



Symposium on the Reconceptualisation of European Union Citizenship

Dora Kostakopoulou, Elspeth Guild** and
Cristina Gortázar-Rotaèche****

The articles in this symposium stem from stimulating discussions on European Union citizenship which took place in the context of a Jean Monnet Multilateral Research Group project funded by the European Commission (2010–2012). The main aim of the project was to examine convergence and divergence between the practices of EU citizenship in certain Member States and the ‘EU citizenship norm’, that is, the requirement of equal treatment irrespective of nationality. It was built on three streams, namely identity, nationality and European Union citizenship (coordinated by Cristina Gortázar-Rotaèche); mobility, equality and social rights (coordinated by Elspeth Guild) and security of residence for EU citizens before and after the Directive 2004/38 (coordinated by Dora Kostakopoulou), and the three articles here reflect these streams.

Three Jean Monnet workshops were held in Madrid, Nijmegen and Manchester, respectively, which provided the fora for the exploration of ideas about the past, present and future of EU citizenship and its place in the European Union edifice. Early career, mid-career and established researchers delivered insightful papers, most of which have found home in an edited volume.¹ Although it is impossible to do justice to the richness and wide-ranging content of the work presented, it might be, nevertheless, of interest to distil some common postulates from these discussions.

First, researchers noted that EU citizenship has been, and continues to be, an experimental institution that changes traditional conceptions of ‘who we are’ and ‘how we should live with others’ in freedom and non-discrimination. There have not been many institutions regionally and globally that have had the capacity to transform ‘enemies’, ‘aliens’, ‘migrants’ or ‘others’ into fellow EU citizens and rights holders in a common geopolitical space in such a short period of time. EU citizenship’s normative core of equal treatment and its tendency towards larger and more enriched associative experiences cannot but create frictions in national statist arenas and, quite often, an ideological resistance to recognise EU citizens as co-citizens and holders of a right to equal treatment. In this respect, the meaning and scope of EU citizenship often oscillate between *res factae* and *res fictae*. It would be suffice to mention two exemplars here. First, free movement and residence in the EU have been

* Dora Kostakopoulou, School of Law, University of Warwick;

** Elspeth Guild, Centre of Migration Law, University of Nijmegen;

*** Cristina Gortázar, Faculty of Law, Universidad Pontificia Comillas.

¹ E. Guild, C. Gortázar Rotaèche and D. Kostakopoulou (eds), *The Reconceptualisation of EU Citizenship* (Leiden, 2014).

examined through economic determinist and individualist lenses; EU citizens have been viewed to be 'market citizens', that is, individuals willing to cross national borders in order to maximise their economic self-interest, and thus asocial citizens or consumers of the lifestyle choices offered by European unification. This 'market bias' has concealed the facts that the personal and the professional necessarily overlap, and that the individual and the social are dimensions of the same life. All dimensions belong together. It also underscores the strong rights-based dimension EU citizenship has acquired since 2001.²

Another common thread of the work presented at the Jean Monnet workshops was that European Union and national citizenships are interdependent and co-developing and that one needs to apprehend their interaction, accommodation and mutual transformation. Seeking to disregard this, to uncouple them and to talk about the 'sublimity' of EU citizenship would be tantamount to refusing to see 'what goes on below the surface'. For instance, although national executives often complain that EU citizenship encourages welfare tourism, the implementation of Directive 2004/38 has shown that national authorities retain considerable discretion in determining when an EU citizen becomes 'an unreasonable burden' on the welfare system of the host Member State. In this respect, they have devised their own definitions to decide when the financial difficulties experienced by EU citizens are temporary³ and the Court of Justice has been attuned to their desire to confine the grant of non-contributory social benefits to those EU citizens who have established a genuine link with employment market or the host society.

Acknowledging all the above would take us to the realm of evidence-based research (as opposed to ideology) and would lead to the realisation that EU citizenship has developed, and continues to develop, out of the problems and experiences of everyday human realities, be they personal, that is, the concrete problems and restrictions EU citizens face in exercising their rights, or macro-political, that is, *inter alia*, decision making at the European Union level aimed at preventing the disenfranchisement of mobile EU citizens in the Member States of residence. The economic crisis in Europe has added the reality of increasing poverty, homelessness, rising unemployment and discrimination. It has also given impetus to calls for reforms in the direction of a *welfare union* and a *European social citizenship*. This may, in turn, generate more wars of 'narratives' in domestic arenas, but perhaps time has come to affirm in a more explicit way the sense of collective solidarity and shared interests underpinning the European integration project and to connect the individual, political and social dimensions of European citizenship.

Like all institutional realities, EU citizenship has two halves: the actual and the visionary. The former is wedded to the present while the latter uses the strength of the memory of the past and of imagination in order to overcome the limitations of the present. The three articles in this symposium incorporate both halves in examining EU citizenship and fundamental rights, EU citizenship duties and the edges of EU citizenship. All three are underpinned by the belief that a meaningful EU citizenship must be a livable one and that the promotion of associated life within as well as

² See Case C-184/99, *Grzelczyk v. Centre Public d'Aide Sociale d'Ottignies-Louvain-la-Neuve* [2001] ECR I-6193 and Case C-413/99, *Baubast and R v. Secretary of State for the Home Department* [2002] ECR I-7091.

³ See P. Minderhoud, 'Directive 2004/38 and Access to Social Assistance Benefits', in E. Guild *et al.* (eds), *The Reconceptualisation of EU Citizenship*, n 1.

beyond borders and bounded communities requires the replacement of a politics of power with a politics of empathy towards human beings and care for their life-worlds.

First submission: March 2014
Final draft accepted: March 2014