flows, changing labour market segmentation, and enhanced mobility of people have initiated a process which involves a 'devaluation' of citizenship.[8] It is pointed out that the developing practice of Union citizenship not only produced rights additional to the existing rights of citizenship in the Member States. It is also a crucial part of a larger project of building institutional arrangements of the Euro-polity in which citizenship rights and practices are applied.

If it is true that citizenship developed as part of a historical process that forged the institutions of the national state and secondly, if we agree that the Euro-polity is defined as multi-level not in a constitutional but in a sociological sense,[9] then we must expect Union citizenship to develop in relation to this fragmented polity. Such a perspective on the emergence of Union citizenship as part of a historical process therefore also casts a fresh light on the political character of the Union's institutional setting as context of the process of citizenship making. This polity has a weak core, a fragmented administrative network and a dispersed structure of political participation. Since it does not resemble the familiar context of a centrally administrated, territorially bounded and nationally defined modern state, some have begun to identify the European Union as a postmodern polity.[10] The institutional context of Union citizenship is then clearly different from that of the familiar national frameworks which were the contexts of past citizenship experience.

Despite such significant contextual differences, the majority of analyses have not yet begun to specifically focus on the conceptual and political implications of this phenomenon.[11] I believe that this neglect is particularly curious in the light

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8   P.H. Schuck, 'The Treatment of Aliens in the U.S.' Paper prepared for project by the American Academy of Arts and Sciences on German and American Migration Policies, funded primarily by the German American Academic Council Foundation. Draft, May 1996. [The edited version of the paper will appear in P. Shuck, K. Blade and R. Münz (eds.), *Opening the Door: U.S. and German Policies on the Absorption and Integration of Immigrants*, Berghahn Books, forthcoming).]

9   J. Caporaso, 'The European Union and forms of state: Westphalian, regulatory or postmodern?', Vol. 34 *Journal of Common Market Studies* (1996), pp. 29-51.

10  See: Caporaso, *op. cite.*, note 9; J.G. Ruggie, 'Territoriality and Beyond: Problematizing Modernity in International Relations'. Vol. 47 *International Organisation* (1993), pp. 139-174.

11  Analysts find that this citizenship lacks aspects of modern citizenship such as for example, the pre-political condition of community. See: C. Closa, 'Citizenship of the Union and Nationality of Member States.' Vol. 32 *Common Market Law Review* (1995), pp. 487-518 and Preuss, *op. cite.*, note 7; Bellamy, Bufacchi and Castiglione, *op. cite.*, note 7.

of the policy background of the developing practices of European citizenship. After all, the idea of modern citizenship was crucial for the beginnings of citizenship policy-making in the EC and has indeed remained a yard-stick for the developing practice of European citizenship for more than two decades. As this chapter proceeds to demonstrate, policy makers have continuously aimed at creating a European identity, a sense of community and shared history while pursuing citizenship policy. Paradoxically, such modern ideas about citizenship have contributed to create a post-modern style of citizenship.

This policy-oriented chapter advances an approach to studying citizenship as a developing practice. It entails an understanding of citizenship practice as a process of mobilisation and strategizing that is developed by Euro-actors as different as interest groups and policy makers.[12] For example, the mobilisations around Union citizenship promises for the future are, among other things, evoked by expectations which stem from past experience. The argument which follows is that the developing practice of European citizenship hinges upon the methodological acknowledgement of the political impact of historical ideas. It is argued that the knowledge of citizenship which has been derived from the way citizenship was applied, developed and practised in the past contributes to an understanding of the hidden link between current expectations, past experience and future promises of citizenship. While we deal with a post-modern style of citizenship in the current EU framework then, this chapter emphasises an understanding of citizenship as constructed over time and entailing layers of past experiences which contribute to construct resources for future expectations of citizenship.

More specifically, this chapter advances two interrelated steps to tackle the impact of past experience on coming revisions of Union citizenship provisions. The first step is about expectations which are derived from a common knowledge about citizenship as a crucial concept in the history of democratic national states. This knowledge includes the idea of citizenship as a nation-state building, rights granting concept which has been crucial in particular for the emergence of western European national states.[13] This aspect is derived from history. It is centred around the idea that citizenship practice as policy or political struggle has decisive state-building qualities as its development over time has contributed to forge the institutional arrangements of modern states. Understood within such a socio-historically contextualized manner, citizenship becomes a powerful political idea.[14] It is argued that similarly to the political power of economic ideas, the

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[12]  For a detailed development of this approach see: A. Wiener, *Building Institutions: The Developing Practice of European Citizenship*, Carleton University, Department of Political Science, unpubl. Ph.D. Dissertation (1995), Ch. 2.

[13]  See: R. Bendix, *Nation Building and Citizenship*, New York: John Wiley (1964); C. Tilly (ed.), *The Formation of National States in Western Europe*, Princeton: Princeton University Press (1975); T.H. Marshall, *Citizenship and Social Class*, Cambridge: Cambridge University Press (1950).

[14]  This paper suggests that the importance of this idea is comparable to Peter Hall's finding of the political power of economic ideas for the construction of modern welfare

interrelation between developing practices of citizenship in different historical contexts on the process of state-building contributed to create an idea about citizenship as an organising principle in the history of states. The assumption is that this historical context which sets the patterns of experience/expectation turned into a crucial idea for future policy-making in the case of the European Community (EC). The second step of assessing the promises of Union citizenship draws on this idea and advances a way of pursuing the application of the idea as an informal resource and its step-by-step transformation into formal policy resources (i.e. ultimately Article 8 EC Treaty).

Both these formal and informal policy resources have been created in the more immediate context of citizenship policy-making in the European Community, and now Union (EC/EU). It is this process of resource creating and mobilisation which will be examined more closely in the remainder of this chapter. To provide an overview of which resources are available and might therefore substantiate the expectations of possible 'promises' for the future, this chapter goes back to the first emergence of citizenship as a policy and then proceeds to describe the emergent resources and their change according to EU/EC documented discourse over time. The chapter is organised in two parts. The first part introduces the concept of citizenship practice and sets out the framework for a policy analysis based on the *acquis communautaire* of citizenship. The second part recalls crucial innovations of the citizenship *acquis* as the practice of European citizenship takes shape over a period of more than 20 years.

## II. CITIZENSHIP AS A PRACTICE IN THE MULTI-LEVEL EURO-POLITY

While '[n]o standard definition of citizenship has yet gained scholarly consensus'[15], it is possible to state that generally speaking, modern citizenship defines a relation between the individual and the political community. It concerns the entitlement to belong to a political community, the latter having the right and the duty to represent community interests as a sovereign vis-à-vis other communities and vis-à-vis the citizens.[16] This model of a relationship between two entities, namely the individual subject or citizen on one side, and the repre-

states. See: P. Hall, *The Political Power of Economic Ideas*, Princeton: Princeton University Press (1989).

[15] See: C. Tilly, 'Citizenship, Identity and Social History', in C. Tilly (ed.), *Citizenship, Identity, and Social History*, Cambridge: Cambridge University Press (1995), p. 5; see also D. Held, 'Between State and Civil Society: Citizenship', in G. Andrews (ed.), *Citizenship*, London: Lawrence & Wishart (1991), pp. 19-25; W. Kymlicka and W. Norman, 'Return of the Citizen: A Survey of Recent Work on Citizenship Theory', *Ethics* (January 1994), pp. 352-381; and B.S. Turner (ed.), *Citizenship and Social Theory*, London et al.: Sage (1993) for similar observations.

[16] For conceptual work that contributes to such an understanding of citizenship see for example, W.R. Brubaker (ed.), *Immigration and the Politics of Citizenship in Europe and North America*, Lanham: University Press of America (1989).

sentative of a sovereign entity (Queen/estate/nation-state) on the other, has pro-
vided modern history with a basic pattern of citizenship.[17] It follows that at least
three elements need to be considered in the conceptualisation of citizenship.
These are the individual, the nation-state/community, and the relationship be-
tween the two which I have elsewhere called 'citizenship practice', understood as
the action that contributes to the establishment of citizenship rights, access and
belonging in a community.[18] Such practice implies both contentious struggle
about interests among social forces and policy-making within the institutions of
the polity.[19] Whereas the first two elements, namely the citizen and the nation-
state/community, have been stressed by contractarian approaches to citizenship
in particular, so far the third–relational–element has not received much atten-
tion. Indeed, citizenship theory has been found to lack the tools which would al-
low to understand citizenship as a practice.[20]

Overall, there is an increasing awareness of the fact that citizenship cannot be
dealt with on the basis of formal criteria alone.[21] Yet, as the formal criteria of

[17]   As Evans and Oliveira point out, citizenship is 'a concept denoting the legal conse-
       quences which attach to the existence of a special connection between a defined cate-
       gory of individuals and a state' and thus essentially 'a provision which is made for par-
       ticipation by a defined category of individuals in the life of a state'. See A.C. Evans and
       H.U. Jessurun d'Oliveira, *Nationality and Citizenship. Rapport réalisé dans le cadre d'une
       recherche effectuée à la demande de la Communauté européenne*, Strasbourg (20 - 21 No-
       vember 1989), p. 2. See also Turner who finds that '[t]here are [...] two parallel move-
       ments whereby a state is transformed into a nation at the same time that subjects are
       transformed into citizens'. B.S. Turner, 'Outline of a Theory of Citizenship', Vol. 24 *So-
       ciology* (1990), p. 208.
[18]   Similar elements have been identified by Charles Tilly as basic criteria for state-making.
       He writes,
       [I]n its simplest version the problem [of state-making] has only three elements. First,
       there is the *population* which carries on some collective political life–if only by virtue of
       being nominally subject to the same central authority. Second, there is a *governmental
       organisation* which exercises control over the principal concentrated means of coercion
       within the population. Third, there are *routinised relations* between the governmental
       organisation and the population.
       Tilly, *op.cite*, note 15, p. 32.
[19]   The notion of contentious politics is based in Tilly's work on state-making (Tilly,
       *op.cite.*, note 15) and on Tarrow's adoption of this concept to analyse the 'Europeanisa-
       tion of conflict' in order to assess the process of polity making in the EU. See Sidney
       Tarrow, 'The Europeanisation of Conflict: Reflections from a Social Movement Perspec-
       tive', Vol. 18 *West European Politics* (April 1995), pp. 223-251. I argue here that this style
       of politics has an equally crucial meaning for dynamic approaches to citizenship.
[20]   Turner, *op. cite.*, note 17, pp. 189-217.
[21]   See: F. Kratochwil, 'Citizenship: The Border of Order.' Vol. 19 *Alternatives* (1994),
       pp. 485-506; J. Habermas, 'Staatsbürgerschaft und nationale Identität.' in J. Habermas
       *(ed.), Faktizität und Geltung*, Frankfurt/M.: Suhrkamp (1991), pp. 632-660. J. Habermas,
       'Citizenship and National Identity', in B. von Steenbergen (ed.), *The Condition of Citi-
       zenship*, London: Sage (1994); Held, *op. cite.*, note 15, pp. 19-25. E. Meehan, Presentation
       at the conference '1996 and Beyond. A Constitution for Europe' at South Bank Univer-
       sity, London (18-19 April 1996).

state, rules of membership and citizenship rights change, a new relationship be-tween citizens and states emerges. That is, the modern 'routinized relations' be-tween a population and the organisation of a state which were once crucial to the process of modern state-making[22] are changing. The novel institution of Union citizenship is the most significant example of such a transformation to date.[23] The focus on the practice rather than the theory of citizenship has been chosen in order to avoid reifying the traps of a conceptually bound and increasingly ob-solete 'language of citizenship' (i.e., modern concepts of citizenship) which refers to a Westphalian system of states.[24] While citizenship practice involves both pol-icy-making and political struggle for citizens' rights this chapter focuses on the policy-making aspect only. In the following I characterise the framework for such an analysis of policy resources.

The policy process is situated in a post-modern polity which is characterised by a weak political core, multi-level networks of interaction and changed capi-tal/labour relations.[25] It is a 'multi-layered polity, where there is no centre of ac-cumulated authority, but where changing combinations of supranational, na-tional and subnational governments engage in collaboration.'[26] This concept is very much focused on the observation that there is a new polity in the making. While it is entirely possible to speak of a system of governance and of a polity in the EU, this polity must not necessarily be linked to or based on the familiar concept of the modern nation-state. Indeed, it remains doubtful whether the EU will once resemble the feature of nation-states.[27]

This has four major implications for policy-making in general. It means that networks of interaction are more constructive than constitutional,[28] the policy

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22 Tilly, *op. cite.*, note 13.
23 To assess the development of this citizenship and its embeddedness in the post-modern multi-level Europolity, it is therefore ultimately necessary to study the emergence of new linkages between citizens and the Community, that is, to understand their routini-zation over time according to the developing practice of citizenship beyond policy stud-ies. This aspect will however not be the focus of this paper.
24 This system was found to be challenged by processes of globalisation and thus does not provide the appropriate means to assess this new type of citizenship (Linklater, 1996; Held, *op. cite.*, note 15; Brock and Albert (1995), in: *Zeitschrift fuer Internationale Bezie-hungen*). As David Held put it, 'to what political entity does the democratic citizen be-long?' as 'the sovereignty of the nation state itself - the entity to which *the language of citizenship* refers, and within which the claims of citizenship, community and participa-tion are made - is being eroded and challenged'. Held, *op. cite.*, note 15, at p. 24, empha-sis added.
25 Caporaso, *op. cite.*, note 9, pp. 45-48.
26 L. Hooghe, 'Subnational Movilisation in the European Union', in Vol. 18 *West European Politics* (1995), p. 177.
27 M. Jachtenfuchs, T. Diez and S. Jung, 'Regieren jenseits der Staatlichkeit? Legitimitaet-sideen in der Europäischen Union', Mannheim: MZES Working Paper ABIII/15 (1996).
28 As Caporaso points out '[I]t is these networks of interaction - more sociology than con-stitutional principle- that Marks *et al.* refer to as multi-level polity'. Caporaso, *op. cite.*, note 9, at p. 47.

process is both constructive over time[29] and active compared to the often reactive policy-making of Member States[30] and finally, it indicates that its success depends on how the Treaty is applied.[31] Based on these observations, this chapter focuses on the constructive potential of citizenship policy as it develops over time. To capture the dynamic as an expression of the potential creative aspect of a policy, it examines the resources of citizenship policy. The approach is not conceptual but policy-oriented. It aims at answering the question of *what are the resources of EU citizenship?*

Over time new institutions emerge. These new institutions are often intangible insofar as practices (such as step-by-step policy-making), ideas (such as citizenship) or ways of handling a policy (such as linking special rights to market policies when it seems politically feasible) are not immediately turned into directives or regulations. In fact, sometimes proposals, reports or opinions may spend years in a drawer until they are retrieved and dusted off once the political opportunity is right. In the following, I elaborate a framework to study this phenomenon and subsequently show how citizenship practice often involved dusting off resources which had been created earlier in the process and which were not immediately mobilised towards the creation of Union citizenship. The new institution of Union citizenship bestows rights on Union citizens as Member State nationals - not European nationals. It thus differs from the common perception of citizenship as a regulative institution facilitating access to the bounded territory of a national state.[32] That is, beyond the different organisation of national and Euro-polity (i.e. centralised or dispersed), both types of citizenship are also distinguished by their reference to nationality. Yet, from the background of modern studies of state-making and citizenship, these categories seem indispensable for an understanding of the meaning and political potential of citizenship[33] How are we then to study citizenship without relying on such categories?

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[29]   J.H.H. Weiler, 'Journey to an Unknown Destination: a Retrospective and Prospective of the European Court of Justice in the Arena of Political Integration', in Vol. 31 *Journal of Common Market Studies* (1993), pp. 417-446.

[30]   H. Wallace, 'Negotiation, Conflict, and Compromise: The Elusive Pursuit of Common Policies.' in H. Wallace, W. Wallace and C. Webb (eds.), *Policy-Making in the European Community*, John Wiley & Sons Ltd. (1983), p. 46.

[31]   Weiler, *op. cite.*, note 29, p. 133.

[32]   See for instance Brubaker's observation about this type of regulation based on citizenship:

   Indeed political territory as we know it today--bounded territory to which access is controlled by the state--presupposes membership. It presupposes some way of distinguishing those who have free access to the territory from those who do not, those who belong to the state from those who do not.

   W.R. Brubaker, *Citizenship and Nationhood in France and Germany*, Cambridge, MA: Harvard University Press (1992), p. 22.

[33]   W.R. Brubaker (ed.), *Immigration and the Politics of Citizenship in Europe and North America*, Lanham: University Press of America (1989); Tilly, *op. cite.*, note 13; Bendix, *op. cite.*, note 13; R. Grawert, 'Staat und Staatsangehörigkeit', Berlin: Duncker & Humblot (1973).

Different from most policy analyses of EU policy then, this study does not focus on what causes the changes of a particular policy.[34] Instead, this chapter aims at showing how a particular policy is developed over time, going through a process from defining an idea as crucial, setting policy objectives towards the re-alisation of this idea and then creating the legal framework which facilitates the application of the idea on an everyday policy-making basis. An understanding of the resources of Union citizenship, their origin and their mobilisation towards the institutionalisation of citizenship will provide crucial information for current political debates about further development of Union citizenship. This policy analysis of the developing practice of European citizenship then focuses on the incremental growth of the *acquis communautaire* in order to sort out the citizen-ship resources as the 1996 IGC faces a revision of the citizenship provisions.[35]

The fragmented nature of the Euro-polity also sets the pattern of the evolving policy process as different citizenship policy packages were related to the regula-tions of in different policy areas. They therefore required different procedures of policy application and development. For example the special rights package was mostly a matter of what came to be called the 'Community pillar' and was hence dealt with according to 'Community-method', while the passport package was developed within the institutional framework of common foreign and security policy and justice and home affairs policy, respectively, which after Maastricht became part of the 'second' and 'third pillar' and which were 'almost entirely in-tergovernmental in nature',[36] yet partly defined by the Community approach of the first pillar, too. In other words, special rights policy was mostly influenced and developed by such Community institutions as the Commission and the European Parliament. In turn, passport policy with its clear relation to borders on the one hand, and education and social policy on the other, has been influ-enced by both, the Community and the intergovernmental approach. Indeed, it

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[34] See for example the work of A. Lenschow, *Institutional and Policy Change in the Euro-pean Community: Variations in Environmental Policy Integration*, Doctoral Dissertation, New York: Department of Politics, New York University. Unpublished Ms. (1995). P. Pierson, 'The Path to European Integration: A Historical Institutionalist Perspective', Russell Sage Foundation and Harvard University (1995); Ms. and M. Pollack, 'Creeping Competence: The Expanding Agenda of the European Community.' Vol. 14 *Journal of Public Policy* (1994), pp. 95-145.

[35] As the Maastricht Treaty specifies in Article N(2),
A conference of representatives of the governments of the Member States shall be con-vened in 1996 to examine those provisions of this Treaty for which revision is provided ... considering to what extent the policies and forms of co-operation introduced by this Treaty may need to be revised with the aim of ensuring the effectiveness of the mecha-nisms and the institutions of the Community.
These revisions are currently debated within the framework of the IGC which began in March 1996 in Turin and ended in 1997.

[36] D. Curtin, 'The Constitutional Structure of the Union: A Europe of Bits and Pieces.' Vol. 30 *Common Market Law Review* (1993), p. 25. See also Demaret (1993), pp. 39-40 and *passim* for an explanation of the various policy methods that are part of the EC/EU's institutionalised compromise.

represented a material intersection between Community and Member State
compentences[37] as it was partially influenced by Commission policy and par-
tially by the intergovernmental approach. In a word, the responsibility for han-
dling citizenship policy was divided among various political organs of the
Community depending on the policy areas involved. As the case study will fur-
ther illuminate, these divided responsibilities and split approaches to citizenship
policy contributed to the policy being scattered across the Euro-polity, hence the
metaphor of a jigsaw-puzzle. The following section provides a summary of the
expansion of the citizenship *acquis* as citizenship practice created more resources
over time. The fragmented nature of EU citizenship was thus established with
the twofold policy basis of special rights policy on the one hand, and passport
policy on the other. The remainder of this section elaborates on the *acquis com-
munautaire* as an analytical tool for such a policy analysis.

In the fractured post-modern polity of the EU, policy-making rests on the
Maastricht Treaty as quasi-constitution and tangible institutional frameork.[38]
Within this framework, the *acquis communautaire* defines the 'additional di-
mension of the EC'; it is not to be changed and is to be accepted by new Com-
munity Members. Thus for example, a commitment is shown by new members
towards the community project.[39] The *acquis* therefore amounts to one import-
ant political institution in EC/EU policy-making that any analysis of EC/EU

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[37]  Curtin, *op. cite.*, note 36, at p. 24.

[38]  As Helen Wallace notes, the role of the Treaties is of 'paramount importance' as,
[b]oth their provisions on specific areas of policy and their allocation of institutional re-
sponsibilities distinguish the EC from other international organisations by providing
the promoters of common policies with constitutional authority and the level of legal
enforcement.
See: Wallace, *op. cite.*, note 30, p. 49. For a similar emphasis on the Treaty's role as quasi-
constitution and hence a factor that distinguishes the EC politically from international
organisations, see Geoffrey Garrett who states that,
the EC's legal system operates as if the 1958 Treaty of Rome and the 1987 SEA comprise
something akin to an EC constitution. This contrasts sharply with the interpretation of
most international treaties, in which each signatory determines the extent of its own ob-
ligations.
See: G. Garrett, 'International Co-operation and Institutional Choices: The European
Community's Internal Market.' Vol. 46 *International Organisation* (1992), pp. 535-36.

[39]  Anna Michalski and Helen Wallace note that,
the *acquis communautaire* is composed of the treaties of the EC and the regulations, di-
rectives, decisions, recommendations derived from them, as well as the case law from
the European Court of Justice (ECJ). It comprises policies, the legal framework and the
institutional structure which a country must accept when it aims at membership in the
Community.
A. Michalski and H. Wallace. *The European Community: The Challenge of Enlargement.*
London: Royal Institute of International Affairs (1992), p. 36. Yet, while being incre-
mental is part of the acquis communautaire itself, some dispute its perseverance, given
that a 'number of protocols to the Union Treaty [...] damage the *acquis communautaire*'.
See: Curtin, *op. cite.*, note 36, p. 18.

politics cannot avoid considering.[40] It stands for the shared institutional properties of the EC/EU at any time. According to the European Commission, the *acquis communautaire* is understood as

> the contents, principles and political objectives of the Treaties, including the Maastricht Treaty; the legislation adopted in implementation of the Treaties, and the jurisprudence of the Court; the declarations and resolutions adopted in the Community framework; the international agreements, and the agreements between Member States connected with the Community's activities.[41]

While Member States might deplore certain aspects of Community policy, 'there is no question that all find themselves locked into a system which narrows down the areas for possible change and obliges them to think of incremental revision of existing arrangements'.[42] These existing arrangements are now familiarly referred to as the *acquis communautaire*.[43] However, the substance of the *acquis* is often difficult to pin down. It is like 'something that everybody has heard about it, but nobody knows what it looks like'.[44] This observation suggests that there is something other than the rules, regulations and constitutionally established procedures of the Euro-polity beyond the visible institutions. In short, while the *acquis* is often known by the participating actors in the Euro-polity, it is not entirely visible. Knowledge does not always imply visibility. There are also processes of meaning construction which add another dimension to the puzzle of policy.

Given this background of visible and hidden components, the *acquis communautaire* is perhaps best defined as containing a set of formalised as well as hidden or informal resources. For analytical purposes, these resources are referred to as formal and informal resources which include procedures and rules, on the one hand, and practices and ideas, on the other (see Figure 1).

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[40] 'There have been attempts to translate it into English, but the result thus far is only the unsatisfactory 'Community patrimony' or 'Community heritage'. The French term has prevailed and become increasingly embedded'. Michalski and Wallace, *op. cite.*, note 39, pp. 36-7. See also P.C. Müller-Graff, 'The Legal Basis of the Third Pillar and its Position in the Framework of the Union Treaty.' *Common Market Law Review*, 1994, p. 496.

[41] See: European Commission; Michalski and Wallace, *op. cite.*, note 39, p. 38.

[42] Pierson, *op. cite.*, note 34, pp. 16-17

[43] See for example Woolcock (1994) p. 199; Wessels (1992); Kovar and Simon 'La Citoyenneté européenne', *Cahiers de droit européen* (1993); Nicoll (1993), p. 22; Lodge (1994) p. 77; Rack (1990), p. 135; La Torre, Chapter XXII of this volume. Given the incremental character of the policy process, it is strange that an institution so central to EC/U politics as the *acquis communautaire* should remain so un-theorized. This lack of theory or systematic approach to the *acquis* does however not prevent the application of the term in the meaning of 'the story so far.' For such a use of the *acquis* see for example A. Clapham, *Human Rights and the European Community: A Critical Overview*, Baden-Baden: Nomos, (1991), p. 29.

[44] Michalski and Wallace, *op. cite.*, note 39, p. 35.

Figure 1: The *Acquis communautaire*

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INFORMAL RESOURCES ➔ FORMAL RESOURCES

- ideas – rules
- practices – procedures

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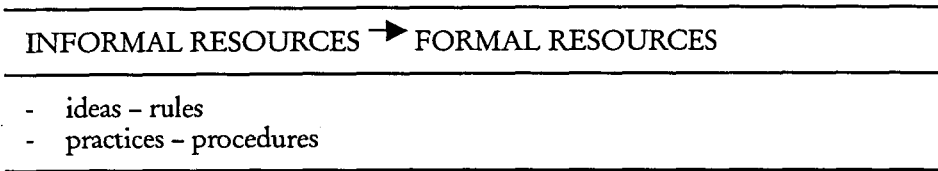
These resources contribute crucial information for Community politics because they may be mobilised (i.e., the formal resources) or changed (i.e., informal resources) once the opportunity is right, they hence invisibly structure Community politics.[45] It follows that a change of the *acquis* potentially involves two processes. One includes the expansion of formal resources (changes of the Treaty, provisions, directives, regulations), the other refers to a materialisation of informal resources (ideas, shared principles, practices as suggested by EP resolutions and Commission proposals or other documents). Overall the change of the *acquis* depends on changes in the political opportunity structure which facilitate the immediate context for the mobilisation of resources towards the establishment of a policy or its components. The analysis of the multi-dimensional jig-saw-puzzle of EU citizenship policy therefore hinges on the systematic assessment of the political opportunity structure and the *acquis communautaire*. The concept of political opportunity structure enables us to structure this policy analysis, it tells us when to expect incremental changes in the *acquis*.[46] A system-

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[45] This definition of the *acquis* has been developed on the basis of the international relations literature on regimes. For example Friedrich Kratochwil and John Ruggie stress the need to push analysis beyond international organisations and their formal attributes such as charters, voting procedures, committee structures, and the like. See: F. Kratochwil and J.G. Ruggie, 'International Organisation: A State of the Art on the Art of the State', Vol. 40 *International Organisation* (1986), p. 755. Instead, they stress that there is another category, namely that of understanding, which may shed light on the analysis of international organisation and which therefore deserves more analytical attention. This new focus is based on the observation that 'we *know* regimes by their principled and shared understanding of desirable and acceptable forms of social behaviour. Hence, the ontology of regimes rests upon a strong element of intersubjectivity'. Kratochwil and Ruggie, p. 764 (emphasis in original).
See also Stephen Krasner's definition of regimes as a 'set of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations'. S. Krasner (ed.), *International Regimes*, Ithaca: Cornell University Press (1983), p. 2. It is similar even though Krasner's work clearly does not share the ontological innovation suggested by Kratochwil and Ruggie.

[46] The idea of analysing changes in the political opportunity structure is taken from Tarrow's studies on social movement mobilisation. See: S. Tarrow, *Struggle, Politics, and Reform: Collective Action, Social Movements, and Cycles of Protest*, Ithaca: Western Societies Program Occasional Paper No. 21, Center for International Studies, Cornell University (1989), and S. Tarrow, *Power in Movement. Social Movements, Collective Action and Poli-*

atic approach to the policy potential contained by different political opportunity structures over time is now at hand. With reference to historical institutional policy analysis it is possible to do three things: (1) to theorise the larger context by periodizing the policy progress according to policy paradigm shifts;[47] (2) to assess the immediate institutional context based on the set of formal and informal resources which compose the *acquis communautaire*; and (3) based on the definition of policy paradigm and *acquis communautaire*, it is possible to establish the political opportunity structure that provides information about the parameters of action. The analytical framework is schematised in Figure 2.

Figure 2: Expanding the *Acquis communautaire*

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POLICY PARADIGM
*ACQUIS COMMUNAUTAIRE*
──────────────▶ - formal resources
- informal resources
ACTORS

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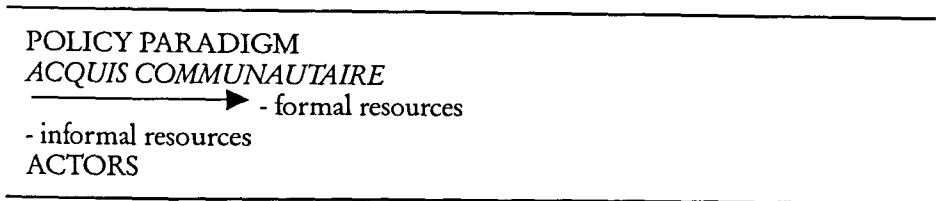
It includes the policy paradigm at one point in time, the *acquis communautaire* as a set of resources and the actors who intervene in order to change or mobilise the resources. According to this scheme, crucial expansions of a policy occur when we observe the addition of new ideas and practices on the one hand, and the transformation of ideas and practices into rules and procedures on the other. The story of citizenship practice reveals three major shifts of policy paradigm which enabled consequent incremental changes in the citizenship *acquis*. These turning points are: the Paris Summit Meetings in 1973 and 1974; the Fontainebleau Summit Meeting in 1984; and the Maastricht Summit Meeting in 1991. The following policy analysis focuses on the developing practice of European citizenship

tics, Cambridge: Cambridge University Press (1994). It has been suggested as one way of assessing EU politics by George Ross. See: G. Ross, *Jacques Delors and European Integration*, Cambridge: Polity Press (1995). In this case changes in the political opportunity structure are indicated by the policy paradigm, the actors and the *acquis communautaire* as key factors for citizenship policy.

[47] Peter Hall distinguishes between three different types of policy paradigm changes. First and second order changes are seen as changes towards the adjustment of policy, third order changes indicate a 'paradigm shift' that includes 'radical changes in the overarching terms of policy discourse'. See: P. Hall, 'Policy Paradigms, Social Learning, and the State: The Case of Economic Policy making in Britain'. Vol. 25 *Comparative Politics* (1993), p. 279. In the case of the EC/U, these are shifts between union and market politics as the overarching terms of policy generation. For example, in the 1970s policies have been established under a politics-oriented paradigm with the creation of political union as the overarching goal of EEC policy making at the time. In the 1980s in turn, policies have been formulated within the context of a market-oriented paradigm with the overarching goal of constructing the single market without internal frontiers until 1992. Finally, in the 1990s, a swing in the policy paradigm has been predicted by many.

from its early appearance as passport and special rights policies in the 1970s. It is structured according to the incremental growth of the *acquis communautaire*, or the shared properties of citizenship policy.[48]

Citizenship practice in the EC/EU remained largely invisible until Citizenship of the Union was spelled out and legally grounded in the 1993 Maastricht Treaty. However, as this case study suggests, the roots of citizenship policy and actual citizenship practice can be traced over a period of about two decades. During this time various policy packages belonging to different policy areas (for example, internal market policy, electoral policy, education policy, visa policy and policing) contributed to the eventual embedding of citizenship in the Treaty. Community institutions, including Commission portfolios, parliamentary committees and Councils were involved in the process. With the category of the *acquis communautaire* as a set of formal and informal resources, it is now possible to situate citizenship policy according to two citizenship policy packages of special rights and passport policy. Both policy packages were repeatedly brought into the discussion over citizenship, European identity, and political union as they touched crucial aspects of citizenship, such as borders and how to cross them (passport policy) as well as citizens' right to vote (special rights policy).

### III. CASE STUDY: THE DEVELOPING PRACTICE OF EUROPEAN CITIZENSHIP

During the economic crisis of the 1970s, EC policy makers aimed at improving the EC's image on the global stage. Then Commissioner Vicomte Davignon characterised the situation thus: 'I have at times compared Europe with Tarzan. It has a relatively advanced morphology but its speech is still fairly scanty'.[49] Yet, Henry Kissinger asked in the middle of the crisis '[W]ho speaks for Europe?'[50] His query suggested, that the EC lacked representation on the global stage. The documented policy discourse of the time reveals that politicians saw this void as being in part due to the lack of a European identity. Despite EC politics being legally legitimised by the Treaty of Rome as a quasi-constitution,[51] the Commu-

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[48]  The *acquis* indicates 'what the Community has achieved' until a certain point in time. European Documents, No. 1000, 25 April 1978, p. 4 (Commission communication to the Council on 'The Problems of Enlargement').
   Article C TEU specifies: The Union shall be served by a single institutional framework which shall ensure the consistency and the continuity of the activities carried out in order to attain its objectives while respecting and building upon the *acquis communautaire*.

[49]  AE, No. 713, 5 January 1973, p. 7: interview in *La Libre Belgique*, 28 December 1972.

[50]  Kissinger asked this question when a Danish representative of the EC spoke in the name of the Community in Washington in September 1973. See: Desmond Dinan, *Ever Closer Union? An Introduction to the European Community*, Boulder, CO.: Lynne Rienner (1994), p. 85.

[51]  J.H.H. Weiler, 'Supranationalism Revisited - a Retrospective: the European Communities after 30 Years', in Werner Maihofer (ed.), *Noi si mura*. Selected Working Papers of

nity was not able to create an image of itself as an actor who could represent European interests in global politics with one voice. The problem was specified as how to create a feeling of belonging among Community citizens that could contribute to the identity of this union? The documented Community discourse of the time suggests that one way of confronting the problem was to establish a European identity.

As the final Communiqué of the 1972 Paris summit stated,

> [T]he Member States of the Community, the driving force of European construction, affirm their intention before the end of the present decade to transform the whole complex of their relations into a European Union.[52]

After the declaration of the goal of political union at the 1972 Paris summit, it took two more years until the 1974 Paris Summit to transform these ideas into guidelines for future policy-making. In the meantime, the objectives had to be specified. At the 1973 Copenhagen summit, a chapter on 'European Identity' was issued.[53] This chapter broadly defined European identity as being based on a 'common heritage' and 'acting together in relation to the rest of the world', while the 'dynamic nature of European unification' was to be respected.[54] The Copenhagen Summit confirmed the intentions of the then nine EC Member States to alter their internal relations; with respect to further political integration, by moving towards a European union.[55] The project of a European identity touched three different contexts: international relations, intra-Community relations, and Community-citizen relations.

At the meeting between the Heads of Government and Commission President Ortoli in Paris 1974, a time frame for policies towards the creation of European Union was laid out.[56] With a view to the developing practice of European citizenship, points 10 and 11 of the final Communiqué of this summit meeting were crucial because they proclaimed the creation of a Passport Union and the establishment of special rights for citizens of the nine Member States respectively.[57] Special working groups were assigned the task of producing draft reports for the development of the passport union, special rights, universal suffrage and a concept of European Union. At this same time, people began to speak of a 'Citizens' Europe'. In this Council document, citizens were, for the first time, consid-

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[52]  the European University Institute. Florence: EUI (1986), pp. 342-396.
Commission, 1972, General Report, point 5(16) (c.f. Dinan, 1994:81).
[53]  Europe Documents, No. 779.
[54]  *Ibid.*, p. 1.
[55]  *Ibid.*, pp. 1, 2.
[56]  Other observers stress the direct link between the document on European identity and setting the policy objectives towards the creation of Community citizenship. Thus Andrew Clapham finds for example that '[t]he 1973 Copenhagen Declaration on European Identity led to a decision at the Paris summit (1974) to set up a working party' to study the application of special rights. See Clapham (1991), p. 66, *op. cite.*, note 43.
[57]  Bull. EC 12, 1974, pp. 8, 9.

ered as participants in the process of European integration, not as consumers but as *subjects*.[58] This notion of citizens as 'subjects' became a new aspect of the *acquis communautaire*. Out of the debates over identity which ensued were generated the policy objectives of 'special rights' for European citizens and a 'passport union.' Both aimed at the creation of a feeling of belonging. Special rights and passport policy thus turned into crucial informal resources of the citizenship *acquis*.

The debates over policy objectives during the 1970s revealed how policy makers were organising the existing resources such as constitutional assets and how they began to develop new ideas. Among them were the decisions to develop policies toward the creation of 'special rights' and a 'passport union' with a common passport for Community citizens. When they were defined as policy objectives in 1974, the first steps towards their creation were made and the *acquis* began to gradually broaden. The adoption of the 1976 Council decision to implement direct universal suffrage[59] and the first European elections in 1979, on the one hand, and the adoption of a Council resolution on the creation of a single European passport in 1981[60] on the other, were crucial first steps that expanded the institutionalised *acquis*. Besides these institutional changes, the *acquis* was expanded on a discursive level as the idea of 'Europeanness' that had been introduced with the document on European identity in 1973 and gradually included both special rights and passport policy. At the end of the 1970s, the territory was a space where voters shared the practice of voting. In this early stage then, citizenship practice introduced perspectives that contributed to a new way of transgressing inter-Community borders.[61]

What then changed within the *acquis* and what does this imply for resources of Union citizenship? A closer look at the resources not only brings changes to the fore, but it also highlights a growing tension in European politics. A grad-

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[58]  For the observation on this new discourse on 'citizens', see also Guido van den Berghe who writes, '[p]oint 11 of the final Communiqué is noteworthy, not only because it speaks of 'special rights', but also because the word 'citizen' of the nine Member States is used'. See: G. Van den Berghe, *Political Rights for European Citizens*. Aldershot: Gower (1982), p. 31; see also: European Parliament (1992), p. 14.

[59]  On 8 October 1976 the Council adopted an 'Act concerning the election of the representatives of the Assembly by direct universal suffrage'. *Official Journal* No. L 278, 8.10.76, pp. 1-11).

[60]  *Official Journal*, No. C 241, 19/9/81, Council Resolution.

[61]  As Guido Van den Berghe points out, a 'qualitative change' was introduced by voting directly for the European parliament. What was formerly 'abroad' was now to be thought of as European, as if the Community was beginning to assume its own 'territory.' In his study of the development of political rights in the EC, Van den Berghe points out that, [A]lthough the European Community does not have its own territory, whereas the different Member States do, the term 'abroad' has throughout the entire study been put into inverted commas in order to underline the qualitative change from national elections which direct elections are taken to represent for the citizens of the Member States resident in another Member State. Indeed, in contrast to national elections, these electors are not persons resident outside the geographical area in which elections are held. Van den Berghe, *op. cite.*, note 59, p. 2.

ually widening gap between functional (market-oriented) aspects of integration, on the one hand, and the intended and unintended consequences of this process, on the other emerged.[62] This type of tension had not been central for Community policy-making in the previous decades which were mostly focused on the establishment of a common market policy. As the policy analysis reveals, the new overarching goal of political union, a new necessity to speak with one voice in global politics and the introduction of a debate over the definition of citizens brought new concerns to the fore. The question of how to define the rights of European citizens thus triggered a series of debates which contributed to a new perspective on Europe. It was considered as an entity that could be compared to processes of modern state-building; this perspective included a redefinition of the relation between citizen and political entity.

The next stage of Community development was initiated with the Fontainebleau Summit meeting in 1984 which put market-making on top of the Community agenda. Citizenship practice now concentrated on the effort to facilitate an increasing movement of worker-citizens as one basic condition for economic flexibility. Based on the movement of these worker-citizens, the demand for greater social and political equality among 'foreigners' and 'nationals' arose.[63] Within this context of functionalist needs towards economic integration a political tension over equal access to political participation emerged; the Commission began to write proposals towards the establishment of equal political participation for EC citizens; a 'passport of uniform design'[64] was created; and a 'Community Charter of Fundamental Rights for Workers' was adopted.[65]

Post-Fontainebleau Community policy represented one major achievement: the planning, negotiating, and signing of the Single European Act. Therefore, the impact on the less economically involved and hence, less politically exposed individual citizen within the area of the internal market remained barely visible.[66] This part first briefly recalls the overall story of citizenship practice during the Fontainebleau period and then summarises the changed *acquis* of citizenship

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62 Some differentiate between rights as 'useful tools for integration' and rights as 'weapons in the hands of Community citizens'. Clapham, *op. cite.*, note 43, p. 10. As this paper goes on to show, the first aspect has been central to EU citizenship policy making in the 1970s, while the latter aspect did not come to the fore until citizenship became an established right after Maastricht.

63 At the time nationals of one of the Member States who worked and resided in another Member State than that of their citizenship were considered *foreigners* as opposed to the *nationals* who were citizens of that Member State.

64 *Official Journal*, No. C 241, 19.9.81, Council Resolution.

65 See COM(89) 568 final which was adopted at the European Council meeting at Strasbourg, 8-9 December.

66 This lack of attention to the individual citizen or 'the people' of the Community was, however, not shared by the Commission and much less by the Parliament. Both institutions frequently mentioned the need to include 'the ordinary citizen.' Despite these efforts, in the late 1980s, Delors' view of an ideal type 'ordinary citizen' who stood 'for change which strengthens the feeling of belonging to one and the same community' had yet to be articulated in terms of practical policy. (Bull. EC, Supplement 1, 1987, p. 33)

practice in particular. The SEA decisively changed the Community's institu-
tional network as well as the interest of Community organs in expanding it.[67]
Part of these changes was clearly the institutionalised procedure of qualified ma-
jority voting which meant the introduction of 'minisupranationality' according
to some.[68] Thus, the context was created wherein the notions of democratic pro-
cedure as well as democratic values would be addressed in the future. For exam-
ple, changes in the Community's institutional framework reflected an increasing
focus on democratic decision-making procedures. Democratic values were
brought in as a factor of a Community without internal frontiers. The Commis-
sion's White Paper and the convening of an IGC in the 1980s contributed to the
creation of new resources that expanded the *acquis*, the former by turning ideas
into directives and the latter by providing the legal framework to mobilise them
as part of the common market policy.[69] Within this political opportunity struc-
ture, the Commission's responsibilities with regard to passport policy-making
seemed limited to worker-related issues. Citizens at that time had to be consid-
ered as worker-citizens in order to ensure continuous progress with regard to
citizenship practice. Indeed some of the debated special rights were best termed
'wage-earners' rights'[70] such as for example the rights that had been named in the
Social Charter. The citizens' right to move freely within the Community was
advantageous from the point of view of the economic goals of Community pol-
icy. Signing the Schengen Accord in 1985 showed that some Member States had a
particular interest in cross-border traffic.[71] Nevertheless, citizenship practice sug-

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[67]   The SEA thus 'ultimately proved to be instrumental in reviving the dynamic of EC po-
       litical as well as economic integration. S. Bulmer and A. Scott, *Economic and Political
       Integration in Europe: Internal Dynamics and Global Context*, Oxford: Blackwell Pub-
       lishers (1994), p. 4. Some indeed compare the Fontainebleau period with the previous
       period by referring to a changed attitude towards the constitutional development of the
       Community, viewing the SEA as leading towards the 'high road of treaty revision'. See:
       W. Nicoll, 'Maastricht Revisited: A Critical Analysis of the Treaty on European Union',
       in A.W. Cafruny and G. Rosenthal (eds.), *Vol. 2 The State of the European Community.
       The Maastricht Debates and Beyond*, Boulder: Lynne Rienner (1993), p. 19.
[68]   Nicoll, *op. cite.*, note 69, p. 24.
[69]   More specifically, the clear definition of the 279 directives prescribed by the Commis-
       sion's White Paper 1992 provided the point of departure for this type of policy making
       which led to a new era in Community politics which soon became known under the
       slogan of 'Europe '92'. While the White Paper went beyond market policy making it was
       nonetheless conceptualised to operate within a market paradigm. Behind a quite techni-
       cal appearance, the White Paper had a whole series of legal commitments for the Mem-
       ber States in store that were part of the implementation of the directives. It therefore re-
       quired basic agreement on the legal basis for resolving intra-Community disputes. With
       the White Paper then the Commission had established a time table for economic policy
       making by setting the 1992 time limit for the process of creating an internal market
       without frontiers. Beyond that, by means of an IGC it had elaborated a plausible reason
       for a Treaty reform.
[70]   George Ross, *Jacques Delors and European Integration*, Cambridge: Polity Press (1995),
       p. 103.
[71]   J.D.M. Steenburgen, *Schengen, Internationalisation of Central Chapters of the Law on Ali-*

gests that Community policy in this period went beyond the level of economics alone.

At the end of the 1980s the definition of new frontiers of citizenship concentrated on territorial and socio-economic limits of citizenship. In socio-economic terms, these frontiers excluded some citizens based on newly established special rights for worker-citizens, as well as non-income producing citizens or those who were not considered as being related to economically active worker-citizens. In fact, the line between inclusion and exclusion was set by restricting free movement to the worker-citizen, his spouse and their family. Those who did not qualify for the right to freedom of movement according to this definition were excluded. Apart from materialised geographical borders, socio-economically set boundaries thus had an impact on the practice of movement and vice versa. The management of these boundaries was central to the project of market-making. One of these mechanisms was for example based on movement. It reflected an interest in labour-market flexibility; this in turn enhanced the competitive capability of the Community as one actor in the global economy.[72]

While the process of market-making proceeded throughout the mid- and late 1980s, a discourse about the impact this market would have on the political and legal status of Community citizens vis-à-vis the Community also emerged. That discourse identified progressing economic integration as bringing about a loss of status. That is, once citizens moved they lost access to participation. This was considered as a lack of democracy and was hence one aspect of the 'democratic deficit.'[73] This argument which was introduced to the universe of political discourse by the Commission is notably embedded in modern citizenship discourse.[74] The introduction of such democratic discourse to the universe of politi-

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ens, *Refugees, Privacy, Security and the Police*, Leiden: Stichting NJCM (1992), p. 57.

[72] The mechanism of closure and disclosure rested on such aspects of citizenship practice as the rights to movement, residence and establishment. According to Article 8A EEC Treaty, the territorial limits were set by the borders of the internal market. As Article 48 EEC stated, '[f]reedom of movement for workers shall be secured within the Community ... it shall entail the right .... to move freely within the territory of Member States for [the purpose of employment].' According to Article 48(3) EC, the freedom of movement for workers entailed the right to (a) accept offers of employment and (b) move freely within the territory of Member States for this purpose, as well as (c) to stay in a Member State for the purpose of employment 'subject to limitations justified on grounds of public policy, public security or public health.' Public servants were excluded from this freedom according to Article 48(4).

[73] The other aspect of the 'democratic deficit' was a question of democratic procedure. Both aspects are rooted in different contexts. Bulmer and Scott note that the SEA had not successfully challenged the deficit. They identify a twofold procedural deficit, one as the 'Community's decision-making procedures' and the other as the lack of 'democratic legitimacy' as regards the legislative process. Bulmer and Scott, *op. cite.*, note 67, p. 7.
    In turn, the Commission's demand for the political right to vote is based on historical experience of citizenship practice in nation-states. The often interchangeable use of the term prevents a clear understanding of the political consequences involved.

[74] After all, the concept of modern citizenship rests on three constitutive elements (nation-state/community, citizen, citizenship practice) and three historical elements. Access to

cal discourse which was, at the time, dominated by the market paradigm, con-
tributed a crucial ideational aspect to the *acquis communautaire* of the time. As
market integration assumed momentum and the establishment of the free
movement of capital, goods, services, and persons took shape accordingly, the ab-
sence of political rights would lead to individual political exclusion. To provide
individual integration into the Community, it was argued, political rights needed
to be appended to the Treaty via Article 235 EEC Treaty.[75]

In sum, the reconstruction of citizenship practice in the 1980s led to the mo-
bilisation of two types of resources. One was the mobilisation of market-making
resources. It led to the expansion of the formal institutions of the *acquis*, that was
clearly expressed by the institutional reform of the Treaty based on the Single
Act. The other was a mobilisation of ideas that generated a new discourse about
democracy. Both flowed from this period's stress on the free movement of
worker-citizens as one crucial aspect of market-making. The former was repre-
sented as the splitting of passport policy into boundary politics and border poli-
tics which involved a competence separation among Community institutions.
Subsequently the area of justice and home affairs was defined as being part of the
Member States' domain whereas the implementation of measures towards the
completion of the common market remained (according to Article 8A EEC
Treaty), the Commission's domain. The latter aspect emerged in the universe of
political discourse when the Commission argued that the special right to free
movement in the Community would lead to deprivation of democratic partici-
pation, unless those who moved to work in another Member State were granted
the political right to vote.

This interrelation between the free movement of worker-citizens and the po-
litical right to vote and stand for election represented a decisive change in the in-
formal *acquis* because it linked informal resources, such as normative values, to
market policy-making. The discourse highlighted the different expressions of be-
longing, namely, belonging with reference to a community within a bounded
territory which is defined by political citizenship rights and access to political
participation. This was the type of belonging-discourse invoked by the Commis-
sion's report on the right to vote. The other type of belonging is more subtle as
it rests on feelings of inclusion and exclusion that are often based on actual inclu-
sion by means of social rights that have been established as a consequence the
expansion of social policy. This type of expansion of social policy towards immi-

participation is one of the latter. With the demand for access then, the question of state-
building was - however carefully - introduced to the discourse. Similar to the loss of
power by nation-states–something which had been observed as one phenomenon of the
1980s and some of which had been restored within the Community–we then observe a
loss of access on the part of the citizen.

[75] These concerns for democratising the process came much more clearly to the fore when
'legitimacy' and more precisely 'democratic legitimacy' turned out to be the central
principle of the 1990s. However it is worthwhile to note that they had been added as a
new informal resource (i.e., ideas) to the *acquis* before the Maastricht negotiations were
to begin.

grants who are not (yet) nationals and do not have access to political citizenship rights has been characterised as a policy of 'disclosure' in other cases.[76] Such a situation of disclosure had precisely been created by the Community's top-down citizenship practice that contributed to the adoption of the Social Charter.

The conflictual aspect of market-making called for a narrowing of the gap between the politically excluded and socio-economically included Community citizens. That gap between legal and identity-based belonging would begin to diminish as more political citizenship rights would be stipulated. The Commission contributed to the creation of new informal resources towards that new step of disclosure in citizenship practice. This newly invoked discourse on democracy as one resource towards the development of citizenship was enforced by referring to common European historical experience when it emphasised, that this tension contradicted the European democratic heritage.[77] The measure to close the gap was at hand and had been prepared for a long time: enhanced special rights policy while numerous statements acknowledge this period as one of successful relaunch including institutional reform[78] and subsequent market-making,[79] this citizenship policy analysis shows that this period also contributed to the process of union-building as some steps towards a refined relationship between Community citizens and the Community had been accomplished and further steps had been prepared. If the latter aspect remained largely invisible during the 1980s, the changes of the less tangible aspects of the *acquis* substantiate this view.

The 1990s resulted in the adoption of political citizenship rights as well as the stipulation of the rights of free movement and residence not only for the employed and their families, but also for other persons, under the condition of economic security and nationality. One major change in the citizenship *acquis* sub-

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[76] W.R. Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge, MA: Harvard University Press (1992); Y. Soysal, *Limits of Citizenship, Migrants and Postnational Membership in France*, Chicago: University of Chicago Press (1994).

[77] Brigid Laffan identifies a tension between 'integration and democracy' whereas the 'West European state, notwithstanding different traditions and historical experiences, is the primary focus of allegiance and loyalty [and] provides the framework for democratic politics'. See: B. Laffan, 'Comment', in Bulmer and Scott, *op. cite.*, note 67, p. 100. As she adds, it is because of 'our attention to the state as a normative order' that we are aware of this tension. Historical experience then is a crucial factor once the political meaning of European integration is at stake.

[78] W. Wessels, 'The Institutional Debate- Revisited. Towards a progress in the *acquis academique*', in C. Engel and W. Wessels (eds.), *From Luxembourg to Maastricht. Institutional Change in the European Community after the Single European Act*, Bonn: Union Europa Verlag (1992), pp. 17-32; J-V. Louis, 'Les Nouvelles Procedures: Conclusions et perspectives', in Engel et al. (1992), pp. 161-170; J. Lodge, 'The European Parliament and the Authority-Democracy Crises', Vol. 53 *The Annals of the American Academy of Political and Social Science*, Special Issue on the European Community (1994), pp. 69-83.

[79] W. Sandholtz and J. Zysman, '1992: Recasting the European Bargain'. Vol. 1 *World Politics*, pp. 95-128; W. Streeck, 'European Social Policy: Between Market-Making and State-Building', in S. Leibfried and P. Pierson (eds.) *European Social Policy: Between Fragmentation and Integration*, Washington, D.C.: Brookings Institution (1995), pp. 389-431.

sequent to the constitutionalization of political citizenship rights in the EC
Treaty was that it made possible talk about citizens' rights and accordingly, citi-
zenship practice as citizenship policy. In other words, the resources that had re-
mained more or less hidden for 20 years were now, if only in part, bundled and
had a name: Union citizenship. However, this name comes with many meanings
as citizenship evokes expectations which are often grounded on national experi-
ences and which therefore usually differ from a formal interpretation of Union
citizenship.[80]

Citizenship practice during this period was strongly influenced by a series of
Spanish letters and proposals. They contributed to a debate over Community
citizenship which could draw on the resources that had become part of the *ac-
quis communautaire* since the early 1970s. Two types of resources were mobilised
during the citizenship negotiations which preceded Maastricht. First, citizenship
was to grant rights that were special to the different levels of the Community as a
polity and as a social space (free movement, residence, establishment, voting and
standing for municipal and European elections at one's place of residence). Sec-
ond, the visible sign while travelling outside the Community was the uniform
passport (reduced border checking, diplomatic protection while abroad). Some
of these resources were formalised with the establishment of Article 8 EC Treaty.

The debate unfolded over four stages. It was triggered by a letter from Spanish
Prime Minister Felipe Gonzalez written on 4 May 1990 for an interinstitutional
conference which was to prepare the IGC on political union.[81] Then a 'Foreign
Ministers' Note for Reflection' included the idea of citizenship in its recommen-
dations for the Dublin II Council on 25-26 June 1990. This note stated that the
upcoming IGC had to deal with the

> transformation of the Community from an entity mainly based on economic inte-
> gration and political co-operation into a union of a political nature, including a
> common foreign and security policy.

Three main aspects were considered as important towards this goal: (1) the trans-
fer of competences; (2) Community citizenship; and (3) the free circulation of
persons.[82] The second stage included the time between the Dublin II Council
and the first meeting of the IGC on 14-15 December 1990. In this period, the
concept of 'European citizenship' became part of the Community discourse as
policy makers reacted to the Spanish proposal. The third stage lasted until the
Maastricht European Council in December 1991, and was mostly dedicated to a
legal definition of citizenship so as to include it in the Treaties. The fourth stage
began after Maastricht and ended with the first Citizenship Report of the Com-

[80]  E. Meehan, *Citizenship and the European Community*, London et al.: Sage (1993), p. 1.
[81]  For the letter, see SEC(90) 1084 and AE, No. 5252, 11 may 1990, p. 3. It is important to
note that this 'interinstitutional' conference included the main Community institutions.
It was thus different from the IGC format which restricted the negotiation process to
the Member States.
[82]  *Europe Documents*, No. 1628, p. 2.

mission in 1993. During this stage, the practical aspects of citizenship policy such as voting rights were refined. The four stages represent the negotiation of a number of documents towards the final wording of the Maastricht Treaty.

In time for the IGC on political union on 28 February 1991, the Spanish Delegation came forward with a second proposal on citizenship. It proposed to embed citizenship in the Treaty by way of a new Title to provide a framework for a dynamic concept of citizenship. The rights mentioned in the Title included first, the social right of a citizen to 'enjoy equal opportunities and to develop his abilities to the full in his customary environment;' second, the civil rights to movement and residence 'without limitation of duration in the territory of the Union;' third, the political rights to 'take part in the political life of the place where he lives, and in particular the right to belong to political associations or groupings and the rights to vote in and stand for local elections and elections to the European Parliament;' and finally the right to 'enjoy the protection of the Union and that of each member State' while in third countries.[83]

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. The Maastricht Treaty conferred the rights of residence, movement and vote in municipal and European elections as well as the right to diplomatic protection when abroad to citizens of the Union.[84] While the identity-based link between citizens and the Union had been pursued over the previous decades, and continued to be part of the border politics of the 1990s as well, citizenship practice in the Maastricht period succeeded in legally establishing a bundle of citizenship rights, among them first and foremost, political rights. It thus established the legal ties of belonging which are one necessary condition for access to participation as a new formal resource of the *acquis*. The legal ties were not only important for defining the relation between citizens and the Community anew, they also raised questions about the political content of nationality. Along the lines of the Spanish proposal, Parliament demanded that Union citizenship be included in the Treaty as a separate title comprising the following central aspects: social rights including a substantial widening of the proposals contained in the Social Charter; equal rights between men and women; the political right to vote and stand for election in local and EP elections at one's place of residence, as well as the political right to full political participation at one's place of residence; and the civil right to free movement and residence in all Member States. Importantly, the report repeatedly emphasised the necessity to rethink citizenship as it could no longer be reduced to the 'traditional dichotomy between citizen and foreigner

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[83] 'Permanent Representation of Spain to the European Communities. 'Intergovernmental Conference on Political Union and European Citizenship: 21 February 1991', in Finn Laursen and Sophie Vanhoonacker (eds.) *The Intergovernmental Conference on Political Union. Institutional Reforms, New Policies and International Identity of the European Economy*, Maastricht: European Institute of Public Administration (1992), pp. 326-27.

[84] O'Keeffe, *op. cite.*, note 1.

or to the exclusive relationship between the state and the citizens as individu-
als.'[85] Once individuals enjoyed different types of rights in this new world that
reflected flexibility and mobility, it became increasingly difficult to define citi-
zenship practice as based on nationality.[86]

Post-Maastricht, another debate about the inclusion of Union citizens, that is
citizens who had legal ties with the Union, and the exclusion of 'third country
citizens,' (in other words, individuals who did not possess legal ties with the un-
ion but might have developed a feeling of belonging) was pushed by interest
groups and the European Parliament in particular.[87] One proposition to solve
this potential political problem was the establishment of place-oriented citizen-
ship.[88] This demand was brought into the debate by the European Parliament
(Outrive Report, Imbeni Report). It was enforced by the demand to change the
citizenship legislation of the Treaty. For example, instead of granting citizenship
of the Union to '[e]very person holding the nationality of a Member State' (Arti-
cle 8 (1)), the ARNE group requested citizenship for '[e]very person holding the
nationality of a Member State *and every person residing within the territory of the
European Union*'.[89] The discourse on place-oriented citizenship suggests to re-
spect the new geography of citizenship. That is, citizenship is not built on the le-
gal ties of belonging to the community alone but also on identity-based ties of
belonging to spaces within the Community. Indeed, European citizenship prac-
tice did not aim at destroying *one* (national) identity–albeit this was a frequently
mentioned British worry throughout the process. It rather attempted to con-
tinuously mobilise *various* identities. The Maastricht step towards naming citi-
zenship was a change in the citizenship *acquis* which put citizenship up for de-

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85  PE 150.034/fin., pp. 6-10, at p. 9.
86  Meehan captured this fragmenting aspect of European citizenship noting that it is,
    neither national nor cosmopolitan but that is multiple in the sense that the identities,
    rights and obligations associated [...] with citizenship, are expressed through an increas-
    ingly complex configuration of common Community institutions, states, national and
    transnational voluntary associations, regions and alliances of regions.
    See: E. Meehan, *op. cite.*, note 80, p. 1.
87  For a new dynamic in the debate over 'third-country nationals' it is important to recall
    that with regard to the Berlin Wall, the Community had to face a new challenge in the
    area of border politics; namely the question of visa and asylum policy, now involving
    the question of east-west migration, and how it was to be dealt with by the upcoming
    Schengen re-negotiations.
88  It is interesting to observe the notion of 'place-oriented' citizenship as *discourse* dis-
    cerned from the study of citizenship practice in the EC/U context, on the one hand,
    with the application of 'place-sensitive' citizenship as a *concept* suggested by Jenson's
    work on citizenship in the Canadian context. Jane Jenson, 'Citizenship and Equity.
    Variations Across Time and Space', in Janet Hiebert (ed.), *Political Ethics: A Canadian
    Perspective*, vol. 12 of the Research Studies of the Royal Commission on Electoral Re-
    form and Party Financing, Toronto: Dundurn Press (1992). This observation may be
    crucial for subsequent comparative studies on citizenship practice in contexts that differ
    from those of the familiar nation-state model.
89  See: Antiracist Network for Equality in Europe (ARNE), (1995), p. 4; emphasis in
    original.

bate.

In this final section on the Maastricht period, I highlight two aspects which are important for an understanding of the new citizenship article with a view to further citizenship practice. One is an understanding of how the formal attributes of the *acquis* have been expanded and what this implies for citizenship practice. This aspect relies largely on legal information. It is based on the letter of the Treaty and most extensively elaborated by formal legal approaches.[90] The other is about the informal attributes of the *acquis* that provide information about the meaning of this newly established supranational citizenship. It is about public expectations of citizenship and the means to realise them. This aspect was most clearly explored by groups and committees of the European Parliament as well as by a rising number of interest groups as well as social movements.[91]

With the ratification of the Maastricht Treaty, a legal focus on a politically rather than a socio-culturally derived definition of citizenship questions the legal restriction of third country nationals' political participation according to the concept of nationality. Participation in elections for both the European Parliament and on the municipal level were now to be carried out according to geographical, not national, terms of belonging. While it is often and correctly emphasised that nationality remains the pre-condition for obtaining the political right to vote,[92] the notion of 'place' was thus introduced as a new component to identify where to practice this right. According to Socialist MEP Lode van Outrive, a prospective step towards solving the problem of third country nationals' rights to participate politically could lie in a move towards a 'place-oriented definition of citizenship'.[93] And, as the EP argued, these standards are no longer appropriate at a time when people often do not live and work within the national contexts of their place of birth, but have established themselves as residents in new contexts. In making these observations, the European Parliament brings the tension between socio-economic inclusion and political exclusion to the fore: a legal stipulation of citizenship leads to the political exclusion of large

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[90]  See for example: O'Keeffe, *op. cite.*, note 1; Closa, *op. cite.*, note 11; C. Closa, 'The Concept of Citizenship in the Treaty on European Union', Vol 29 *Common Market Law Review* (1992); S. O'Leary, 'The Relationship between Community Citizenship and the Protectin of Fundamental Rights in Community Law', Vol 32 *Common Market Law Review* (1995), p. 519.

[91]  See for example, the Parliament's Bindi Reports of 1991-1993 (PE 207.047/fin.), as well as the Imbeni Report of 1993 (PE 206.762), the Banotti Report of 1993 (PE 206.769/fin.); contributions by church and immigration committees (Niedersachsenbüro, 1993); and for the social movements see the Antiracist Network for Equality in Europe (ARNE) and Eurotopia (ARNE (1995); Eurotopia (1995)).

[92]  Closa, *op. cite.*, note 90, pp. 487-518; O'Leary, *op. cite.*, note 90; O'Keeffe, David. *op. cite.*, note 1; M. Martiniello, 'Citizenship of the European Union. A Critical View,' in R. Bauböck (ed.), *From Aliens to Citizens, Redefining the Status of Immigrants in Europe*, Aldershot: Avebury (1994), pp. 29-47.

[93]  *Verbindungsbüro des Landes Niedersachsen bei den Europäischen Gemeinschaften. Disskussionsveranstaltung Ausweitung der Unionsbürgerschaft als Mittel einer EG-Einwanderungspolitik?* Brussels, 28 September 1993, in Official Meeting Report (on file with author).

groups of otherwise socially, culturally and economically included members of a
the European Union as a new community.[94]

Three major characteristics of citizenship practice were reflected in the first
Commission report on citizenship since the Maastricht Treaty entered into force
on 1 November 1993. First, the report revealed a discursive link to the original
idea of creating a European identity as it had been forged in the early 1970s and
then been integrated step-by-step into the treaty until it culminated in the stipu-
lation of citizenship in the Maastricht Treaty. Second, it expressed the interde-
pendence of special rights as political rights of citizens and the passport union,
which includes the establishment of the freedom of movement. And, third, by
bringing attention to the dynamic nature of the Treaty provisions, the document
underlined the constructive aspect of this formal expansion of the *acquis*. With
regard to the potential of post-Maastricht citizenship promises, it is crucial to
note that previous citizenship practice has created new resources for the *acquis*.
Beyond the formal aspect of new political rights, the practice shows that citizen-
ship practice may have ceased to be a top-down practice that relies on Commu-
nity institutions only. Instead an emerging interest of social forces such as social
movements and interest groups imply that citizenship practice now also increas-
ingly includes more actors. As the Imbeni Report of the Parliament put it, 'now
that the Treaty has been ratified, consideration must be given to the new legal
framework for improving it.'[95]

The date of the Maastricht entering into force on November 1, 1993, thus
marks one stage in the story of constructing European citizenship; namely, citi-
zenship has been included in the Treaty, it is clearly defined and visible. Now,
Article 8 EC Treaty may be invoked. However, the embedding of citizenship in
the Treaty represents but one dimension of this story. Beyond this legal dimen-
sion, the institutional as well as the socio-cultural dimensions have proved to be
crucial, as both contributed not only to the project of market-making but also to
that of Union-building. Secondly, this chapter began with the assumption of
citizenship being a dynamic concept. In other words, if the union-building con-
tribution of citizenship is examined, it is important to understand where such
constructive aspects of citizenship are situated and which institutions have been
involved in constructing them.

The ensuing debates over voting rights for third-country nationals after Maas-
tricht add a new insight into the case study. They suggest a change in the devel-
oping practice of Union citizenship. Now, not only the institutions of the Euro-
polity but also NGOs and interest groups began to voice their demands based on
the new formal resources of an expanded *acquis*. Union citizenship was defined
and the political right to vote of Union citizens was beginning to be generalised
across the Union. New opportunities for citizenship practice were created, in-
cluding new access to political participation (European and municipal elections),

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[94] The excluded groups comprise according to different estimates between 8 and 13 million
people (O'Keeffe, *op. cite.*, note 1.)

[95] PE 206.762 and PE 206.250, 20 October 1993, p. 10.

the right to move and reside freely within the territory of Member States, the right to petition; and the right to consular protection while abroad.

Compared to the early beginnings of citizenship practice, this struggle takes place in a political opportunity structure that includes a revised and expanded *acquis communautaire*. The set of formal institutional arrangements now entails the Single European Act (1987), the Social Charter (1989), the Schengen Convention (1990), and (with the Maastricht Treaty) most importantly, the Committee of the Regions, co-decision and Article 8 EC Treaty on Union Citizenship (1993). These innovations include formal institutional aspects of the *acquis communautaire* such as conventions, acts, articles, protocols and procedures which decisively contributed to a changing political opportunity structure by facilitating new formal resources. Whether or not they are accessible and if so how, will become evident as the negotiations over, for example, place-oriented citizenship rights for third-country nationals within the framework of the current IGC. The resources to be mobilised towards this end have in part already been created by citizenship practice and are hence part of the *acquis*. They consist, for example of a set of formal resources (in particular, Article 8 EC Treaty) on the one hand, but also of a set of practices and meanings that had been accumulated over time (such as for example, the Commission's normative argument in favour of voting rights for those citizens who do not reside in the Member State of their origin), on the other. The emergent demands for expanded citizenship rights based on residence and not on nationality suggest that the time to work with the newly established institution of Union citizenship has come. The question is now one of political opportunity.

## IV. CONCLUSION

As European citizenship practice proceeds, national citizenship practice does not remain unchallenged. That is, if citizenship is established via civil, political and social rights, and there is a role for citizenship in forging the principles of identity, legitimacy and solidarity as basic principles that lie at the centre of the modern nation-state, then this creates a dilemma for the participating Member States in the EC. After all, the Member States' identity, legitimacy and solidarity stems from precisely these aspects of citizenship. A construction of a European citizenship therefore means a challenge to their political domain.[96] Yet this very process has been encouraged by the introduction of special rights to the *acquis*.

This chapter argued that once we agree that Union citizenship holds promises for the future and, if we furthermore share the observation that the familiar categories of nationality and the nation-state do not apply in the case of Union

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[96] Van den Berghe points at this dilemma early in the process when he notes that to grant 'foreigners'—that is nationals living outside their Member State of origin within the Community—the political right to vote is considered by the majority of the Member States as breaking with the 'idea that the political domain is reserved for its own nationals'. Van den Berghe, *op. cite.*, note 58.

citizenship, then the question of what citizenship entails apart from formal criteria needs to be addressed anew. In taking on this task, the chapter proposed a way of understanding Union citizenship based on a study of citizenship as a practice. To that end, it carried out a policy analysis based on the developing discourse on citizenship. It assumed that an analysis of the emergence of citizenship as a policy facilitates an insight into the developing meaning and practice of Union citizenship over time. This perspective facilitated a special focus on the creation and transformation of the resources of Union citizenship such as rules, procedures, practices and ideas as they appear as part of the citizenship discourse. The assumption was that a careful reading of the making of this discourse would provide key information as to the roots of this new type of citizenship and, subsequently, shed light on the potential it holds for future citizenship politics. Among other things, these promises depend on the resources which have been accumulated within the citizenship *acquis communautaire* over time.

The chapter drew attention to the fact that citizenship policy-making in the EU/EC began from the modern idea of creating a 'European Identity'. In pursuing this strategy as one which would enable the European community to speak with one voice in the international realm, over twenty years the developing practice of European citizenship created a fragmented type of citizenship. This fragmented Union citizenship is probably here to stay. It will not turn into anything akin to a nationally defined citizenship. While it entails elements of modern citizenship such as rights, access, and belonging, it is not based on the modern criteria of territoriality, statehood and nationality. Instead, the dimensions of rights, access and belonging mirror the fragmented Euro-polity. The analysis of the developing practice of European citizenship based on expanding resources within the citizenship *acquis* thus finds that Union citizenship means much more than a simple compilation of rights, a conclusion which has been suggested by some formal legal approaches. The analysis also sheds light on the creation of belongingness to the EU and suggests that it emerged according to what individuals did or might aspire to do with reference to economic and political participation. Crossing national borders as economically active citizens, waving closed passports at internal Community borders as travellers, exchanging knowledge as scholars and students, voting commonly for the European Parliament and sharing municipal governance as Union citizens are aspects of this process.

# CHAPTER XX
# SUPRANATIONAL CITIZENSHIP AND DEMOCRACY: NORMATIVE AND EMPIRICAL DIMENSIONS*

*Carlos Closa*

## I. INTRODUCTION

The aim of this chapter is to explore the perspectives for a supranational democracy in the EU in connection with the legal status of EU citizenship. The discussion starts by identifying the normative justification for EU level democracy: the incapability of Member States to secure an equilibrium between legitimacy and efficient provision of citizens necessities (Part I). The need of increasing legitimacy provided by efficient decision-making (one that might deliver a set of outcomes satisfactory to all participants) clashes with the control capability by individual Member States and the legitimising subjects. Majority principle is the procedural mechanism used in democracy in order to bridge efficient decision-making and legitimacy. Majority voting has featured prominently in discussions on constitutional reform. However, a preliminary question is to elucidate the criteria that made majority a legitimate procedure. Thus, the second step is to clarify the relationship between procedural comprehension of democracy and its subjective referent (Part II). For this, the characterisation of the political subject of democracy, (the *demos*) is briefly discussed in both normative and empirical dimensions. The aim is to determine, in normative terms, the possibilities for consistency between supranational democracy and national citizenships, and between these and supranational citizenship. Although there is some ground to state the normative compatibility between those, the argument must take into account the functional requirements of democracy (Part III). The diagnosis is the lack of a European public sphere. Whether this will emerge in the future is an open question, but, in any case, strategies that attempt to reconstruct models drawn from nation-states do not seem normatively acceptable. Alternatively, some normative requirements for a European public sphere are discussed. Finally, it is suggested that some institutional developments of EU citizenship consistent with nationally-bounded normative discourses on democracy and citizenship might assists the emergence of a European public space (Part IV).