



## Citizenship and Migration

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### Abstract

*This paper investigates the intricate relationship between citizenship and migration, emphasizing their significance for individual rights and societal progress. The primary objective is to analyze how migration influences citizenship status and vice versa, while exploring the legal and social implications within the European Union context. The methodology involves a thorough review of migration law developments and citizenship frameworks, highlighting state sovereignty in defining these areas. Key findings indicate that migration is a global challenge that necessitates a collaborative response among states, international organizations, and civil society. The evolution of citizenship within the EU, which now incorporates concepts such as European and multiple citizenship, enables individuals to navigate their rights and obligations across various jurisdictions. The study reveals that effective migration management requires harmonized legal standards and the protection of migrants' rights, including asylum and residency. In conclusion, while the EU has made strides in creating a unified approach to citizenship and migration, significant challenges remain. The paper advocates for a reform of the EU migration system to enhance procedural efficiency and ensure equitable burden-sharing among member states. Strengthening solidarity and increasing cooperation with third countries are essential to addressing the root causes of irregular migration. Ultimately, a coordinated strategy is vital for managing global migration challenges and fulfilling the citizenship requirements of host countries.*

**Keywords:** citizenship, migration, European Union, human rights, migration law

### 1. Introduction

Citizenship and migration are two intertwined and important issues regarding the rights and obligations of individuals. They have a significant impact on the lives of individuals, the development of societies, and migration management at both, the state and international levels. Migration influences citizenship, as individuals who relocate may acquire or forfeit their citizenship status. Conversely, citizenship influences migration, as citizens have rights and obligations that can vary between their country of origin and the destination country.

State sovereignty in the area of migration law encompasses the power of states to determine rules regarding

citizenship and the status of migrants.

Migration is a global challenge that necessitates a coordinated response from states, international organizations, and civil society. In this context, the concept of citizenship within the European Union has evolved from traditional notions of citizenship to include European citizenship and multiple citizenship. The latter pertains to the right to migrate when a person is recognized as a national of more than one state, thus gaining rights and obligations from both their country of origin and the Union.

In this paper, we will explore the challenges and opportunities associated with a fundamental human right: the free movement of citizens from one country to another. We will explore how migration law has evolved and its connections to the legal and social concepts of citizenship, as well as issues related to citizenship as a means of profit, etc.

## 2. Migration, a Fundamental Human Right

Following World War II, a new perspective was formed where only international recognition and protection of human rights was seen as a way to stop repeating the crimes and violence committed by many countries.

The freedom of movement is an integral aspect of human rights and fundamental freedoms, which was proclaimed and approved, along with other rights, was established in the Universal Declaration of Human Rights, adopted and proclaimed by the UN General Assembly with Resolution 217 A (III) on December 10, 1948" (United Nations, 1948). This Declaration contains civil and political rights, as well as economic, social, and cultural rights, which belong to every person without distinction of race, color, language, religion, political opinion, national or social origin, property, birth, or other circumstances. (Gruda, 2013, pp.418-422)

Article 13 of the Universal Declaration of Human Rights (UDHR) states that " *Everyone has the right to freedom of movement and residence within the borders of each State. Everyone has the right to leave any country, including his or her country of origin, and to return to his or her country*". It is part of the group of civil and political rights, provides for freedom of movement and the right to choose one's place of residence both within and outside of the country. This right is closely related to the phenomenon of migration, in which an individual may identify as an immigrant in their country of origin as well as in the host country. (Ikonomi, 2011, pp.19-20)

Many significant documents subsequently ratified in the realm of migration have been inspired by and are founded upon the objectives and principles outlined in the Universal Declaration of Human Rights (UDHR). The Declaration clearly defines the rights that individuals can enjoy as citizens of a country, and conversely, it can be stated that all other rights that do not require citizenship as a condition for enjoyment belong to non-citizens as well, that is, to migrants. It functions as an important foundation for the determination of fundamental human rights applicable to migrants. (Ikonomi, 2011, pp.85-86)

Some of the most important acts that were later on adopted concerning migration are:

- a) The European Convention on Human Rights, 1950.
- b) International Covenant on Economic, Social and Cultural Rights, 1966
- c) International Covenant on Civil and Political Rights, 1966
- d) International Convention on the Elimination of All Forms of Racial Discrimination, 1965
- e) Convention on the Elimination of All Forms of Discrimination Against Women, 1981
- f) Convention against Torture and Other Suffering or Cruel Inhuman or Degrading Treatment, 1987
- g) Declaration on the Rights of the Child, 1959
- h) European Social Charter, 1961 and revised in 1996
- i) The Charter of Fundamental Rights in the European Union(2000)

There are several international organizations, such as the United Nations and the International Organization for Migration (IOM), that play an important role in designing and implementing migration policies, helping different countries cope with complex challenges.

- For example, the IOM - International Organization for Migration aims to improve support for migrants by providing training and resources to help them adapt to new environments. This organization has made significant strides in recognizing the potential growth of mobility and addressing the challenges of migration as a priority in the 2030 Agenda for Sustainable Development. It has also adopted another key document, the Global Compact for Safe, Orderly and Regular Migration.(IOM UN Migration ,2023, *Migration governance indicators: Republic of Albania, second profile*, p. 8)
- For example, the United Nations Refugee Agency (UNHCR) has adopted several core documents and established strategic partnerships to support refugees and those forced into displacement. A key document is

the Global Pact on Refugees, adopted in 2018, which focuses on strengthening global responses to refugee crises and improving conditions for refugees. (UNHCR, 2023)

- In the context of Albania, UNHCR has developed cooperation with state institutions and non-governmental organizations to support the integration of refugees. One example is cooperation with the Ministry of Interior, which has resulted in the implementation of the National Migration Strategy and Action Plan for Refugees 2024-2030. This strategy aims to effectively govern migration in Albania by addressing and managing the problems and challenges that arise from migration movements, with the goal of increasing the positive impact of migration on development for the benefit of both migrants and Albanian society. (Council of Ministers of Albania, 2024)

States maintain their own borders, and as a consequence of their distinct migration policies, measures to regulate the movement of individuals differ significantly. This presents a challenge for those who wish to migrate. All of these issues require international cooperation.

### 3. Citizenship, Legal Concept and Historical Development

Throughout human history, traditions and approaches to the concept of citizenship have varied significantly across different regions of the world. This variation relies on different countries, histories, societies, cultures, and ideologies, which have led to diverse interpretations of this concept.

As Aristotle said, "It is not always the same thing to be a good man and a good citizen."

The concept of citizenship indicates the relationship between an individual and a country, encompassing the rights and obligations that emerge from that relationship. It represents a permanent legal association between the individual and the state.

Citizenship is fundamental to the effective functioning of democracy. Being a citizen implies active engagement in the political life of a country, as well as the enjoyment of the rights and obligations that this status entails. In a democratic context, citizens possess a share of political sovereignty. In the constitution of every democratic country, three dimensions of citizenship are defined:

- a. *civil citizenship*, which includes fundamental freedoms such as freedom of expression, equality before the law, and property rights;
- b. *Political citizenship* is based on political participation and includes the right to vote, the right to be elected, the right to hold public office, and the right to be protected by the state when outside its borders;
- c. *Social citizenship*, relates to socio-economic rights, such as health care, the right to protection against unemployment, and labor rights. (ShtetiWeb, 2013)

In each of these dimensions, specific questions are posed that are relevant to the study of migration and the integration of migrants.

The definition of citizenship, or even its amendment, is the internal competence of each state, underscoring the importance of national sovereignty in setting the conditions that govern the identity and legal status of individuals. (Puto, 2010, p. 274) The concept of internal sovereignty implies the supreme authority of the state as the highest power within a given territory. It encompasses all the authorities necessary for its functioning, such as the legislature, the executive, and the judiciary. Every sovereign state has the liberty to determine or change its political or legal system according to its own free will and without interference from external factors. (Gruda, 2013, pp. 108–109)

The concept of citizenship, which originated in the Greek polis and the Roman Empire<sup>1</sup> has undergone a profound transformation and a series of continuous developments, experiencing its moment of greatest change and expansion during the French Revolution.<sup>2</sup> An element that has characterized this concept from ancient times to the present is how the idea of citizenship is always counterbalanced by that of exclusion. Citizenship, in fact, is subject to the obligations imposed by the state, but it also enjoys the right to participate in decision-making in political elections, through representation, and to engage in the management of the country's resources. Remarkably, all those who are not considered 'Citizens' are not subject to obligations or rights from the state entity, or worse yet, have particular

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<sup>1</sup> "Civis" is a Latin term that means "citizen" or "belonging to a city." "Civitas" is also a Latin term that translates to "citizenship" or "the community of citizens." Both terms are related to the concept of citizenship and civic engagement and illustrate the relationship between an individual and the government of the city.

<sup>2</sup> "Declaration of the Rights of Man and of the Citizen," established by the National Constituent Assembly of France in 1789, is a fundamental document of the values of the French Revolution and had a significant impact on the development of popular concepts of individual freedom and democracy in Europe and around the world.

responsibilities toward the state. (Unimondo, n.d.)

Subsequently, with the Universal Declaration of Human Rights signed in 1948, a transformation of the entire structure of the international legal system began, moving from an environment in which the subjects were individual states (each autonomous and sovereign, connected only to freely carried out bilateral and multilateral obligations) towards a system of values and obligations "erga omnes," meaning towards everyone.

In UDHR, there is no distinction made between citizens and non-citizens, clearly stating that all individuals, regardless of legal status – such as migrants, foreigners, irregular migrants, or citizens – have the same rights.

#### 4. The Right of Migration, State or Worldwide Phenomenon

*"Migration has been part of the human experience throughout history and we, in our globalized world, recognize it as a source of well-being, innovation and sustainable development, and these positive effects can be optimized by improving the governance of migration." (United Nations, 2019, parag. 8)*

Migration is a complex phenomenon which affects in different ways the economies and societies of the host countries as well as those of origin.

In the areas of origin, migration presents a solution to difficult social and economic conditions by offering an opportunity for economic advancement. For example, financial remittances from migrants, otherwise called "remittances", contribute to improving material well-being. For example, in Albania, remittances constitute an important source of income for about 26% of families. They play a positive role in areas such as education, health, investment and poverty reduction. (Bank of Albania, 2022) They hold a significant role in improving the material conditions for migrant families and contribute to the social-economic stability of those countries as a whole. Additionally, this phenomenon has helped to decrease unemployment and develop professional and intellectual skills, thanks to occupations and experience that individuals gain in the countries they migrate to. (National Agency of Diaspora, n.d)

People migrate from one country to another to ensure better living conditions for themselves and their families, aiming for a more favorable present, but mostly also a more promising future. With the evolution of new technologies in telecommunications and transportation, their movement has become faster and easier than ever before. Consequently, migration is growing at a high intensity around the world, surpassing any other historical period. This phenomenon is occurring in a context where many countries are not prepared to manage demographic changes and policies and attitudes towards population movement have become more strict. (MWLF, 2019)

*Currently, according to estimates, the number of international migrants reaches 281 million, which is about 3.6% of the total world population. While most individuals continue to live in their country of birth, migration to other countries, especially within the respective regions, is increasing. Mainly, the reason for migration is the search for work, with migrant workers making up a large part of this group and most of them living in high-income countries. The number of globally displaced people has reached a record high, with an estimated 71.2 million internal migrants and 40.7 million refugees and asylum seekers." (IOM, 2024)*

Leaning on the right granted by sovereignty, states have limited or eased the process of migration, but the expansion of migratory movements in the last 50 years has shown that the regulation of this phenomenon only with the local legislative framework has been impossible due to the interests of including both the migrant individual, the country of origin and the country of destination. Migration is a natural phenomenon of human behavior, which has become a worldwide phenomenon nowadays, and the legal status of foreigners or migrants is a matter that affects relations between states and is part of international law. (Ikonomi, 2011, pp. 111–112)

International migration law has not been developed by any special international body or structure, but gradually, in accordance with the needs of the international community through a spontaneous process. The sources of international law are:

- a. international custom;
- b. international treaties;
- c. general principles of law, generally accepted.

The Statute of the International Court of Justice provides as complementary sources, for example, decisions of international or domestic courts, acts of international organizations as well as the works of prominent scholars. International migration law rests on the national law of states and as such regulates various aspects of migration such as migration for employment purposes, the fight against irregular migration and the rights of migrants. (Ikonomi, 2011, pp.112-115)

## 5. Migration in the European Union

Migration has been an internal issue of states until 1999. With the Treaty of Amsterdam, it was deemed necessary to include migration in issues of community cooperation. Common plans, programs or strategies for migration were drawn up, taking into consideration a large number of migrants at the doors of the European Union. To manage this phenomenon, a series of measures have been foreseen, first, in the Hague Program, approved in 2004, reiterating the need for joint responsibilities of the member states in migration matters. (Ikonomi, 2011, pp.138-139)

The policies of the EU are in two main directions: a) the development of the countries of origin to fight the causes of irregular migration; b) cooperation in the field of return and readmission.

Subsequently with the Stockholm Program (2009-2014), migration management goes towards the realization of a joint active migration policy focused on two directions: a) expanding the mobility and range of migrants' rights; b) strengthening the fight against irregular migration. Alongside this, states are asked to fight racism, xenophobia and take measures to protect children. Accordingly, it is foreseen the integration of migrants with legal residence with rights comparable to citizens, employment opportunities, and social inclusion. (European Council, 2010)

In 2015, the European Migration Agenda deals with migration as a priority with the proposal of 4 medium and long-term central pillars: a) reduction of the driving factors of illegal migration; b) border management - preservation of human lives and security of external borders; c) drafting a sustainable asylum policy; d) drafting a new migration policy. (European Commission, 2015.)

In recent years, there have also been positive developments related to the treatment and protection of migrants at the community level, especially in the context of family reunification or the integration of long-term migrants. (Ikonomi, 2011, p.143)

The member states have a tendency towards a uniformity towards human rights instruments, when it comes to *classic rights* such as the right to life, respect for human dignity, the prohibition of torture, the prohibition of slavery, forced labor, etc...

## 6. Citizenship in the European Union

Phenomena at the global level, such as globalization and mass migration, as well as at a more local level, such as the path of European integration, have pushed lawyers and legislators to rethink the notion of citizenship, also in the light of the evolution of the nation-state concept, which of course it is no longer known until the first half of the 20th century. (Unimondo, n.d.)

In the context of the construction of the European Union, the notion of European citizenship has appeared. Established by the Maastricht Treaty in 1992, European citizenship is the legal status of any person belonging to an EU member state. According to the Treaty of Amsterdam (1997), it does not replace national citizenship, but represents a complement to it, as it aims to establish solidarity between the peoples that are part of the European Union and promote the process of political integration between member states. Every person who is a citizen of a Member State is a citizen of the European Union. The latter enjoy rights and are subject to obligations, defined in the Treaty. In particular, they can move and reside freely within the territories of the EU (free movement of persons);

- have the right to vote and stand as a candidate in municipal elections and European Parliament elections in their member state of residence;
- if they are in a third country, where the country of origin is not represented, they have the right to the diplomatic and consular protection of any Member State of the European Union;
- have the right to make a request to the European Parliament and may refer the case to the European Ombudsman.

In the case of C-135/08 Janko Rottmann v Freistaat Bayern, Advocate General Poiras Maduro of the ECJ explained the difference with the nationality of a state saying that they are two interconnected concepts but autonomous and that EU citizenship presupposes citizenship of a Member State. EU citizenship is a legal and political concept independent of national citizenship. It presupposes the existence of a political bond between the citizens of Europe, even if it is not a relationship of belonging to a people. It is founded on their mutual commitment to build a new form of civic and political solidarity on a European scale. (Advocate General Poiras Maduro, 2010, *para.* 23)

The aspects that render European citizenship unique include the fact that every EU citizen enjoys rights that extend beyond those provided by the citizenship of an individual member state. Mrs. Ursula von der Leyen, President of the European Commission, in 2023 said - " *In the last 30 years, millions of European citizens have enjoyed the concrete*

benefits of EU citizenship. They have made their voice heard in the European and local elections, even living in a member state other than the one of origin. We will continue to promote and strengthen these rights, because only in this way will we be able to strengthen the European Union, our values and the European way of life". (European Commission, 2024)

All these elements define the style of the European life motto: "Unity in Diversity".

EU citizenship is a unique concept that automatically grants EU citizenship if one is a citizen of one of the 27 member states. The implementation of this concept within the European Union has certain particularities, as the EU is not a nation-state but an international organization of states constituted of different nations. European citizenship developed gradually, originating as the European Community (EC) and transforming into the European Union (EU), gradually acquiring the characteristics of a federal and multinational state.

## 7. Method of Acquiring Citizenship

Sovereign states have the right to determine regulations and policies for the acquisition and maintenance of citizenship. An individual has the opportunity to obtain a new citizenship by renouncing their current one for the reason that some countries require individuals to withdraw from their current citizenship to obtain a new one. Austria generally does not allow multiple citizenships. Exceptions are made in cases when a person benefits from different citizenships from birth. When an Austrian citizen acquires another citizenship, he usually loses the first one. However, they may require special permission to retain their citizenship before applying for naturalization in another country. (Republik Österreich n.d.) Some countries, on the other hand, allow individuals to maintain ties with more than one state, thus allowing them to hold multiple citizenships simultaneously. In the European Union, some of the countries that allow holding dual or multiple citizenships are: France, Italy, Sweden, Belgium, Portugal, Spain (allows dual citizenship for citizens of some countries, including Latin countries).

Some of the more common ways to acquire citizenship include:

- a. *Jus Sanguinis* - if the individual has at least one citizen parent. Most of United Nations Organization's member states accept this as a sufficient condition to automatically acquire citizenship even from one parent;
- b. *Jus Soli* - when the individual is born in the territory of the state. This practice is common in America and the United Kingdom;
- c. *Jus Matrimonii* – when the individual marries a citizen. This usually reduces the time required for naturalization and in some cases it offers immediate citizenship, as happens in some Islamic countries, where the wife automatically takes the citizenship of the husband (eg in Iran ).
- d. *Naturalization* - naturalization criteria and laws change a lot for individuals (eg, 3 years of residence is required in Belgium, and 30 years in San Marino).

To apply for a new citizenship, a person must meet certain conditions. These may include: 1) The time of legal residence in the country where citizenship is sought; 2) Fulfillment of language and cultural knowledge criteria; 3) Fulfillment of other requirements of the law of the host country.

- e. *Adoption* - individuals under the age of 18 who are adopted by a citizen.
- f. *Merit* - some countries offer immediate citizenship for certain professionals (such as in Austria for university professors invited by Austrian universities). (Puto, 2012, pp.274-280)

The practice of granting honorary citizenship for contributions to humanity is also widespread.

It stands out that in order to acquire the citizenship of a country with all the rights and obligations that this provides, in the case of naturalization, you must be a regular migrant.

## 8. How Citizenship and Migration Affect Each Other, in the Context of the EU

In the context of migration, citizenship implies a distinction between members of a state and foreigners, based on their different relationships with particular states. ( ShtetiWeb, 2013)

In the contemporary period, analyzing the concept of migration, the importance of "voluntary or rational movement" is emphasized. This approach helps to clarify certain motivations that drive migration, but it also limits the understanding of the extent of behaviors that can be called "migratory", leaving out some other aspects that may be equally important.

Migration affects an individual's citizenship status, as a person who immigrates from one country to another may apply for citizenship in the host country. Citizenship is considered a prize to be awarded to individuals who have completed integration within society.

The EU has continuously aimed to create a space with the highest standards in the field of protection and realization of human rights. The restriction of immigration has been translated into the European Union as the development of a series of political and legal instruments to protect refugees and asylum seekers, showing the strong commitment of international treaties to the respect of human rights.

From the perspective of the destination, migration is not a threat, but rather a valuable resource for Europe. Europe needs immigrants to replace its aging population. Although immigration cannot solve a country's demographic difficulties (because immigrants are also aging), it can control the pace of change. Defending the principle of border control and security means adopting an inefficient and ineffective solution for European society. Given the growing importance and complexity of migration, a global migration governance is much needed.

From the perspective of origin, migration can be considered as a process of transition towards evolution for young people and for adults and at the same time a requirement of the *acquis communautaire* of the EU related to European values, rights, identity and culture. These include the culture of peace, democracy, human rights, well-being, European citizenship, diversity, the principle of subsidiarity and mobility.

The preservation of migrants' rights, including the right to free movement, is guaranteed by international conventions such as the European Convention on Human Rights. Nonetheless, migration legislation and rules are not uniform in all EU member states. Therefore, it is essential to understand not only the EU legislation, but also to respect the specific rules of each member state.

Foreigners, throughout their stay in the territory of the host country, must respect the laws of the country in whose territory they stay. They are granted some rights, but not equally with citizens. For instance, they cannot enjoy political rights.

## 9. Conclusions

History has shown that the concept of citizenship has experienced numerous changes, which have been adapted according to the theories, social and political needs of different periods. On the other hand, migration is an issue with a global dimension, and the lack of international cooperation has brought various difficulties in its management.

The internal legislations of different states have tried, through constitutional and legal norms, to regulate the legal positions of foreigners or asylum seekers.

Migration law is an important area of Community and international law which has experienced significant development in recent years. It includes legislation and regulations governing the movement of people from one country to another, the right of entry, residence and departure. Only member states have the authority to set rules and limits on the entry and stay of migrants and also have the responsibility to ensure that migrants' rights are implemented and respected.

On the other hand, migrants enjoy rights and obligations, which include the right to seek asylum, the right to stay and the right to return to their country of origin. The right to seek new citizenship in another country is an important aspect of migration law.

In the community and international legal framework, there are important instruments for the protection of human rights, such as the ECHR, which applies to refugees, asylum seekers and immigrants regardless of their citizenship.

The European Union has faced significant challenges due to the increased flow of migrants and the different approaches that member states have to address migration. However, in relation to "citizenship" the EU managed to create a European identity by uniting millions of people and in relation to "migration" it developed a common approach of the member states in some of its fields.

I also think that the European Union still needs a reformation of the migration system to create efficient and standardized procedures and to ensure a fair distribution of the burden of migrants among the member states. Therefore, solidarity between member states must be strengthened even more. Moreover, the European Union should continue to intensify cooperation with third countries to address the root causes of irregular migration. Only through a coordinated approach can member states, together with countries of origin and host countries, provide solutions to global migration challenges and citizenship requirements in host countries.

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