CHAPTER 6

Union Citizenship: Towards a Deepened Legal Meaning

Katarina Hyltén-Cavallius

Who are the "peoples of Europe"? The question, which alludes to the expressions about "the European peoples" and the "peoples" of the European Union's (EU) Member States found in the preamble to both the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU), was posed in an editorial in the Common Market Law Review (2023) (CML Rev). Said preamble also contain references to the "citizens" of the Member States and to the free movement of "persons." The latter appears to be a broader concept that could include third-country nationals within the EU's territory. From the EU legal perspective, the world, in a strict sense, is divided into these two categories of persons: Union citizens and third-country nationals. The first concept refers to an individual who is a national citizen of an EU Member State, and who therefore, among other things, has the personal right to exercise free movement to another Member State. The second refers to an individual who does not have the status of a national citizen within the EU, but in a state outside the Union; a so-called third country. Figures

K. Hyltén-Cavallius (✉)
Linnaeus University, Växjö, Sweden
e-mail: katarina.hc@lnu.se

P. Ekman et al. (eds.), *The Depth and Size of the European Union in a Time of War*, https://doi.org/10.1007/978-3-031-83441-7_6

from the European Migration Network (2024) show that in 2022 there were about 24 million third-country nationals in the EU, making up 5.3 per cent of its total population.

The binary division into Union citizens and third-country nationals is nuanced by the fact that EU law distinguishes between different categories of third-country nationals, for example through the association agreements the EU has with certain countries in its vicinity. In addition, there is a strong territorial dimension that determines the individual's legal status in EU law. The borders of the EU's territory are of central importance with regard to Union citizenship in an "area of freedom, security and justice" (Article 3 (2) TEU) which is the space where the legal content of Union citizenship is to be realised. Similarly, it plays a decisive role for a third-country national's position within EU law whether they are within or outside the borders of the EU's territory.

The above-mentioned editorial in CML Rev deals precisely with the question of the legal status of third-country nationals within the EU. It advocates that more should be done at the EU level to include the millions of third-country nationals, who are legally resident within the EU, in the internal market. EU law could be used to give them a better opportunity to be covered by the rules of free movement that apply to Union citizens. For the EU to live up to the objective in Article 3 (1) TEU of promoting "the well-being of its peoples" within its territory, this goal should include not only Union citizens, but *all* persons who legally reside, work and live their lives within the EU.

There is an opportunity to improve the position of long-term resident third-country nationals in the internal market, among other things through the revision proposals to Directive 2003/109/EC (European Parliament, 2024). The revision of this directive should make it easier for third-country nationals within the EU to achieve formal status as "long-term residents" in the Member State where they live. This status means that the third-country national, if other applicable conditions are also met, has the right to exercise free movement of persons to another EU Member State. A legal exercise of freedom of movement, in turn, entails activation of the EU legal protection against discrimination on national grounds and a right to family reunification.

An expansion of the rights of free movement to more categories of persons than Union citizens also has the positive consequence that it leaves room for carving out a deeper meaning of Union citizenship itself. From a primary law perspective, not least through Article 25 TFEU, there

is a basis for building a constitutionally and democratically relevant Union citizenship that can be given legal content and effect also outside the context of the internal market and freedom of movement. When Union citizenship is detached from freedom of movement, its status can be filled with other legal and political content. At the same time, the goal of an effective regime of free movement of persons can be realised in the EU if more third-country nationals are included in the opportunities of the internal market and the EU legal protection of the individual's fundamental rights in an area of freedom, security and justice. A deepened meaning of Union citizenship together with a broadening of the rules on free movement of persons, is well in line with the political proposals for differentiated integration within the European cooperation, which have been re-actualized in connection with the plans for further enlargement of the EU.

There is reason to ponder how the EU's migration pact that the Member States accepted in 2023, the ever-increasing social policy ambitions at the Union level, and the potential expansion to up to 35 Member States, will be accommodated by the existing structures for Union citizenship, the rules for the free movement of persons and the position of third-country nationals in the internal market. This raises two questions, which are linked to this book's theme. What should be the depth of Union citizenship, in the sense of the legal meaning of its status? What should be the width of Union citizenship, in the sense of who should be included in its status or otherwise have access to its rights?

This chapter first discusses the link between Union citizenship and free movement of persons. Then the importance of Union citizenship as such, detached from the exercise of freedom of movement, and the possibility of deepening the legal meaning of the status, is highlighted. To this is added a discussion of who might be included in Union citizenship and how third-country nationals in other ways can gain access to free movement and its associated fundamental rights protection. Finally, a deepened meaning of Union citizenship is advocated, which more strongly ties the status to the EU's values, while the position of third-country nationals within the EU should simultaneously be improved in EU law.

Union Citizenship and Freedom of Movement

Union citizenship was formally established more than 30 years ago, through the treaty amendments at Maastricht in 1992. In its present form, Article 20 (1) TFEU states that "every person holding the nationality of a Member State shall be a citizen of the Union." Article 21 (1) TFEU contains the Union citizen's right, albeit conditional, to move and reside freely within the territory of the Member States. Free movement is generally considered to be the core content of Union citizenship. However, the relationship between Union citizenship as the status for all national citizens of the EU's Member States and the conditions for a lawful exercise of free movement has proven difficult to reconcile. As Dougan (2004) has highlighted, the Member States' interest in preventing "uncontrolled" migration movements between Member States and the concern for "social tourism" has clearly been reflected in the conditions for free movement and right of residence in the Free Movement Directive (FMD, Directive 2004/38). However, the restrictions in the directive should be interpreted against the importance of Union citizenship in primary law, which has proven to be a difficult balancing act for the Court of Justice of the European Union (the Court).

Spaventa (2017) and O'Brien (2021) respectively argue that the Court, through the interpretations it has put forward in its case law, has both "created" and subsequently "deconstructed" the legal significance of Union citizenship in the area of free movement. The deconstruction mainly concerns the link between the right to free movement in Article 21 (1) TFEU and the general prohibition of discrimination on grounds of nationality in Article 18 TFEU. The latter provision is a basis of a right to national equal treatment. This has played a major role, among other things, for Union citizens' opportunities to access social rights, such as social assistance in a host Member State.

The legal development of Union citizenship since its introduction in EU law initially followed a linear progression (Thym, 2022). In its case law, the Court made ever expansive interpretations of Union citizens' right to exercise free movement, with accompanying rights to national equal treatment and family reunification in a host Member State (CJEU, 2001, 2002, 2004a, 2004b). However, over the past decade, Union citizenship has shown an increasingly differentiated development. The tendencies in the legal development are now pulling in several different directions at the same time. From expansive interpretations, the case law

of the Court has moved towards a more restrictive stance regarding the conditions for the right of residence and equal treatment (Nic Shuibhne, 2015). The right to free movement has proven difficult to decouple from the economic rationale of the internal market (O'Brien, 2016). Therefore, freedom of movement has not become the fundamental Union citizen's right that there were hopes for at the beginning of the 2000s. Instead, the limiting premises of the FMD, which reflect the Member States' interests in protecting themselves against non-economically active Union citizens' exercise of free movement, have taken precedence in the Court's case law (CJEU, 2013, 2014c, 2015a, 2021).

A Case Law Development in Major and Minor

The Court declared in the *Grzelczyk* ruling (CJEU, 2001), that Union citizenship was destined to become the "fundamental status" of all citizens of the EU Member States. From this starting point, all Union citizens who are in a similar position should be able to receive the same treatment in legal terms, regardless of nationality, but taking into account prescribed reservations. This interpretation suggested a very far-reaching right to national equal treatment even for non-economically active Union citizens who were in a host Member State during their exercise of free movement. The *Trojani* case (CJEU, 2004a) further reinforced the importance of the principle of equal treatment. The Court found that a Union citizen who has any legal basis for his or her stay in a host Member State, whether this basis is found in either EU law or national law, should be covered by the right to national equal treatment in Article 18 TFEU. During the 2010s, and especially in the development period leading up to the United Kingdom's (UK) referendum and decision to leave the EU, there was a reversal in the Court's interpretation of the link between Union citizenship, the exercise of free movement and the right to national equal treatment. The Court indicated in several rulings, including the well-known *Dano* judgement (CJEU, 2014c), that Member States could indeed set economic conditions for a Union citizen's right to equal treatment through the specific purposes and provisions of the FMD. The message was that EU law does not sanction so-called "social tourism."

From the current state of law, it is clear that free movement as such, with the economic conditions and other restrictions on both the right of residence and the right to national equal treatment that is given in the

FMD, does not have much to offer the most vulnerable Union citizens (Spaventa, 2017). The rights of free movement can best be enjoyed by people who are economically active. Mantu and Minderhoud (2023) have shown that the swinging pendulum in the Court's case law over the past decade has contributed to the deterioration of migrating Union citizens' access to social rights in the majority of Member States. Any aspiration that Union citizenship could be a legal instrument to promote equality among the EU's inhabitants has thus been weakened. In addition, there are several legal, administrative and practical obstacles for Union citizens to in practice enjoy the right to free movement and protection against discrimination on grounds of nationality in a host Member State (Hyltén-Cavallius, 2018). It is not enough to simply claim one's Union citizenship for a host Member State to recognise a person's right of residence and a right to equal treatment with national citizens. Van den Brink (2019) has argued that Union citizenship as a status therefore cannot be said to add anything further to the rights and opportunities for free movement that the EU's population had before its introduction, simply by being national citizens of an EU Member State. Granger (2018) describes the legal development as a "divorce" between Union citizenship and the rules for free movement.

This divorce does not have to be only a bad thing. On the contrary, an acceptance of the economic conditions that apply to the right of residence and equal treatment in a host Member State can make Member States more willing to expand free movement to more categories of persons, beyond the Union's own citizens. This strengthens the argument that third-country nationals residing within the EU should more easily gain access to the rights and opportunities of free movement. Simultaneously, another, deeper legal meaning of Union citizenship could be developed in EU law. What, then, does Union citizenship as a status mean if it is detached from the rules for free movement and the right to equal treatment?

The Meaning of Union Citizenship—More Than Free Movement

Freedom of movement can rightly be said to be the primary origin of Union citizenship as an EU legal concept. However, it is a mistaken conclusion to believe that the significance of Union citizenship can be

completely eradicated by Member States' imposition of economic conditions and other restrictions on free movement. There are many tendencies in the legal development that suggest that Union citizenship has legal relevance even without free movement. Parallel to the legal development of free movement for persons, there has been an important legal development regarding the legal effect of Union citizenship in situations entirely without free movement (Hyltén-Cavallius, 2020). The status of Union citizenship, based on Article 20 TFEU, has among other things proven to have a tangible legal effect on the relationship between the individual Union citizen and their home Member State, i.e., the state where the Union citizen is a national citizen. Likewise, the political dimension of Union citizenship has been reinforced by the primary law amendments made through the Lisbon Treaty. This was confirmed in the Court's ruling in *Delvigne* (CJEU, 2015b). Here, the Union citizen's right to vote in elections to the European Parliament was found to be strongly protected by Article 14 (3) TEU. That provision obliges the Member States to hold direct elections in a free and secret ballot to the European Parliament, which is closely linked to the political rights of Union citizenship of Article 22 (2) TFEU. The applicability of these provisions in turn activates the Charter of Fundamental Rights of the EU (the Charter). The circumstances in *Delvigne* had no connection to any exercise of free movement. The question in the case exclusively concerned the protection of the EU political rights that should be guaranteed a Union citizen in relation to his or her home Member State. The case dealt with the French rules which, when it comes to serious criminal offences, limit imprisoned convicts' right to vote, including the opportunity to vote in elections to the European Parliament. The Court found that EU law was applicable in the case, by virtue of the link to Union citizenship's political rights. This resulted in the French rules having to be evaluated in the light of the Charter. Of particular importance was the Charter's Article 49, which sets out the principles of legality and proportionality in matters of criminal offences and penalties. The restriction on the right to vote in French law that was at question in *Delvigne* was judged by the Court to be legitimate and compatible with the requirements of EU law. At the same time, the ruling stands for something important regarding the significance of the status of Union citizenship. The right to vote in the election to the European Parliament is so far the only genuine Union citizenship right that the Court has attributed legal force to without there being any connection whatsoever to the exercise of free movement in the

actual legal case. However, the biggest steps regarding the legal meaning of the status of Union citizenship have been taken with direct support of Article 20 TFEU and through the rulings of the Court in *Ruiz Zambrano* (CJEU, 2011a) and *Rottmann* (CJEU, 2010) respectively, and in the legal development that has since followed.

Article 20 TFEU: The Status of Union Citizenship in Focus

In a series of rulings, starting with the *Ruiz Zambrano* judgment, the Court, with the support of Article 20 TFEU, has developed a legal protection against a Union citizen being forced to leave the EU's territory against their will. The protection becomes applicable primarily when it concerns children with Union citizenship who risk being forced to leave the EU as a consequence of their primary caregiver, who is a third-country national, being deported. The rationale for this is that the rights that follow from the status of Union citizenship cannot be enjoyed outside the EU's territory. A Union citizen's right to reside within the EU must therefore be protected. In *Ruiz Zambrano*, the Court made the famous statement that: "…Article 20 TFEU precludes national measures which have the effect of depriving citizens of the Union of the genuine enjoyment of the substance of the rights conferred by virtue of their status as citizens of the Union" (CJEU, 2011a).

In the case law that has developed after the ruling, it turns out that this jurisprudence is normally only applicable against the Union citizen's home Member State. It is this state that has the main responsibility for giving a Union citizen an effective right to live and reside within the Union's territory. Importantly, the *Ruiz Zambrano* doctrine is activated solely by the status of Union citizenship as such and when the rules on free movement are not applicable. A third-country national who is the primary caregiver of a minor Union citizen can then, provided that the conditions are met, derive a right of residence in the Union citizen's home Member State. The same can apply to a third-country national who is a family member of an adult Union citizen, if the latter has a very strong dependency on the third-country national in question. If the Union citizen instead exercised free movement to a host Member State, other legal norms would apply to achieve such a right to family reunification with a third-country national. Among other things, the economic requirements for the right of residence in the FMD would need to be met.

The dividing line between the right to family reunification according to Article 20 TFEU and the same according to the FMD is therefore very important. The conditions for a Union citizen's family reunification in their home Member State may be starkly different from those that would apply in a host Member State. A clear sign of the differentiated legal development in this area is the fact that the *Ruiz Zambrano* jurisprudence cannot be transferred to protect, for example, nationals of the states that make up the European Economic Area (EEA). People with national citizenship in any of the EEA states Norway, Iceland or Liechtenstein are not Union citizens, but are covered by a strongly developed right to free movement within the EU. This is because the EEA Agreement between the EU and these neighbouring states creates a close connection to the EU's internal market. Among other things, the conditions of the FMD are applicable to EEA nationals who want to move within the EU. The EFTA Court is responsible for the interpretation of the EEA Agreement and is obliged to make interpretations of EEA law that are homogeneous with corresponding provisions in EU law. In the EFTA Court's rulings on the free movement of EEA citizens, however, it has so far, not found that the *Ruiz Zambrano* line of case law may be transferred to EEA law. The reason is that this case law is exclusively built up by Article 20 TFEU. That provision establishes Union citizenship as a status for the national citizens of the EU Member States, but does not have any equivalent in the EEA Agreement. The case law that is based exclusively on Article 20 TFEU can therefore not be extended to apply to EEA nationals, who are otherwise covered by the rules of free movement in a way that is very close to what applies to Union citizens. The *Ruiz Zambrano* case law also cannot be applied to a third-country national who has been recognised as having the status of long-term resident in an EU Member State according to Directive 2003/109/EC (European Parliament and Council of the European Union, 2003). The doctrine thus marks a clear differentiation between the depth of the status of Union citizenship and the broader applicability of the rules on free movement of persons.

Another strand in the case law that stems from Article 20 TFEU is the Court's ruling in Rottmann from 2010 and a number of subsequent rulings. The *Rottmann* line of case law deals with the individual's protection in EU law against being deprived of their status as a Union citizen by the home Member State withdrawing their national citizenship. The Court has confirmed the competence of Member States to regulate

their respective national citizenship laws themselves. It is up to each individual Member State to determine the conditions for naturalisation or other incorporation of a person into the national citizenship. However, EU law is applicable to a Member State's withdrawal of an individual's national citizenship because a loss of national citizenship also means a loss of Union citizenship. The Charter is therefore also applicable to a Member State's withdrawal of national citizenship. Such processes must be compatible with the Charter's requirements for legal certainty and the EU legal principle of proportionality. The development of the *Rottmann* line of case law shows the significant legal force of Union citizenship for the activation of the protection of the Charter in situations that do not involve a direct exercise of free movement. The case law that stems from Article 20 TFEU aims to protect the legal core of Union citizenship, which the national citizens of the Member States can assert in relation to their home Member State. Just like the *Ruiz Zambrano*, the *Rottmann* jurisprudence is activated entirely without freedom of movement having to be exercised in the individual case. Against this background, there is clearly a possibility of going even further beyond issues of free movement and the internal market with the support of Article 20 TFEU to use Union citizenship to establish new constitutional depths in EU law.

Channelling the EU's Values Through Union Citizenship

Sharpston and Sarmiento (2017) has argued for linking the status of Union citizenship according to Article 20 (1) TFEU to a protection of the EU's values, including respect for the rule of law, as it is stated in Article 2 TEU. This idea is consistent with the one presented in a research article by von Bogdandy and others (2012) that the EU legal protection of the core of Union citizenship should include protection for fundamental rights. There must be a presumption that the EU Member States respect the protection of the rule of law and the individual's fundamental rights within their respective jurisdictions. If a Member State systematically acts in a way that clearly violates these values, von Bogdandy and others argue that this presumption should be considered broken. An example of this is a Member State like Hungary, which has moved in an increasingly authoritarian direction. In this situation, the EU must act to protect the Union citizens living in such a Member State. This would also be to measure up to what is stipulated in the TEU that the EU in all its activities shall

"observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies" (Article 9 TEU). There is thus a legal basis and potential to use Union citizenship as a tool for maintaining the EU's values of Article 2 TEU and respect for the rule of law. The Court has already upheld certain important rule of law principles through Union citizenship, such as the right to judicial review in a transparent legal process, which is often emphasised in the interpretation of the *Rottmann* line of case law. In this way, the Court shows that it sees a clear link between the meaning of Union citizenship and the fundamental values of the EU. The EU legal protection of the core of Union citizenship can and should therefore include protection for much more than just the right to free movement.

Another case law development, pointed out by Iliopoulou-Penot (2022), is the trend creating a sort of "digital citizenship" at the EU legal level. This happens in a similar way to the legal development of the original Union citizenship, that is, through the Court's leading and dynamic interpretations. Rulings such as *Digital Rights Ireland* (CJEU, 2014b) and *Tele2* (CJEU, 2016c) concern the strong EU legal protection of the individual's fundamental right to privacy both in relation to heavy actors on the digital market and to the Member States' authorities. Here, the Court has established a high standard of protection for the individual's fundamental rights that must be respected by all digital actors operating on the internal market. However, the legal protection created in the Court's practice regarding the individual's rights on the digital market applies to *all* persons who are within the EU's territory, both Union citizens and third-country nationals. The concept of a "European digital citizenship" thus covers a much broader group of persons than just Union citizens. Such an approach can be attributed to the old European idea of a common standard for fundamental rights that should apply to all individuals regardless of where they are within the EU's territory, which the former Advocate General at the Court, Francis Jacobs, once expressed as *civis europeus sum* (CJEU, 1992a).

In summary, there are several dimensions of Union citizenship for the EU to strengthen and develop. To create direct links between Union citizenship and EU values through secondary legislation would currently be a groundbreaking development in EU law. However, such a direction would be in line with other trends that already exist in the Court's case law, which can be reinforced through the adoption of new secondary

legislation. According to Article 25 (2) TFEU, the Council may, by unanimous decision in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, "adopt provisions to strengthen or to add to the rights" of Union citizenship. The Treaties thus provide the process for and foresee the creation of more substantial rights and the strengthening of the existing legal meaning of Union citizenship. This could create a new depth in the constitutional significance of Union citizenship. It would also be a definitive detachment from the outdated view that Union citizenship can only be legally relevant through the individual's exercise of free movement. Parallel to the question of the legal meaning of Union citizenship, the question of who should be included in its status, or otherwise covered by its rights, lives on.

Who Should Be Included in Union Citizenship?

In the wake of the Brexit vote and the UK's subsequent departure from the EU, the discussion about the possibility of an "autonomous" status as a Union citizen was revived. Can you be a Union citizen without being a national citizen in any EU Member State? In this debate, Garner (2018) has put forward arguments for so-called individual memberships in the EU, or a sort of "stateless Union citizenship." He argues that it is necessary to make Union citizenship a selectable, and thus sustainable status at the individual level, regardless of a given Member State's actions. This would be necessary if the Court's statement about Union citizenship as the individual's "fundamental status" were to have any real significance. During the Brexit process, Kostakopoulou (2018) argued that British citizens could be legally perceived as "associated Union citizens." The basis for this would be the rights that individual British nationals have acquired through their exercise of free movement within the EU as Union citizens before the UK's exit. However, the legal counterarguments put forward against autonomous or associated variants of Union citizenship are persuasive. Van den Brink and Kochenov (2019) have pointed out that EU policy and legislation are created by elected representatives from the Member States. It would be a democratically hollowing out of the EU legal and political system if stateless Union citizens were allowed to vote in elections to the European Parliament and enjoy a special legal status under EU law but were not allowed to vote in national elections in any of the Member States. They would thus not participate in the election of the heads of government and ministers who represent the Member States in

the EU. If the EU were to accept associated Union citizenship for British nationals who at the individual level want an affiliation to the Union it would simultaneously disqualify the British democratic process, which after all led to the decision to leave the EU. This view is also reflected in the interpretation of Brexit's consequences for Union citizenship that the Court has made in rulings such as *EP* (CJEU, 2022b) and *Silver* (CJEU, 2023). The Court here ruled that the UK's exit from the EU meant a definitive loss of Union citizenship for British citizens. As the treaties are designed, it is not possible to disconnect national citizenship in an EU Member State as the necessary basis for an individual's status as a Union citizen. For this, it would require that the EU's existing Member States first undertook treaty amendments. Therefore, as of February 1, 2020, British nationals, if they do not have dual citizenship in any other EU Member State, are to be considered as third-country nationals. However, Nic Shuibhne (2023) has argued for a more nuanced stance since British nationals are after all former Union citizens. This, she argues, should have significance for their legal status in EU law. When the Court has interpreted the EEA Agreement, citizens of the EEA states have been found to have a special status compared to other third-country nationals, which is very close to the actual Union citizenship. A similar legal discourse could be conducted regarding British nationals when the withdrawal agreement between the EU and the UK is to be interpreted and applied.

The legal aftermath of Brexit has clearly shown that to preserve or obtain the status of Union citizen, one of two things must happen. Either the individual is naturalised and acquires national citizenship in an EU Member State, or the state where the individual is a national citizen joins the EU.

Becoming a Union Citizen

Union citizenship is a conferred status. It cannot be acquired directly in a process between the individual and the EU but is a byproduct of the person being or becoming a national citizen in an EU Member State. This follows from the wording: "Every person holding the nationality of a Member State shall be a citizen of the Union" (Article 20 (1) TFEU). The conditions for acquiring national citizenship, typically at birth or through naturalisation, are however a national competence for the EU Member States to regulate in their respective nationality laws. In its case law, the Court has stated that this national competence

should be respected by the EU. However, the Court has also made two things clear. Firstly, that the national competence regarding acquisition or loss of nationality must always be exercised in accordance with the Member States' obligations under EU law (CJEU, 2010, 2018, 2022a). Secondly, that the Member States are obliged to mutually recognise each other's respective legal systems for national citizenship. This principle of mutual recognition, which follows from the *Micheletti* judgement (CJEU, 1992b), is perhaps the most important EU legal principle of significance for the legal effectiveness of Union citizenship. For its status and rights to have any legal significance, it is not enough to be a Union citizen only in relation to one's home Member State. Equally important is to be recognised as such in relation to all the other EU Member States. Therefore, each Member State must recognise an individual's nationality if it has been issued in accordance with another Member State's legal system. With this background, the European Commission is currently pursuing a case against the Member State Malta in the pending case C-181/23, *Commission v Malta*. Through its national citizenship legislation, Malta allows third-country nationals to acquire Maltese citizenship and thus Union citizenship by making investments in the country. This is commonly referred to as investment citizenship, or "golden citizenship." The European Commission claims that Malta violates both the significance of Union citizenship according to primary law, as well as Article 4 (3) TEU, which stipulates the principle of sincere cooperation between the EU and its Member States. This is because Malta's sale of national citizenship to individuals without a "genuine link" to the Member State also makes these individuals Union citizens. By the right-bearing force of Union citizenship throughout the entire territory of the EU and by virtue of the principle of mutual recognition, all other EU Member States are affected by Malta's nationality scheme. If the Court gives the European Commission right in this legal process, it would mean that EU law takes another major step into the Member States' competence in the area of national citizenship. The *Rottmann* case law has shown that EU law places sharp demands on the Member States regarding their ability to withdraw national citizenship. From the European Commission's argumentation in *Commission v Malta*, it inevitably follows that also the granting of national citizenship must come within the scope of EU law. Any decision to naturalise an individual to national citizenship in a Member State must then be considered to affect all other EU Member States. In this way, EU law would directly challenge the Member States'

competence to design their own respective nationality law at all. The requirement that there must be a genuine link between the individual and the state would certainly, if the European Commission is successful in its case against Malta, be able to form the backbone for any future EU common criteria for naturalisation of third-country nationals. What constitutes a genuine link between an individual and a Member State, or an individual and the EU as a territorial whole, must then be filled with meaning in EU law. It is likely to be difficult to reach an agreement on this between the Member States. Of course, there may be political and ethical reasons for the EU to react against the occurrence of individual Member States offering investment citizenship, which often coincides with the occurrence of money laundering and other illegal activities. The question is still whether it is desirable for EU law to have such far-reaching applicability to the respective legal systems of the Member States for national citizenship. This would be a major consequence of an attempt to deal with a problem that is after all marginal in the larger context. As van den Brink (2022) has pointed out: at the EU level, it should be considered a larger societal problem that millions of third-country nationals live in the EU who, despite being able to say they have a genuine link to a Member State through long-term residence, family ties, work and more, still do not have access to national citizenship and thus are also cut off from the status of Union citizen. The under-inclusion in Union citizenship due to many Member States setting very strict conditions for naturalisation, should be discussed as more of a problem, argues van den Brink. The phenomenon of over-inclusion, on the other hand, that some wealthy third-country nationals can buy a national citizenship in Member States such as Malta or Cyprus, should be considered a relatively small problem.

In principle, it is still understandable that at the EU level it is perceived as provocative that some Member States exploit the attractiveness of Union citizenship and its legal rights. The potential to deepen the political and legal significance of Union citizenship for the populations of the Member States is diluted if the status is allowed to be easily sold to wealthy individuals. However, it is difficult to see how the European Commission can be successful in its case without the EU Member States being forced to accept further encroachments on their national competence.

With the migration pact that the EU agreed upon in 2023, the rule-making of the common asylum and migration policy will to a greater

extent likely take place through EU regulations (see Andrea Spehar's chapter in this volume). In light of this, there may also be a reason to discuss EU common norms for naturalisation of third-country nationals in the Member States. Many of the millions of third-country nationals living in the EU Member States today could get a more integrative path towards national citizenship and thereby the economic and political rights of Union citizenship. This applies in particular to the possibility of political representation at the European level. For example, the number of years of residence in an EU Member State required for naturalisation, which today varies between 3–5 years in Sweden to 7–9 years in countries such as Denmark and Austria, could be harmonised to create more equivalent conditions for third-country nationals to gain access to the status of Union citizenship regardless of which EU Member State they live and work in.

As a complement or perhaps a more feasible alternative to EU law gaining more influence on the Member States' respective nationality law, the EU can make more of the rights of Union citizenship available to a broader group of people within the framework of a differentiated European cooperation. This is yet another reason to strengthen access to the rights of free movement for third-country nationals who legally reside within the EU.

Free Movement for More Persons

Even though free movement constitutes a main aspect of Union citizenship, the reverse relationship does not apply (Cremona & Nic Shuibhne, 2022). That is, rights attributable to free movement may be extended to include more persons than Union citizens. Both the treaty text, several of the EU's association agreements and free trade agreements with neighbouring countries, as well as the case law of the Court, show that rights in the area of free movement have already been extended to apply to more categories of people than just the national citizens of the Member States. EEA law, as well as the EU's sector-specific agreements with Switzerland, have extended the protection of rights that free movement gives to Union citizens to in principle also apply to EEA citizens and Swiss citizens (Franklin & Haukeland Fredriksen, 2022; Idriz & Tobler, 2022). Through the EU's strong association with the EEA states and Switzerland, EEA citizens and Swiss citizens can be said to be covered by the rights and opportunities of the internal market to almost the same extent

as Union citizens do. This distinguishes EEA citizens and Swiss citizens from other categories of third-country nationals residing within the EU. The latter group faces greater hurdles for access to free movement rights than citizens from the EEA states or Switzerland do. In relation to Union citizenship, this can be perceived in two ways. First, that Union citizenship, in the same way as the internal market is open to external participants, includes a kind of openness for third-country nationals to, in varying degrees, be included in the enjoyment of its rights. Conversely, it can be said that the rules for free movement of persons may be detached from Union citizenship. EU law has already and may well continue to develop the rules on free movement of persons to include more categories of persons than just the national citizens of the Member States. Support for the latter view of free movement is already incorporated in the provisions of the FMD. Following the conditions of the FMD, third-country nationals, by virtue of being family members of a Union citizen, can derive a right of residence, equal treatment and right to work, etc. in a receiving Member State. This is also possible with the support of the worker regulation 492/2011 (European Parliament and Council of the European Union, 2011). A derived right of residence for third-country nationals who are family members of Union citizens can in some cases also be enjoyed in the Union citizen's home Member State. This is evident from the case law of the Court regarding the primary law provisions on free movement (CJEU, 2007, 2014a, 2016b). Through individual association with a Union citizen, a third-country national can thus be covered by far-reaching rights within the rules of free movement. These family members enjoy legal rights that are very close to the free movement rights of Union citizenship. It is likely that the Member States want to guard their national competence regarding nationality law. They thereby retain control over how third-country nationals might acquire their respective national citizenships and consequently Union citizenship. At the EU level, it is therefore more feasible to seek to improve the opportunity for third-country nationals residing within the EU to exercise the right to free movement of persons, regardless of whether they have first become national citizens of a Member State. The EU faces a great need for qualified labour immigration to solve its innovation challenges. In addition, there is a demographic challenge in the form of high numbers of pensioners. For several reasons, third-country nationals who are already legally resident within the EU should be given better opportunities to move freely on the internal market.

Improvements to Directive 2003/109/EC

TFEU stipulates that "The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, [and] fair treatment of third-country nationals residing legally in Member States" (Article 79 (1) TFEU). On this basis, the EU Member States have adopted Directive 2003/109/EC on the status of long-term resident third-country nationals (Denmark and Ireland, however, have legal exceptions from this part of EU law). The revision that this directive is currently undergoing (European Parliament, 2024) could have positive consequences. Among other things, over time, all the millions of Ukrainian citizens who are currently residing within the EU on the basis that they have been given temporary protection under Directive 2001/55/EC could acquire the status of "long-term residents." This status, in turn, entails the right to exercise free movement between Member States under protection against national discrimination. At present, residence time due to temporary protection is not counted as time that can qualify a third-country national for the status of long-term resident. Therefore, Ukrainian refugees cannot be covered by the opportunities that Directive 2003/109/EC gives third-country nationals to access the economic and social rights of freedom of movement. In addition, Ukrainian citizens can only become Union citizens through naturalisation to national citizenship in an EU Member State, or—which might still be a long way off—that Ukraine is made an EU Member State. From a rights perspective much could instead be done for Ukrainian citizens within the EU at the legislative level, through the revision of Directive 2003/109/EC. At the same time, the proposal for improvements of said directive has been criticised for still not sufficiently creating an effective right to free movement for third-country nationals with national residence permits in one of the EU Member States. Even with a revised directive, it is noticeable how the rules of free movement are more advantageous for the Member States' own national citizens. One example is that a long-term resident third-country national must first achieve five years of legal residence in a first Member State in order to be able to apply there for the status of long-term resident. This, in turn, gives a right to exercise free movement to a second Member State but the status as such cannot be directly transferred to apply in a second Member State. It must again be acquired through fulfilment of the conditions for permanent residence in the second Member State. This affects the ability of the third-country

national to achieve family reunification with family members coming from outside the EU, which can be assumed to have a deterrent effect on third-country nationals' willingness to use free movement. Peers (2022) has expressed that the right to free movement that a third-country national can achieve through the revision of Directive 2003/109/EC is a kind of "poundshop free movement": a cheap imitation of the free movement rules that apply to Union citizens and EEA citizens. Yet, the Treaties do not give reason to limit the free movement of third-country nationals within the EU, but on the contrary state the goal to "facilitate the free movement of persons" (TEU preamble). As an additional point, if free movement is extended to include more persons, access to the EU legal protection of fundamental rights, which the exercise of free movement activates for the individual, will also be extended.

Free Movement and the Charter's Protection of Fundamental Rights

Through the expansion of free movement to apply in an equivalent way to both EEA citizens and Union citizens, the protection of fundamental rights in the Charter has also become applicable to more persons. The Court has here linked a legal exercise of free movement with the protection of rights that should apply within the EU's area of freedom, security and justice. This is evident from the rulings in *Petruhhin* (CJEU, 2016a), which concerned a Union citizen, and *IN* (CJEU, 2020), which concerned an EEA citizen. *Petruhhin* dealt with the case of an Estonian citizen who was wanted in Russia for a criminal process of illegal drug trafficking. He was found in Latvia, which received a request from Russia for his extradition. A Latvian court then requested a preliminary ruling from the Court regarding the significance of the person being a Union citizen from another Member State, who was in a situation of free movement to Latvia. In its ruling, the Court did not find that the status of Union citizenship as such could activate the applicability of the Charter. There is currently no direct link in EU law between holding the status of Union citizenship under Article 20 TFEU and activation of the Charter's applicability. However, the risk of being extradited to a third country when being in a free movement situation to a host Member State constituted a deterring restriction on the exercise of free movement under Article 21 (1) TFEU. Through the activation of this provision on free movement,

EU law became applicable in the *Petruhhin* case and the Charter's fundamental rights requirements for a lawful extradition should be respected. Specifically, this meant that an extradition to a third country could not take place if there was a risk of a violation of the Charter's Article 19. This provision stipulates that no one "may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment" (Article 19 CFR).

In the subsequent judgment in *IN*, the Court established that EEA citizens are also covered by the same EU fundamental rights protection as Union citizens when they are in a situation of free movement to a host Member State and are put at risk of extradition to a third country. The protection that was considered to apply to the Union citizen in *Petruhhin* under Article 21 (1) TFEU, in combination with the Charter, was thus transferred to the EEA legal system for free movement of persons. As Franklin and Haukeland Fredriksen (2022) point out, the Court in *IN*, which concerned an Icelandic citizen who was in Croatia and risked extradition to Russia, marks that EEA citizenship is a kind of "differentiated Union citizenship." The ruling shows that the legal status of EEA citizens comes as close as possible to Union citizenship when it comes to the protection of fundamental rights within the EU's area of freedom, security and justice. In both *Petruhhin* and *IN*, however, an actual and legal exercise of free movement was decisive for the applicability of the Charter. It is clearly not Union citizenship alone that activates the protection of the Charter. Conversely, it can be said that the status of Union citizenship is not "needed", as the protection of fundamental rights can be ensured by EU law for all persons who are in a legal exercise of free movement to a receiving Member State. This is well motivated by the TEUs: phrasing that "the Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of *persons* is ensured …" (Article 3 (2) TEU) (author's emphasis). The wording further supports separating Union citizenship from the rules on free movement, which can then more easily expand to cover third-country nationals.

A Larger European Community Through Differentiated Union Citizenship

In its current construction in the treaties, Union citizenship cannot be detached from its dependence on the individual holding national citizenship in an EU Member State. Therefore, the discussion should continue regarding how the opportunities for free movement and its accompanying protection of rights and protection under the Charter can be extended to an even wider group of persons. The EU already holds association and free trade agreements with neighbouring third countries for geographically expanding several categories of the EU's legal and policy areas, including the internal market, to include more than just the territories of the EU member states (Cremona & Nic Shuibhne, 2022). However, with the exception of the EEA Agreement and the sectoral agreements between the EU and Switzerland, these association agreements and free trade agreements, such as those with Turkey and Ukraine, usually contain significant exceptions regarding the free movement of persons. For example, Turkish citizens have no direct right to free movement of persons to or within the EU. Once they have achieved legal residence as workers in an EU Member State, they however are to some extent protected by the rules that apply to EU workers under Article 45 TFEU. This is in accordance with the interpretations of the EEC-Turkey agreement by the EU Court, for example in the *Ziebell* judgement (CJEU, 2011b). Depending on how strong a connection the EU wishes to have with a certain associated state, the association agreements thus reflect varying silhouettes of Union citizenship. The rights that the EEA Agreement creates for EEA citizens are, through both the Court and the EFTA Court's interpretations, those that most closely resemble the right to free movement that applies to Union citizens. As for the EEA states and Switzerland, their potential need to become real EU Member States has become almost non-existent thanks to their very strong connection to the internal market and their national citizens' enjoyment of free movement rights so closely alike those of Union citizens. One can imagine a development of more and different kinds of differentiated Union citizenship, which can include citizens in states in the larger European community that, for example, France's President Emmanuel Macron has called for between the EU and other neighbouring countries. In a 2023 report commissioned by the French and German governments on opportunities

to reform the EU, proposals were put forward for a European cooperation at four different levels of integration. In the innermost circle, the most closely associated EU Member States would cooperate. Here, the most profound collaborations would exist, such as Schengen and the Euro currency. This deepened level of integration would be surrounded by a second circle in which all other EU Member States would be included. These two innermost circles would apply Union citizenship as a status for their national citizens and be strongly integrated through the internal market. In a third circle, associated states, such as the EEA states, Switzerland and possibly the United Kingdom would be found. These states would have access to the internal market and the right to free movement of persons, but not to Union citizenship as such. Conversely, they would also have less influence and obligations regarding other policy areas. In the fourth and outermost circle, called the "European Political Community," other associated states, including candidate countries such as Ukraine and Moldova, would be found. This broader European community would be linked to the EU through bilateral cooperation in mutually important geopolitical areas such as security, energy and climate, and through free trade agreements (Franco-German working group on EU institutional reform, 2023).

Regardless of how the EU develops its relations in the neighbourhood region, EU law could already today do more to extend the opportunities for free movement and legal protection to third-country nationals who live and work in one of the EU Member States. By detaching free movement from Union citizenship, the opportunity is simultaneously opened to deepen other dimensions of that status. This is of importance to the Member States that wish for a stronger, more integrative EU cooperation. A deepened legal meaning of Union citizenship, tied to the EU's values and respect for the rule of law, should then be a tangible part of that cooperation. The protection of the rule of law could here be channelled through Union citizenship so that the EU can be a credible forerunner for this fundamental value.

Strengthen the Integration of Third-Country Nationals and Create New Legal Depths to Union Citizenship

The EU's objectives linked to various mottos about "the peoples of Europe" should include a larger group of persons than just the national citizens of its Member States. There is an opportunity to extend access to free movement to a wider category of persons while using Union citizenship to create new constitutional depths in EU law. In a future with perhaps more differentiated European cooperation, the legal meaning and effect of Union citizenship should be deepened and strengthened in the inner circles of EU integration. Specifically, the EU should guard the political rights associated with Union citizenship and affirm its status as a tool for channelling EU values. For the inclusion of a new Member State's population in the Union citizenship, it should be required by the Member State to have far-reaching EU integration and respect for the rule of law. On the other hand, access to the internal market can continue to be broadened to a larger number of associated states and candidate countries in the wider cooperation circles. Similarly, free movement of persons, with accompanying protection against discrimination on national grounds and activation of the Charter, can be broadened to more of the millions of third-country nationals who are currently legally resident within the EU. As part of this, the improvements to Directive 2003/109/EC should be adopted and implemented. If EU law does more to integrate long-term resident third-country nationals by strengthening their position in the internal market, Member States can continue to retain their national competence regarding who can become a national citizen and thus a Union citizen. At the EU level, constructive joint steps could be taken to facilitate the integration of long-term resident third-country nationals in the internal market. At the same time, a deepened legal meaning of Union citizenship would be an incentive for the national citizens of candidate countries to work for EU membership and the acquisition of this individual status.

References

Charter of Fundamental Rights of the European Union, OJ C 326/2012/391 (CFR).

CJEU. (1992a). Opinion of Advocate General Jacobs in Case C-168/91, *Konstantinidis v Stadt Altensteig and Landratsamt Calw*, EU:C:1992:504. European Court of Justice.

CJEU. (1992b). Case C-369/90, *Micheletti and Others v Delegación del Gobierno en Cantabria*, EU:C:1992:295. European Court of Justice.

CJEU. (2001). Case C-184/99, *Grzelczyk*, EU:C:2001:458. European Court of Justice.

CJEU. (2002). Case C-413/99, *Baumbast and R*, EU:C:2002:493. European Court of Justice.

CJEU. (2004a). Case C-456/02, *Trojani*, EU:C:2004:488. European Court of Justice.

CJEU. (2004b). Case C-200/02, *Zhu and Chen*, EU:C:2004:639. European Court of Justice.

CJEU. (2007). Case C-291/05, *Eind*, EU:C:2007:771. European Court of Justice.

CJEU. (2010). Case C-135/08, *Rottmann*, EU:C:2010:104. European Court of Justice.

CJEU. (2011a). Case C-34/09, *Ruiz Ruiz Zambrano*, EU:C:2011:124. European Court of Justice.

CJEU. (2011b). Case C-371/08, *Ziebell*, EU:C:2011:809. European Court of Justice.

CJEU. (2013). Case C-140/12, *Brey*, EU:C:2013:565. European Court of Justice.

CJEU. (2014a). Case C-456/12, *O.*, EU:C:2014:135. European Court of Justice.

CJEU. (2014b). Case C-293/12, *Digital Rights Ireland*, EU:C:2014:238. European Court of Justice.

CJEU. (2014c). Case C-333/13, *Dano*, EU:C:2014:2358. European Court of Justice.

CJEU. (2015a). Case C-67/14, *Alimanovic*, EU:C:2015:597. European Court of Justice.

CJEU. (2015b). Case C-650/13, *Delvigne*, EU:C:2015:648. European Court of Justice.

CJEU. (2016a). Case C-182/15, *Petruhhin*, EU:C:2016:630. European Court of Justice.

CJEU. (2016b). Case C-165/14, *Rendón Marín*, EU:C:2016:675. European Court of Justice.

CJEU. (2016c). Case C-203/15, *Tele2 Sverige*, EU:C:2016:970. European Court of Justice.

CJEU. (2018). Case C-221/17, *Tjebbes and Others*, EU:C:2019:189. European Court of Justice.
CJEU. (2020). Case C-897/19 PPU, *Ruska Federacija* (*IN*), EU:C:2020:262. European Court of Justice.
CJEU. (2021). Case C-709/20, *The Department for Communities in Northern Ireland (CG)*, EU:C:2021:602. European Court of Justice.
CJEU. (2022a). Case C-118/20, *Wiener Landesregierung (Révocation d'une assurance de naturalisation)*, EU:C:2022:34. European Court of Justice.
CJEU. (2022b). Case C-673/20, *Préfet du Gers och Institut National de la Statistique och des Études Économiques* (*EP*), EU:C:2022:449. European Court of Justice.
CJEU. (2023). Case C-499/21 P, *Silver and Others v Council*, EU:C:2023:479. European Court of Justice.
Review, C. M. L. (2023). Editorial comments: *Who are the "peoples of Europe"?*. *Common Market Law Review, 60*(2), 305–316.
Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, OJ L 212/ 2001/12.
Cremona, M., & Nic Shuibhne, N. (2022). Integration, membership and the EU neighbourhood. *Common Market Law Review, 59*(SI), 155–180.
Dougan, M. (2004). A spectre is haunting Europe... free movement of persons and the eastern enlargement. In C. Hillion (Ed.), *EU enlargement: A legal approach* (pp. 111–142). Hart Publishing.
European Economic Area Agreement (EEA).
European Migration Network. (2024). *Monitoring the integration of third-country nationals: Joint EMN-OECD inform*. Available here: https://home-affairs.ec.europa.eu/system/files/2024-07/EMN_INFORM_Monitoring-integration_final_290724.pdf. Last accessed 01 October 2024.
European Parliament. (2024). Recast of Directive 2003/109/EC Status of third-country nationals who are long-term residents in the EU. In *EU Legislation in Progress* briefings. https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/757631/EPRS_BRI(2024)757631_EN.pdf. Last accessed 01 October 2024.
European Parliament and Council of the European Union. (2003). Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, OJ L 16/ 44.
European Parliament and Council of the European Union. (2004). Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending

Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (Text with EEA relevance), OJ L 158/77.

European Parliament and Council of the European Union. (2011). Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union. (Text with EEA relevance). OJ L 141/1.

Franco-German working group on EU institutional reform. (2023). Sailing on high seas: reforming and enlarging the EU for the 21st century.

Franklin, C., & Haukeland Fredriksen, H. (2022). Differentiated citizenship in the European Economic Area. In D. Thym & D. Kostakopoulou (Eds.), *Research handbook on European Union citizenship law and policy* (pp. 297–319). Edward Elgar.

Garner, O. (2018). The existential crisis of citizenship of the European Union: The argument for an autonomous status. *Cambridge Yearbook of European Legal Studies, 20*, 116–146.

Granger, M.-P. (2018). The civil right to free movement: The beating heart of European Union citizenship? In S. de Vries, H. de Waele, & M.-P. Granger (Eds.), *Civil rights and EU citizenship: Challenges at the crossroads of the European, national and private spheres* (pp. 152–193). Edward Elgar.

Hyltén-Cavallius, K. (2018). The need of residence registration for enjoyment of EU citizenship in Sweden. In F. Pennings & M. Seeleib-Kaiser (Eds.), *Possibilities and impediments to access social rights of European Citizens* (pp. 127–148). Edward Elgar.

Hyltén-Cavallius, K. (2020). *EU citizenship at the edges of freedom of movement*. Hart Publishing.

Idriz, N., & Tobler, C. (2022). Citizenship of the Association: The examples of Turkey and Switzerland. In D. Thym & D. Kostakopoulou (Eds.), *Research handbook on European Union citizenship law and policy* (pp. 320–342). Edward Elgar.

Iliopoulou-Penot, A. (2022). The construction of a European digital citizenship in the case law of the Court of Justice of the European Union. *Common Market Law Review, 59*(4), 969–1006.

Kostakopoulou, D. (2018). Scala civium: Citizenship templates post-Brexit and the European Union's duty to protect EU citizens. *Journal of Common Market Studies, 56*, 854–869.

Mantu, S., & Minderhoud, P. (2023). Struggles over social rights: Restricting access to social assistance for EU Citizens. *European Journal of Social Security, 25*(1), 3–19.

Nic Shuibhne, N. (2015). Limits rising, duties ascending: The changing legal shape of Union citizenship. *Common Market Law Review, 52*(4), 889–937.

Nic Shuibhne, N. (2023). Protecting the legal heritage of former union citizens: EP v. Préfét du Gers. *Common Market Law Review, 60*(2), 475–516.

O'Brien, C. (2016). Civis capitalist sum: Class as the new guiding principle of EU free movement rights. *Common Market Law Review, 53*(4), 937–977.

O'Brien, C. (2021). The great EU citizenship illusion exposed: Equal treatment rights evaporate for the vulnerable. *European Law Review, 46*(6), 801–817.

Peers, S. (2022). Poundshop free movement? Long-term resident non-EU citizens: The EU Commission's new proposal (part 2), published on 15 May 2022 at the *EU Law Analysis Blog*. https://eulawanalysis.blogspot.com/2022/05/poundshop-free-movement-long-term.html. Last accessed 01 October 2024.

Sharpston, E., & Sarmiento, D. (2017). European citizenship and its new union: Time to move on? In D. Kochenov (Ed.), *EU citizenship and federalism: The role of rights* (pp. 226–242). Cambridge University Press.

Spaventa, E. (2017). Earned citizenship: Understanding union citizenship through its scope. In D. Kochenov (Ed.), *EU citizenship and federalism: The role of rights* (pp. 204–225). Cambridge University Press.

Thym, D. (2022). Introduction: Challenges and crises of Union citizenship. In D. Thym & D. Kostakopoulou (Eds.), *Research handbook on European Union citizenship law and policy* (pp. 1–11). Edward Elgar.

Treaty on European Union (TEU)

Treaty on the Functioning of the European Union (TFEU)

Van Den Brink, M. (2019). EU citizenship and (fundamental) rights: Empirical, normative, and conceptual problems. *European Law Journal, 25*(1), 21–36.

Van Den Brink, M. (2022). The relationship between national and EU citizenship: What is it and what should it be? In D. Thym & D. Kostakopoulou (Eds.), *Research handbook on European Union citizenship law and policy* (pp. 100–115). Edward Elgar.

Van Den Brink, M., & Kochenov, D. (2019). Against associate EU citizenship. *Journal of Common MaRket Studies, 57*(6), 1366–1382.

Von Bogdandy, A., Kottmann, M., Antpöhler, C., Dickschen, J., Hentrei, S., & Smrkolj, M. (2012). Reverse solange–Protecting the essence of fundamental rights against EU member states. *Common Market Law Review, 49*(2), 489–519.