

THE EUROPEAN UNION CITIZENSHIP

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Abstract: *The Treaty of Maastricht, introduced the European citizenship to strengthen the existing relationship between the EU and the Member State citizens, but did not define the term. In fact, the Treaties of Maastricht and Amsterdam, although based on the two concepts of the Europe of the citizens and the European Union citizenship, establish a set of rights that are closer to the concept of citizenship in the traditional sense than to the one of the Europe of citizens. The citizenship of the European Union under the Maastricht Treaty is closely linked to the nationality of a Member State and is regarded as a first outline of a common European identity and cannot be compared with the citizenship of a state since it does establish a relationship between the citizen and the European Union regarding rights and obligations. The European citizenship is fundamentally distinct from the national one, which, by the wording of the Treaty of Amsterdam, “is completed but not replaced by the former”.*

Keywords: *citizen, citizenship, European citizen, European citizenship, national citizenship, Europe of the citizens, Treaty of Maastricht, Treaty of Amsterdam, Treaty of Lisbon*

The entry into force, on 1 January 1993, of the Maastricht Treaty was also thought to be, in a more or less justified manner, the change of the elitist, technocratic and economic Europe into one in which the citizen formally became the protagonist of the European political system, an European citizen who “participates in the affairs of the city” in accordance with the principle of Aristotle.

The report on the European Union prepared by LéoTindemans, the Belgian Prime Minister, in 1975, has the merit of having summarized the various ambitious stages of the construction of the status of “citizen” at European level: be it about the year 1974, when the principle of direct elections for the European Parliament was introduced or about the period 1990 – 1991 that preceded the Treaty of Maastricht in which the term “citizen” was formally defined. Additionally, this report emphasizes the need of closer relationships between the European institutions and the citizens, but also the foundation of some “European solidarity” thus proposing an active European citizenship. It also presented several tools: encouraging the collaboration among national television and radio, the equivalence of diplomas and study programs, as well as more exchanges between universities. All these target the interaction among European people, thus the citizens being able to know each other and to build relationships.

Even if the content of the Treaty of Maastricht mentions through Article 20 that “each citizen having the citizenship of any member state is also a citizen of the Union” and that “European Union citizenship adds to and doesn’t replace the national citizenship”, soon after the formalization of the status of European citizen there was confusion over the national and European citizenship. Therefore, immediately after the entry into force of the Treaty of Maastricht, the European Commission received some letters from the people of the member states in which, on the one hand, they thanked for the intention of giving

them the “European citizenship” and, on the other hand, they refused the proposition as they rejected giving up their own national citizenship.

Subsequently, the aim of the *Treaty of Amsterdam* was, among others, to specify more clearly the rights and obligations of a European, national citizenship being only a sine qua non condition. Furthermore, the *Treaty of Lisbon* brought forward two new facets of the European citizenship, namely the right of the citizens to legislative initiative and the enhancement of the power awarded to the European Parliament, therefore stronger ties among institutions and citizens.

In positive law, citizenship continues to designate the legal status that allows a person to play an active part in the life of the state, enjoying civil and political rights such as the right of residence, the right to elect and be elected, the right to apply for public positions, the right to diplomatic and consular protection, etc... and being, as well, subject to certain obligations, such as the military service. The structure of the European Union therefore includes the exercise of rights at both EU and member state levels.

European citizenship does not suppress any of the rights inherent in national citizenship. It simply gives additional rights that are exercised either at EU level (for example the right to vote and be elected in the European Parliament) or at Member State level (for example the right to elect and be elected in the municipal elections). Some elements of the European citizenship can sometimes be likely to weaken the national citizenship to the extent that a national of a Member State is recognized rights that used to be reserved only to the citizens of that state. European citizenship can thus be seen as threatening or competing national citizenship. This is particularly obvious in what regards the right of residence or the right to elect or be elected, not only in the European Parliament but also in municipal elections; hence the reluctance of many states in developing European citizenship. Thus, Denmark has sought to declare that EU citizenship does not grant, by any means, the right to acquire Danish nationality.

In conclusion, the status of European citizen is subsequent to the possession or acquisition of the nationality on a member state and the national law of each EU member state must determine whether a person has his/her nationality or not. This solution was expressly confirmed by the declaration on the nationality of a Member State appended to the Maastricht Treaty and according to which “each time the Treaty establishing the European Community refers to the citizens of the member states, the issue whether a distinct person owns the citizenship of one or another member state is to be cleared only by the national law of the state in question. Difficulties may arise if the EU states have different laws and practices concerning granting and withdrawal of citizenship (a conflict between *jus soli* (*the right of the soil*) and *jus sanguinis* (*the right of blood*) conflict, different practices in the naturalization of foreign laborers). The States that restrict the acquisition of citizenship reluctantly accept opening their territory, the labor market, and the political rights for citizens from other Member States that are more liberal in this area. Thus, the European citizenship demands the member states to harmonize their national legislation in this area, although, it has to be admitted, there still are political sensitivities.

In 1984, The European Council of Fontainebleau developed the concept of *the Europe of the citizens*. The basic idea was that the citizen must be placed in the heart of the European construction, to develop in him a sense of belonging to the European Union. Among the specific rights recognized in the perspective of a *Europe of the citizens* there are, undoubtedly, special rights inherent in the European citizenship and which establish a genuine political citizenship. But we find also some rights deriving from the economic integration, such as the free access to employment in a chosen country and other rights that consecrate the widening of the integration field, such as the right to culture and environmental protection.

But this conception takes away a large part of concept's specificity as the rights of citizens are no longer distinguishable from the rights of every human being.

In 1992, The Treaty of Maastricht, introduced the European citizenship to strengthen the existing relationship between the EU and the Member State citizens, but did not define the term. In fact, the Treaties of Maastricht and Amsterdam, although based on the two concepts of *the Europe of the citizens* and *the European Union citizenship*, establish a set of rights that are closer to the concept of citizenship in the traditional sense than to the one of *the Europe of citizens*. *The citizenship of the European Union* under the Maastricht Treaty is closely linked to the nationality of a Member State and is regarded as a first outline of a common European identity and cannot be compared with the citizenship of a state since it does establish a relationship between the citizen and the European Union regarding rights and obligations. The literature has described this judicial institution as a civic political dimension added to the state membership of the citizens of the Common Market. The European citizenship is fundamentally distinct from the national one, which, by the wording of the Treaty of Amsterdam, “*is completed but not replaced by the former*”.

The dispositions included in the second part of the CE Treaty under the title “the citizenship of the European Union” constitute a study guide of the status of the European citizen and they proclaim, in a logical manner, that the citizens of the European Union not only have rights but are also subject to obligations. However, there is limited reference to “the obligations provided by the present treaty”, the content of which is not mentioned. As far as the rights are concerned, on the one hand the Treaty reaffirms the already recognized right of free travelling and of residence, and, on the other hand, it consecrates new political rights (the right to vote and to be elected in European and municipal elections) and protection rights (diplomatic and consular protection, the right of petition, the complaint addressed to the mediator, the right of communication with the community institutions and organs).

The freedom of travelling and of residence is one of the fundamentals of the European Community and its ties to the European citizenship are critical, mainly from a symbolic point of view. It is currently a “branch” that separates from the citizenship due to the part it has played in the development of the community integration. Regarding the other rights, they derive from the two concepts of *European citizenship* and of *the Europe of the citizens*, but neither of them is entirely respected. Traditionally, the citizenship regards a status that is essentially political. That is why the access to public position shows affinities with political rights, such as the participation in the elections for the European Parliament and in the municipal elections. The protection rights provided by the Treaty refer to a Europe of the citizens that is not, however, limited to the citizens of the Member States. These guarantees have strong with the jurisdictional protection and the access to documents. In fact, the treaties enshrine these complementarities.

The confusion between the two perspectives, *the European citizenship* and *the Europe of citizens*, is very common. Thus, in its Resolution of 17 May 1995 on the functioning of the European Union Treaty, the European Parliament demanded that European citizenship should be strengthened especially by the European Union's accession to the European Convention on the Human Rights, the prohibition of the death penalty, the protection of minorities, the equality between men and women, and by strengthening the political citizenship. Clearly, these rights, although recognized in the European Union law, are human rights in general, so they are neither for the citizens of the Member States, nor reserved rights inherent in European citizenship.

The inclusion of articles 17-22 about *the European Union citizenship* in the EC Treaty and not in the EU Treaty, as it would have been natural, is explained by the fact that these articles are subjective rights of the citizens of the European Union whose legal protection can be better achieved by Community courts. The question whether the legal institution of the European Union citizenship incorporates rights provided in column two (CFSP, Common Foreign Security Policy) and three (CPJ - Police and Judicial Cooperation in Criminal Matters) of European integration (the European Union), has a negative answer as CFSP and CPJ are forms of interstate cooperation, and the acts of this framework force only Member States only, not their citizens.

Currently, the Treaty of Lisbon has the rank of primary Community law and modifies the constituent treaties (the Treaty regarding the European Union - the Maastricht Treaty and the European Community Treaty - the Treaty of Rome), the EU Treaty being called the Treaty on the European Union (TEU) and the EC Treaty - the Treaty on the Functioning of the European Union (TFEU) [1], and the provisions on the EU citizenship take on a new stand-alone title called “Non-discrimination and the citizenship of the European Union”. A novelty is the introduction of the right of legislative initiative of the EU citizens. At the initiative of at least two million citizens of the Union, who are nationals of a significant number of Member States, the European Commission may be invited to submit, within the limits of its attributions, an appropriate proposal on matters that these citizens consider necessary to be subject to legal acts of the Union in order to implement the treaties [2].

The euro-barometer survey published in June 2009 outlines a few lines of cleavage between citizens of different Member States in terms of understanding the benefits of EU membership, the trust in institutions, the voice of the country within the EU, the knowledge about Brussels institutions. For Romanians, the European citizenship translates into the freedom to travel, study and work on the territory of any Member State. For understanding this, there is no need for polls - many of them not coping with the phenomenon - and no need for official reports. Just look at social changes: over a million Romanians working or studying in other EU countries, the political parties have been campaigning in Italy and Spain and routes as Suceava-Madrid or Bacău-Turin, etc. In other words, they live the European citizenship in the Romanian style.

However, the 2009 European elections results reveal a decrease in the rate of participation of European citizens to vote. This is felt not only in Romania and Bulgaria, countries that are still in the process of adjustment, but also in countries like Spain or Italy. In this case, is European citizenship rather formal than functional? Possibly, but certainly there are three dimensions that are key variables in explaining this phenomenon: the understanding of the process of functioning of the European Union, the capacity of information transmission from institutions to citizens and the discourse of the political leaders at national level.

REFERENCES

- [1] Consolidated versions of the Treaty on the European Union and the Treaty on the Functioning of the European Union, the Official Journal of the European Union. C 115/2008, p. 1-361.
- [2] Article 11 of the Treaty on the European Union.