

# THE SIGNIFICANCE OF THE INSTITUTION OF THE EUROPEAN CITIZENSHIP IN THE INTERNATIONAL LAW

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## Abstract

*Romania's accession to the European Union has given a stronger impulse for the examination and better understanding of the European Community regulations which become a part of our own legislation.*

*In this context, the interpretation and execution of legal provisions regarding citizenship, the status of foreigners and that of people who are not citizens of any other state, present multiple significations and implications regarding social, political and even economical life of our country. The European citizenship is a flexible institution which serves the inhabitants of the member states. It is to be mentioned that the purpose of this institution is not to substitute national citizenship, but to complement it. On the other hand, the internal legislation of the member states – which is rather diverse and controversial in most cases – has the role to regulate the access of the citizens to the European citizenship. Citizenship is a complex process, which implies maintaining a negotiated social integration, which refers to all those living the today's Europe and who, starting today, have a support point for the future.*

**Keywords:** European Union, European Council, citizenship, European Citizenship, statelessness.

## Introduction

Therefore, the first impact of EU integration is changing the status of the Romanian citizen. Even if the majority of rights covered by European citizenship coincide with those covered by the current Romanian Constitution, change of status still remains essential, by changing the entity to which it belongs.

In our society are discussed at length the issue of citizenship. The central issue is the question of whether one and the same person may simultaneously hold two or more nationalities and also considering the advantages of being a citizen of one EU Member. This latter statute is wished by more and more people because it gives you some rights, such as freedom of establishment, the right to move freely in the EU countries, the right to participate in a stable and continuous economic life of a Member State other than the State of origin, to obtain a non-wage income from an activity, enables the visa-free travel within Europe or around the world, to engage in gainful employment where it is better.

## Paper content

The ruling principle in this regard is the prohibition of discriminatory measures based on nationality against the nationals of the Member States, and assimilation to nationals of persons established in another EU Member State than the State of origin.

Timeliness of national citizenship is due to the practical importance that the notion “citizenship” has in terms of a democratic society and the fact that the benefits accruing from citizenship depends on the knowledge offered by the holder of the rights and obligations it involves the quality of being a citizen of a State.

Consequently, the paper is to highlight the specific nature of European citizenship which is still in training at European level, to determine the nature of European integration as well as its effects.

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Starting with the signing of the Treaty of Lisbon<sup>1</sup>, in the European political, legal, philosophical and sociological debate, reference to the notion of "European citizenship" is made. The notion of "nationality" is indeed related to fundamental questions such as identity, nation, political rights, sovereignty, membership, equality, democracy, migration, etc.

European citizenship was defined through the Treaty of Lisbon, entered into force on 1 December 2009, which includes rights, obligations and a more profound implication of the citizen in the process of European integration.

*Article 20* of the Treaty of Lisbon provides that "any person having the nationality of one of the Member States is a citizen of the European Union, in accordance with the valid laws in the respective state". The European Union citizenship does not replace national citizenship, but completes it, offering the possibility of exercising some of the Union citizenship rights on the territory of the Member States it lives on (and not only in the country he belongs to, as it happened in the past). The following practical conclusions emerge from here:

1. it is more necessary that a person has the citizenship of a member state in order to benefit from the Union citizenship;

2. European citizenship will complete and add to the rights offered by state citizenship.

A declaration attached to the Treaty reinforces the fact that „if a person detains the citizenship of a member state, this will be determined only by reference to the national laws of the respective state". Thus, it's for each state to indicate which persons are its citizens. This way, the Union citizenship gives a more profound and real meaning to belonging to the European Union. Additionally, the Europeans citizenship is based on the common principles of the member states: freedom, democracy, the principle of respecting the human rights and the rule of law. These principles are included in the Treaty of Lisbon and they emerge from the human fundamental rights and the special rights granted to the European citizen (free movement and civil rights), described in the Treaty.

The Treaty of Lisbon<sup>2</sup> that entered into force on the 1st of May 1999 consolidated the protection of fundamental rights, condemning any form of discrimination and it recognized the right to information and consumer protection. The citizenship of European Union offers rights to the citizens of the member states and consolidates the protection of their interests. The above-mentioned include: the right to free movement, the right of visit, the right to settlement, the right to work and study in the other member states of the Union. The Union law establishes many conditions for exercising these rights. For a visit longer than 3 months one needs a visitor pass. The entrance on the territory of another Member State can be forbidden only for reasons of security and public health, and the interdiction must be justified (as well as for expulsion).

Apart from the rights and obligations written in the Treaty for the foundation of the European Community<sup>3</sup>, the Union citizenship offers the following special rights:

- *the right to vote* and to be elected in the European Parliament and in the local elections in the resident state, in the same conditions as for the citizens of the respective state;

- *the right to benefit* on the territory of a third party state (which is not member of the European Union) of consular protection from diplomatic authorities of another Member State, if the state of provenience has no diplomatic representation in the respective third party state;

<sup>1</sup> The Treaty of Lisbon entered into force on 1 December 2009

<sup>2</sup> The Treaty of Lisbon is the most recent of all the treaties which, in the past, have modified the treaties based on which the European Community and European Union have been formed, as well as the Single European Act (1986), the Treaty regarding the European Union (Maastricht) (1992), the Treaty of Amsterdam (1997) and the Treaty of Nice (2001).

<sup>3</sup> The Treaty establishing the European Community was signed on March 25th, 1957 and came into force on January 1st, 1958. After signing, the treaty was amended by the Single European Act (17-28 February 1992) Treaty of European Union (Treaty of Maastricht – February 7th, 1992) Treaty of Amsterdam (October 2nd, 1997) and by numerous special regulations, becoming now the of European Community Treaty (ECT).

- *the right to petition* in front of the European Parliament and the right to appeal to the European Ombudsman for the examination of deficient administration of cases by communitarian institutions and bodies.

The Treaty of Lisbon, which entered into force on 1 December 2009, regulated the “European citizen” status which, in addition, includes the following rights:

- *the right to address* the European institutions in an Union official language and to receive an answer written in the same language;

- *the right to access* the documents of the European Parliament, Council and the European Committee, given certain conditions;

- *the right to non-discrimination*, based on nationality, sex, race, religion, disability, age or sexual orientation, between the Union citizens;

- *the right to equal access* to a public communitarian position.

In what concerns the right to information, the Charter of Fundamental Rights of the European Union, art. 42 specifies that any European citizen and any physical and juridical person, having its headquarters in a member state has the right to access the documents of the European Parliament, of the European Council, limited on public and private interest reasons. Information of citizen is considered to be a priority by the European institutions.

The European Committee, with the role of supervising the abidance to the Treaty, supervises the application of the provisions related to the European citizenship and elaborates periodic reports referring to the progress realized and on the difficulties encountered.

The fundamental rights and the democratic values are respected in the European Union member states, as signatories of the Charter of Fundamental Rights of the European Union. Observance of human rights has been confirmed by the Charter of Fundamental Rights of the European Union<sup>4</sup> and was incorporated in the Treaty of Lisbon. The guarantee of respecting the fundamental rights was reinforced by including the abidance of rights that derives from article 6, in what concerns the activities of the European institutions. In the same time, the *suspension clause* was introduced, through which measures can be taken in case of severe and repeated violation by a Member State of the principles that stand at the base of the Union. The engagement of the Union was reaffirmed, officially, in December 2000, when the Bill of Fundamental Rights of the European Union was proclaimed.

The Member States, with a great number of citizens from other Member States can reserve the rights to vote for the communitarian voters resident on their territory, for a minimum period that cannot exceed five years (and the right to candidate in elections can be reserved for communitarian voters resident on their territory for a minimum period that cannot exceed ten years). This derogation is applicable when the proportion of European citizens resident in a Member State without detaining its nationality exceeds 20% of the total number of Union citizens that are resident there. In the last three European elections, Luxembourg was the only Member State which invoked this derogation. In the case of municipal elections, the minimum necessary period of residence cannot exceed the period for which the municipal authority is elected, in what concerns the rights to vote, neither the double of this period, in what concerns the right to candidate. Two Member States (Luxembourg and Belgium) benefit from such derogation. Anyways, Belgium can impose a minimum period of residence only in a limited number of electoral districts and must announce its intention on doing so a year before the elections.

An analysis of the nature and content of European citizenship allows a better assessment of the society, which is in training at European level, but also tailors the way to a series of fundamental questions, such as: What rights are attached to the status of "European citizen"? Who can access European citizenship? Is there a link between territory, nationality and citizenship?

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<sup>4</sup> The *Charter of Fundamental Rights of the European Union*, dated 7 December 2000, has been solemnly proclaimed by the European Parliament, the European Council and the European Commission

It is significant that, creating a concept of "European citizenship" has led many states to modify their constitutional right. This has fuelled significant debate about the meaning and consequences of establishing one citizenship at European level and how will it affect each Member State's nationality and sovereignty

In the same time is desired an analysis of how the notion of "European citizenship" is regulated and the extent to which it can make an effective contribution to European integration. Although since 1948 was stated, by the Universal Declaration of Human Rights, a set of principles concerning the right to a nationality of every person and the right not to be arbitrarily deprived of his nationality, in many countries, even in Europe, these rights are not respected. And those affected by these violations are generic called "stateless". A stateless person is a person who is not considered as a national by any State in accordance with its domestic law. Some of them are refugees or migrants who have left their country of origin; others live in their country of origin but are not recognized as citizens. Many of them face a brutal discrimination relative to employment, provision of housing, access to education and health care. Hence the need to regulate the status of stateless persons in the European Union and the importance of further improving the legal system to protect this category of persons.

Up to this date, the Council of Europe adopted the Treaty of Lisbon and the Charter of Fundamental Rights of the European Union in order to guide a rights-based approach on the avoidance of statelessness in relation to State succession. Both treaties contain general principles, rules and procedures of the greatest importance for the effective exercise of human rights to citizenship in Europe.

Conversely, due to lack of uniformity between the laws of various states regarding the criteria for citizenship award, by the combined game of national rules, an individual can be found in a position to have more citizenships or to be denied the right any nationality, although no law was broken. We are facing a conflict of citizenship that creates the multi-citizenship, dual citizenship is the most common. In general, dual citizenship results from the acquisition of a new citizenship without losing the state of origin one.

Dual citizenship is, in principle, a favourable legal situation for the person holding it, but in some cases it can lead to complications in his legal status, rather in the exercise of rights and obligations of the person concerned, and to some conflicts of interest between the states of whose citizen member is. Internationally, it tried the conclusion of multilateral conventions in order to avoid any dual citizenship situations, but gave no significant results. Still, there were concluded numerous bilateral agreements for avoidance of dual citizenship, which establish criteria of choice for the person with dual citizenship. At the same time the international practice is increasingly emerging the trend to favour the real and effective citizenship from the two.

As a result, European citizenship is a complex process that involves maintaining a negotiated social integration, which can adequately surround everyone living in today Europe, with direct implications on our state too. Also, it needs to be granted a high priority to the issue regarding stateless persons living in Europe by adopting a proactive policy by the Council of Europe, by developing measures to reduce and eliminate statelessness with the effect of current conflict resolution.

### **Conclusions**

Regarding the legal status of dual-citizenship, although apparently it is favourable to the citizen, due to the adverse implications that may produce to its legal status, however, based on European regulations in force, it is necessary to deepen the concept and to adopt viable solutions applicable in all EU Member States.

Although European citizenship confers a new status to nationals of Member States, involving a series of rights that may be exercised throughout the European Union, however, implementation of

this concept may create tensions with some legitimate interest of Member States, as would be the desire to preserve national policies or sovereignty. Education for citizenship is considered, on European level, as a priority of educational reforms. It is seen as an instrument for social cohesion, based on the citizens' rights and responsibilities. Also, it represents a major dimension of educational policies in all European countries. Thus, it can be said that education for citizenship is an educational purpose, leading the educational system to a set of common values, such as: diversity, pluralism, human rights, social justice, wellbeing, solidarity. If a member state severely and systematically violates the fundamental rights and the democratic values, the Union can impose on it political or economical sanctions. One of the conditions that must be fulfilled for the adhesion to the European Union is the abidance of these fundamental rights.

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