# THE CONCEPT OF EUROPEAN CITIZENSHIP

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**Abstract:**
*The European integration represents a complex process with initial objectives of economic matter, later expanding its area of interest towards a plenary integration, regarding almost all the domains of interstates collaboration, except national security and public order. Within this framework, the progress recorded within the process of bringing the European nations more closely, a common set of values was set for all the citizens of the member states. The current study set as a purpose to identify the challenges the states need to cope with, related to the definition of the concept of European citizenship.*
**Keywords:** *sovereignty, citizenship, international organisation*

## General considerations

The entire European construction is based on the goal of setting an ever tighter union among the people living within the European area. Therefore, the member states have decided to have a peaceful future founded on common values, aspirations and principles, even from the very first steps of its existence. A consolidated close relation among the European nations implies that, in the moment of the existence of a reasonably advance stage in the setting of the European Union, to set a political-legal form of relation between the present international organisation and the persons inhabiting its territorial boundaries.

For this, the member states, through the free will agreement, are bound to conceptualise this relation to overlap the national legislation naturally, without affecting it. Though it is not a unanimously shared vision by the EU member states, notwithstanding that the idea of this kind of new citizenship to belong to more peoples, is not a new one. As early as July 1940, Charles de Gaulle, Jean Monet and Winston Churchill considered as possible the existence of a common citizenship within a French-British Association.

Discrepancies derive from the conceiving tools and the patterns the current world order are offering, among which the bluntest confrontation is represented by the

referential system to which the new European citizenship is to be reported to. This new concept is formed of two terms which symbolise two different legal plans, the national and the international. Although the concept of “citizenship” originates in the domestic law, it evolved from the time of the Greek or Roman fortresses, to which it continues to relate to[1],enlarging its semantic as well in the sphere of international law.

**The legal concept of citizenship**

The modern state represents a superior form of organisation and regulation, both in the domestic context of a state[2], as well as in what the international law domain is concerned. The term of citizen has multiple significances, depending on the legal subject it is retrieved and constitutes one of the illustrating concepts in matter of identification of certain legal institutions both in concepts and theories from national legislation and in the domain of the international relations alike. [3]

The term of citizen designates in the constitutional law mainly a holder of rights towards the state he/she belongs to while the same concept ignores its citizen condition in public or private international law. Therefore, for this branch of law only the membership sovereignty according to which a certain international conduct is regulated for the states towards their nationals are important. Most of the constitutions and law currently use the term of citizenship to designate this membership.

The etymology of the word indicates a large tradition of the institution of citizenship, deriving from the Latin word *civitatem* = the English fortress or city. The western languages usedifferent terms to designate of the institution as *citoyen* (Fr.), *ciudadano* (Sp.), *cittadino* (It.), meaning “*full rights citizen*”, “active citizen”. In French, for instance, national and nationalité are used for the terms citizen or citizenship, but with a wide range of meanings. The Russian term *grajdanin*is translated in Romanian“citizen -cetaţean”(*grajdanstvo*- “citizenship”), but with a wider semantics than in Romanian, the one of “person.”

In Romania, until the moment when citizenship was defined in 1975, the term has remained dedicated by legislation with consistency even from 1948. Up to then, the names given to this legal institution were either inadequate or were overcome by the evolutions of the language *(fortress*, *police* or even*city*), or had, mainly, another

significance, such as *citizenship*, *suditence*or *obedience, citizenship*,*nationality*, which were the equivalents for *indigenous*, *sudit*, *subject*, *citizen*, *national*,to which *native* is added.

Researching the legal substance of the concept of citizenship, we can notice that “Among all legal matters, none of them is more important than the citizenship for a state, as its force and power depend on the number and the attachment of its citizens for the individual, since its connections with the state depend on the private or public conditions of his existence [...] the entire life is involved in this connection.” [4]

The concept of citizenship doesn’t have only legal valences, but also political, if we regard it as a person’s membership to a human community, organised in a state form.

The legal complexity of the institution of citizenship originates from the encircling of a series of particular features, differently analysed within the framework of various branches of the law such as constitutional law, international law, private international law or family law and so on.

The interpretations used for citizenship within constitutional law designate the legal institution, which is a large range of legal regulations, and also the legal conditions features which set the quality of citizen for individuals. The second meaning has a special importance and represents the subject of arguments in legal literature, due to the fact it treats citizenship in terms of national law matter, with all the approach involves:the legal concept of the notion of citizenship of a person, acquiring or loss of nationality.

The term of citizenship was defined in legal literature in multiple ways, such as “a state and individual connection”, “a legal and political connection”, “a legal membership” or an inherent quality of a person.[5]

The objective interpretation of the concept refers to the rendering of more or less complex certain legal relations, while the subjective approach concerns the rendering of the same relations, but regarded from the perspective of one of the subjects of these legal relations.The subjective interpretation addresses citizenship as a legal quality of a private person, named citizen, of being a member of a state. All the other constitutional rights derive from it.

A different interpretation is the one from the objective approach, in which the citizenship is the legal fundamental relation between the private person and the state, and to a wider meaning between individual and society. From this situation the equality among the members of the same state originates, from which they are connected in an equal report, as force and legal matter, as citizens with equal rights who take part in exercising the state power and benefits from his own legal system. Correlatively, these rights correspond to duties to support and promote the interest of a particular state, in terms of law order.

Starting from the features of the state sovereignty the extraterritoriality character of the legal connection between the state and its citizen can be proved. The connection not only remains after leaving the territory, but also cannot be alienated to another private person, as it is inalienable. Internationally, these features arerelativized, qualitatively competing one against another and being also limited by the conventions regarding the general human condition and by those regarding the determination of citizenship, the tendency that the giving of citizenship can become a mandatory general requirement being present. [6]

For this purpose, the provisions of the international documents regarding human rights and fundamental freedoms enshrine the right of each human being to citizenship, aspect which substantially contributes to the diminishing up to total removal of the statelessness cases. *The Universal Declaration of Human Rights* provides that “any individual shall have the right to citizenship” and that “no human being can be arbitrary deprived of his citizenship or his right to change his citizenship” (art. 15).

In addition, *The InternationalCovenantfor Civil and Political Rights* provides that everyone shall have the right to recognition everywhere as a person before the law (art. 16), which is firstly determined by his citizenship. The same text of the Covenant also provides that “every child has the right to acquire a nationality” [7] (art. 24 pct. 3).

From what was mentioned above, we can conclude that the state has exclusive power regarding the regulation in matter of citizenship. The national legislation is the one to determine the connection between citizenship, the ways of its acquiring and loss, the rights and duties of citizenship for an individual, as well as the consequences residing from it. These powers reside from the principle of sovereignty which represent

the background for the whole current world order. The principle of sovereign equality of the states derives also from the content and the characteristic features of this principle, which acknowledges the exclusive power of a state to regulate in matters, in his quality of primal subject of international law.

**The European citizenship**

The present world order acknowledges the sovereign right of a state to regulate in matters of national and international law, conferring it total legal capacity. The international organisations, among which the European Union, lack this capacity. They are set and function according to objectives set by constitutive treaties, negotiated and signed by states, based on their freely expressed will.

The role of the international organisations is to achieve objectives set by the member states, in their legal international capacity manifesting within the limits of the fulfilment of the purposes they set, and correlatively, their legal capacity is a functional one which is not at all total, as in the case of the states,hence the impossibility of being able to set any citizenship connection with private persons, this deriving from sovereignty, an attribute characteristic only for states.

Under these terms, the problem of legitimising a concept as *the European citizenship* arises, which comprises in a broad sense two terms which belong to different regulation trellis, national and international, [8]national as it includes the term of citizenship, and international as any European level construction is based on the basic regulation principles of international law. In order to identify the significance used by the phrase, we'll begin from the manner it is regulated by the constitutive treaties of the European Union.

The treaty of Maastricht is the first international document to introduce the European citizenship, which confers essential role for the concept within the wide process of European integration. The European integration has as objective, among others, the institutionalisation of the European citizenship according to the regulations of the E.U. institutions, considering therefore as "a new stage of the process of setting a new tighter Union among the European nations" [9].

The provisions of the Treaty on European Union, by introducing the concept of European citizen, promotes and consolidates the European identity by the direct involvement of the citizens from the member states in the European integration process. According to the definition adopted in the Treaty of Maastricht, the European citizenship is not a legal institution as such, but more a subjective interpretation of this quality, by considering each individual which has the citizenship of a member state while being also a citizen of the European Union, which is redundant information.

If we are to pursue the goal stated by the signatories of the Treaty of Maastricht, a first step to this direction was indirectly made by setting and developing a sole Market, in which the citizens of the member states benefit from a range of general rights derived from this project in diverse as freedom of circulation of goods and services, consumers' protection and public health, equal opportunities and treatments, employment and social protection access etc. [10]

The definition of the European citizen is present from the first paragraph of the article 17 (former art. 8) of the Treaty of setting EC[11], which states that the European citizen is "that individual with a nationality (citizenship) of a member state". Later on, within the Intergovernmental Conference limits, the signatory states of the Treaty of Maastricht adopted in order to complete the definition a Declaration[12], added in 1992 to the Treaty,which clarified the identity of the individuals as being citizens of a member state or another should be done by reference to the national law of the state in case.

The Treaty of Amsterdam added arrange of additions to the previous definitions and interpretations. The provisions of article 17 from TEC[13]states that "*the citizenship of the Union shall complete the national citizenship but shall not replace"*, interpretation which institutionalizes an already settled principle within the content of the Intergovernmental Conference Declaration annexed to the Treaty of Maastricht[14].

This ratification outlines and consolidates one of the characteristics of the European citizenship which it defines as inseparable from the national citizenship which remains, in all circumstances, primal and original. As a consequence, the acquire and loss of European citizenship is conditioned by the acquire and loss of the citizenship of one of the member states of the Union. To this effect, article 17 from TEC clearly

regulates that: *"Any individual with a citizenship of an EU member state shall be citizen of the Union"*.

From the mentioned regulations results that the additional and complementary character of the community citizenship, with rights and duties which individualize it as a *sui generis* model, but which doesn't set a supplementary citizenship for the national one. The same consequences are recognisable for the provisions of the Treaty on EC which sets that n individual shall not own two citizenships, the citizenship of the origin state and the European citizenship. From the legal point of view we are placed in another situation compared to the one in which an individual owns the citizenship of two or more distinct states.

The double citizenship as defined by the international law differs fundamentally from the apparent "doublecitizenship" which any citizen of any EU member state can acquire automatically. There are material differences between the two political-legal categories which a private person can set. This has the citizenship of an EU member state to which he belongs, being the final beneficiary only of a European law regulated at the level of the European Union, as a functional international legal, limited entity which addresses the member state exclusively.

An important contribution is added by the Treaty of Amsterdam through its ratifications which refer to article 18 of the Treaty on EC, regarding the right to freedom of movement and the right to travel. According to these provisions, the EU Council in his capacity of EU institution, is able to take decisions targeting the promotion of these rights, regulating according the codecision procedure as provided by article 251 (former article 189 B) of the Treaty on EC.

Articles 17-22 of the Treaty on EC defines the European citizen and boosts the legal situations the individuals already enjoyed as *de facto*. Partially, the matter of the related rights of the European citizenship are already settled officially into a certain communitarian *acquis*[15] and consolidated the already existing rights of the derived law or in practice such as the right to freedom of movement or the right to petition to the European Parliament.

A significant contribution which would shape the concept of European citizenship had the acknowledgement of the right to vote of the citizens from the member states on

the entire territory of the Union and the one to candidate in the scrutiny organised for the European Parliament elections as well as for the local communities from any member state. This consistent package of political rights from the national legal heritage available for any citizen is taken over by analogy at the level of EU, therefore setting a material approach to the classic concept of citizenship.

From what was mentioned above we can conclude that the rights derived from the new citizenship statute of the Union do not enrich the legal heritage of an individual within the legislative framework of a state of origin, but it generates consequences in other two direction such as:

- in the legislation of other member states: the right to freedom of movement, the right to travel or electoral rights;
- in the communitarian legislation: the right to petition by notifying the Mediator;
- in international legislation: regulations regarding diplomatic protection.

To conclude, we can state that the main preoccupation of the regulations setting the concept of European citizenship aim firstly to fulfil the terms provided by each member state of UE and, secondly, implies the observance of the demands set at the level of the community. [16]

Within this framework, the concept of European citizenship is to consider the fact that it is mandatory to be based on indivisible and universal values of the human dignity promoted by the European Union, such as freedom, equality and solidarity and which will also contribute to the preservation and the development of the entire spiritual and moral heritage of the member states. Seen in this light, the European Union stands on the principle of rule of law and, as a consequence, applies specific mechanisms of functioning adjusting them to the particularity of the European construction.

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[20] It is about the *Treaty on European Union*, Community which, starting with 1993 (the year the Treaty of Maastricht came into force) changes its name into the European Community, the treaty becoming thus "The Treaty on The European Community" (A. Fuerea, cited above, p. 34, note 3).
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