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Concepts, Foundations, and Limits of European Citizenship

IMPRESSUM

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Vorwort

Der nachfolgende Text enthält die unveränderte Fassung eines von der Autorin und dem Autor gemeinsam entwickelten Forschungsprojekts, das der Zweitverfasser im August 1994 der Deutschen Forschungsgemeinschaft (DFG) mit der Bitte um die Gewährung eines Sachkostenzuschusses unterbreitet hat. Lediglich die zu einem derartigen Antrag gehörenden administrativen, finanziellen und technischen Elemente sind hier weggelassen. Die DFG hat inzwischen die Förderung des Projekts zugesagt. Die Veröffentlichung in einem Diskussionspapier des ZERP dient nicht nur dazu, unsere vielfältigen Diskussions- und Kooperationspartner in dem Bereich des Europäischen Verfassungsrechts über unsere Forschung zu informieren; sie soll auch helfen, neue wissenschaftliche Kontakte anzuknüpfen. Wir erhoffen uns davon kritische Nachfragen und Anregungen zur Verfeinerung, Fortentwicklung oder Modifizierung des entwickelten Forschungsansatzes. Kommentare, Fragen und Kritiken sind daher willkommen.

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Zusammenfassung in deutscher Sprache

Ein wichtiger Schritt auf dem Wege der Umwandlung der Europäischen Gemeinschaften in die Europäische Union durch den "Vertrag über die Europäische Union" [Maastricht-Vertrag] vom 7. Februar 1992 ist die Einführung der Unionsbürgerschaft durch die Artikel 8 ff. EGV. Obwohl die durch diese Regelungen neu hinzutretenden Unionsrechte der Angehörigen der EU-Mitgliedstaaten nicht annähernd so ausgeformt sind wie die jeweiligen nationalen Grundrechtskataloge, ist doch die Unionsbürgerschaft unabhängig von dem Umfang der augenblicklich daran geknüpften Rechte insofern von erheblicher Bedeutung, als sie einen Beitrag zu "einer immer engeren Union der Völker Europas" leisten soll. In dem Projekt soll erforscht werden, welchen Gehalt das Institut der Unionsbürgerschaft haben und ob es tatsächlich zur Herausbildung eines europäischen politischen Gemeinwesens (Europäische Union) beitragen könnte.

Obwohl der Begriff 'Unionsbürgerschaft' ('citizenship of the Union', 'citoyenneté de l'Union' etc.) ein Rechtsterminus der Gemeinschaft ist, gibt es doch keinen einheitlichen europäischen Begriff für diesen Status. Der Begriffsinhalt von 'Bürgerschaft', 'citizenship', 'citoyenneté' etc. ergibt sich vielmehr erst aus den jeweiligen nationalen Rechtsordnungen und politischen Kulturen der Mitgliedstaaten. Wir machen daher die Annahme, daß der Begriff einer europäischen Bürgerschaft im wesentlichen auf den rechtlichen, politischen und kulturellen Traditionen der EU-Mitgliedsstaaten gegründet sein wird. Das Projekt richtet sich folglich auf eine ausführliche Analyse der Bedeutung des Begriffs der 'Bürgerschaft' (*citizenship, citoyenneté, cittadinanza*) in den für die Unter-

suchung ausgewählten Ländern Belgien, Deutschland, Frankreich, Großbritannien und Italien.

Der Fragestellung wird dabei ein Begriff von 'Bürgerschaft' zugrundegelegt, der es ermöglicht, die über den rechtstechnischen Gebrauch hinausgehende umfassendere sozio-politische und -kulturelle Bedeutung und Verwendungsweise dieses Status zu erfassen. Wir machen die Annahme, daß der Begriff 'Bürgerschaft' ('citizenship' etc.) eine weitere Bedeutung hat als der formale juristische Begriff der 'Staatsangehörigkeit' ('nationality' etc.). Andererseits betrachten wir aber auch einen vor allem in der anglo-amerikanischen Literatur vertretenen Begriff der 'Bürgerschaft' als zu weit und konturenlos, der alle rechtlichen, sozialen, ökonomischen, kulturellen und politischen Dimensionen des gesellschaftlichen Status einer Person umfaßt. In dem Projekt soll eine mittlere Linie zwischen jenem engen (Staatsangehörigkeit) und diesem extrem weiten Verständnis verfolgt werden. Wir verstehen daher unter 'Bürgerschaft' ('citizenship', 'citoyenneté', 'cittadinanza') den Inbegriff jener (nicht notwendigerweise nur juristischen) Regeln, durch die eine Person als ein maßgebliches Mitglied des politischen Gemeinwesens definiert und anerkannt wird. Diese immer noch vage und vorläufige Definition kann erst präzisiert werden, wenn aufgrund der hier vorgeschlagenen Forschung die Begriffsdimensionen erkannt sind, die in den untersuchten Ländern relevant sind.

Die wissenschaftliche Aufklärung über die, wie wir vermuten, Pluralität nationalspezifisch unterschiedlicher, aber auch gegebenenfalls innerhalb der untersuchten Nationalgesellschaften selbst konkurrierender Bedeutungen des Begriffs der 'Bürgerschaft' soll schließlich die Antwort auf die Frage ermöglichen, inwieweit sie miteinander vereinbar

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sind und ob sich daraus in der Europäischen Union ein Bündel übereinstimmend aufgefaßter Rechte, Pflichten, Institutionen und kultureller Praktiken herleiten läßt, die zur Grundlage für einen europäischen Bürgerschaftsstatus und damit auch für ein europäisches politisches Gemeinwesen werden können. Diese Fragestellung bleibt aber auch dann sinnvoll, wenn (aus letztlich politisch zu entscheidenden Gründen) eine über den augenblicklichen Zustand hinausgehende Verdichtung und Intensivierung des Status der Unionsbürgerschaft gar nicht angestrebt werden sollte. Denn die der Union obliegende Aufgabe der rechtlichen Harmonisierung erfordert in jedem Fall einen 'kommunitären' Begriff des vom europäischen Recht regulierten Rechtssubjekts.

Da das Projekt auf die Analyse der unterschiedlichen *Bedeutungen* des Begriffs der Bürgerschaft zielt, beschränkt sich die Untersuchung nicht auf den Rechtsvergleich. Ihr Schwerpunkt liegt vielmehr im Vergleich der jeweiligen Kontexte, innnerhalb deren der nicht ausschließlich rechtlich geprägte Begriff der 'Bürgerschaft' seine spezifische Bedeutung erlangt hat. In dem analytischen Rahmen, den wir verwenden, haben wir eine Liste von zehn verschiedenen Dimensionen entwickelt, anhand deren die vielfältigen Elemente des variantenreichen Begriffs der Bürgerschaft erfaßt werden können. Methodisch hat die Untersuchung daher primär einen begriffsanalytischen und -geschichtlichen Charakter. Doch will sie darüber hinaus vor allem den alltagssprachlichen Gebrauch des Begriffs der 'Bürgerschaft' erfassen; insofern folgt sie dem vor allem in der Geschichtswissenschaft entwickelten Verfahren der Analyse der Semantik sozio-politischer Begriffe. Das dazu verwendete Quellenmaterial besteht daher nicht nur aus Rechtstexten (Verfassungen, Gesetzen, [verfassungs-]gerichtlichen

Entscheidungen), sondern auch aus jenen Texten, die für die Prägung politisch zentraler Begriffe in öffentlichen Diskursen bedeutsam sind (Zeitungen, Zeitschriften, politische Pamphlete u.ä.).

PROJECT SUMMARY

One of the major steps in the transformation of the European Communities into the European Union by means of the Treaty on European Union, concluded on 7 February 1992 in Maastricht, has been the establishment of the citizenship of the Union in Articles 8 to 8e of the EC-Treaty. Although the rights which have been added to those which the nationals of the EC-countries already enjoyed before the Maastricht Treaty are not nearly as extensive as respective national rights, the creation of European citizenship is of major significance in that it is to be understood as a step towards an ever closer union of the peoples of Europe. The proposed research project seeks to contribute to the search for an answer to the question of whether the idea of a European citizenship as an integrative element of a European polity is conceivable, and which contents and meaning it could encompass.

Although the term 'citizenship' is part of the Community law and hence suggests a presumption that it can be defined according to a Community concept, this is not the case. As is the case with the term 'nationality', citizenship is established by the respective national legal orders and political cultures of the Member States. Hence, we make the basic assumption that the idea of European citizenship, should it be at all conceivable, will certainly be grounded upon the legal, political, and cultural traditions of the Member States of the EU. Therefore, the project aims at a thorough analysis of the concept of citizenship in a selected number of Member States, namely Belgium, Britain, France, Germany, and Italy.

The goal of the research is a clarification of the historical, sociological, cultural, legal, and political contexts which provide the frameworks for particular meanings of

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citizenship in the selected Member States of the Community. We start from the hypothesis that the term 'citizenship' ('Bürgerschaft', 'citoyenneté', 'cittadinanza') has a broader meaning than the strictly legal term 'nationality'. On the other hand, a definition which so broad as to include all practices (juridical, political, economic and cultural) which define a person as a competent member of society at large, and which as a consequence shape the flow of resources to persons and to social groups would render it unbridled and obscure rather than clarify the concept. Therefore we pursue a path between these two extreme positions and conceive of citizenship as the set of (predominantly, but not necessarily legal) rules which define a person as a competent member of the polity.

The ultimate aim is to find an answer to the question of whether it is possible to conceive of a set of elements -- rights, duties, practices, institutions -- on the meaning of which there is a fairly broad common understanding in all Member States of the EU and which could serve as the basic structure of a European polity. Even if the political debates of the near future should advise against a development of a more elaborate and ample concept of Union citizenship than the one presently stipulated in the EC Treaty, the project remains well-grounded. The EU's task of harmonizing the legal rules of the Member States in broad policy areas in any case requires a common European criterion for the legal status of the Europen legal subject. This is bound to be informed by the legal orders of the Member States.

Since the investigation aims at the analysis of different *meanings* of citizenship, the focus of analysis is not legal comparison, but rather a comparison of the respective contexts in which citizenship has adopted its particular meaning. In the analytic framework which we employ, we

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have developed a set of ten different dimensions along which the various elements of the concept of citizenship can be grasped. As regards the method of analyzing different 'meanings', the inquiry will largely follow an approach which focuses on the social character of (political) language. Being related to the method of *'Begriffsgeschichte'*, it attempts to include the popular every-day meaning of the concept of citizenship. Thus, it is essentially based on a methodological concept of socio-political semantics.

I. Problem and Objectives

1. The unclear meaning of 'European citizenship'

The project aims at the explication of the potential meaning of 'European Citizenship'. Although the idea of European citizenship is not entirely novel (see, e.g., Grabitz 1970; Plender 1976; Durand 1979; v. d. Berghe 1982; Evans 1984; Maghiera 1987), it was not until the Treaty on European Union as signed at Maastricht on 7 February 1992 that 'citizenship of the union' was formally established in a legal text of the Community. The incorporation of the idea of European citizenship in a legal text has made its conceptual clarification ever more urgent. While the newly inserted text of the Articles 8 to 8e EC Treaty does not create excessively great obstacles to their legal interpretation, it is more difficult to understand which meaning this new element of the EC Treaty may have for the process of European integration, and which stamp it might imprint on the character of the emergent 'European Union'. The assessments of the importance of the institution 'citizenship of the Union' are vague and cautious at best. For example, Corbett speaks of a "notable achievement" without explicating what this achievement precisely might consist of (Corbett 1993: 52); Curtin considers the insertion of Part Two of the EC Treaty a "real progress", while stating at the same time that what, *inter alia*, constitutes the "unique *sui generis* nature of the European Community, its true world-historical significance", namely the character of the Union as a "cohesive legal unit which confers rights on *individuals* ..." is endangered by the serious shortfalls of the Treaty of Maastricht (Curtin 1993: 67). For Meehan citizenship of the Union is part of a complex development from "national citizenship to European civil society"

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(Meehan 1993: 16 ff.), while, according to a seemingly more practical and realistic statement of a lawyer (written before the conclusion of the Treaty of Maastricht), Union citizenship will at least over the medium term be hardly more than the subsumption of the single rights and duties of the individual under the label 'Union citizenship' without changing either the continuance of the intermediary role of national citizenship or its salient role in the lives of the Europeans (Oppermann 1991: 563 ff.). According to a more critical assessment the Maastricht Treaty's elocution of European citizenship betrays the "deepest symbols of statehood" and expresses "the rhetoric of a superstate" (Weiler 1994: 213).

It should be noted that Article 8 EC-Treaty confers the status of citizenship of the union on "every person holding the nationality of a Member State". Obviously the Member States have preserved their national authority to define the rules about the acquisition and the loss of their nationality, i.e., to settle by national law whether an individual possesses the nationality of a Member State. There is no common European standard for the definition of the term 'nationality' (d'Oliveira 1994: 129 ff.). In this research proposal we start out from the assumption that the meaning and the importance of European citizenship for the ongoing process of integration will largely be shaped by the concepts of citizenship which have been developed in the several national Member States of the Community. With this assumption we do not only, even not primarily, make reference to the different nationality laws of the Member States. Rather, we point to the distinction between nationality and citizenship a brief clafification of which seems appropriate.

At first glance, this distinction seems to have lost both its practical and its conceptual significance. Today in most countries of the world nationality is largely regarded as identical with citizenship. Every person holding the nationality of a particular state enjoys the rights and is burdened with the duties of citizenship, and every citizen is the national of that state. Still, conceptually the terms nationality and citizenship are not synonyms. Nationality denotes a legal relation between an individual and a state according to which the individual is subject to the public authority and the legal order of that state (for more details see de Groot 1989: 10 ff.; Wiessner 1989: 19 ff.). Citizenship may or may not ensue from nationality. At the dawn of the modern constitutional state the two categories differed greatly: while nationality conveyed a position of passive submission, citizenship included the active status of participating in the shaping of the polity. It was limited to a small minority of the nationals. While initially extremely exclusive, the concept of citizenship has become ever more inclusive in the course of the social and political developments of the last two hundred years; the property and gender qualifications have been gradually abolished and the age requirement decreased so that today virtually all adult nationals enjoy the status of citizenship.

Yet, nationality and citizenship are two different concepts which serve different functions. Nationality is the legal concept which defines the legal membership of an individual to a state. It is the starting point for citizenship, but it is not citizenship itself. Citizenship is the status which encompasses the rights, duties, benefits and burdens which follow from a person's nationality. Hence, to be the national

of a particular state comes up to be its citizen.[1] But it is less clear what it means to be its citizen, since the amount and the character of the rights, duties, benefits and burdens associated with this status are not determined by the laws on nationality. Nor are they everywhere the same, just as the criteria for the acquisition and the loss of nationality vary from country to country.

Although the term 'citizenship' is part of the Community law and hence suggests the presumption that it can be defined according to a Community concept, this is not the case. As it equally occurs with the definition of nationality, citizenship is established by the respective national legal orders and political cultures of the Member States. While it is a matter of legal inquiry to identify the different national rules on nationality, it is much more difficult to grasp the concepts of citizenship as they are used and understood in the Member States of the Community. The reason is that the concept of citizenship is not a purely legal one and that it is rooted in the political culture of the respective country. Thus, a comparative analysis demands a broader approach than the comparison of the merely legal rules on nationality. On the other hand, the concept must not be so expansive as to include the whole range of a person's economic, social, cultural, religious, legal or political status and the rights, duties, burdens and benefits connected with it; this would blur the boundaries of the very concept and finally obscure all conceptual and empirical distinctions. Even the definition proposed by Turner who conceives of citizenship as of "that

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[1]   It should be noted, however, that there is no conceptual obstacle to the idea that a person be the citizen of a state without being its national. This rare case occurred during the French Revolution under the Jacobin rule. In the further arguments this instance will be disregarded.

set of practices (juridical, political, economic and cultural) which define a person as a competent member of society, and which as a consequence shape the flow of resources to persons and to social groups" (Turner 1993a: 2) is too broad for the project in that it includes wide parts of the social structure which have no relation whatsoever to the sphere of the polity (for a more restricted concept of citizenship see also Zolo 1993). In view of the goal of the project to investigate into the potential meaning of European citizenship the concept of citizenship focuses on its predominant character which determines the status of a person within and vis-à-vis the polity. Thus, citizenship is defined as the set of (predominantly, but not necessarily legal) rules which define a person as a competent member of the polity. Note that this is a provisional heuristic statement which allows the demarcation of the field of inquiry into relevant socio-political and legal concepts which deal with a person's status in the polity. It is flexible and open enough as to allow surprising findings.

With regard to the relationship between citizenship as developed in the Member States of the Union and the concept of Union citizenship as envisaged by the Maastricht Treaty we start from the hypothesis that the diversity of traditions which have shaped the concepts of citizenship in the respective national contexts is likely to generate different or at least differently coloured versions of one single Union citizenship. This proposition is derived from the unique legal attributes of the European Union: although, of course, the rights and duties associated with Union citizenship are rights and duties vis-à-vis the Community, the principal adressee of the former and guarantors of the discharge of the latter are and will be the national Member States, because the great bulk of Community law is

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implemented and enforced by them rather than by proper Community institutions and agencies.

If in fact the national Member States remain the principal actors in the areas in which citizenship is important for the daily life of the Europeans, then it seems safe to conclude that the national traditions and conceptual particularities of the several Member States will have a major impact on the contours of an evolving concept of Union citizenship. It is hardly conceivable that an institution as essential for the structure of a constitutional polity as citizenship could be constructed without thorough borrowing of ideas from basic constitutional ideas of the constituent Member States. This hypothesis -- the framing role of the national concepts of citizenship for the final structure of Union citizenship -- underlies the analysis proper of the research project. It includes two main stages. The first consists of a comparative study of different concepts of citizenship as developed in a selected number of Member States, namely, Britain, France, Germany, Italy, and Belgium. The reasons for the choice of these countries among the potential sixteen candidates are expounded below in subsection IV. 1. This comparison aims, first of all, at probing into the richness and variety of elements which throughout the Member States of the Community constitute the idea of citizenship; secondly, it seeks to bring to light whether and to which degree the different elements of the explored national concepts of citizenship are sufficiently akin to and consistent with each other so that they can serve as the conceptual underpinnings of a European citizenship. Obviously the result of this comparative analysis could also be that the national concepts of citizenship diverge so much that this will eventually prevent the national political actors from finding a common understanding of what European

citizenship essentially means or could mean (to them and to the individuals on whom this status is conferred as well). Even if this were the case, this negative result would provide us with valuable insights about the normative and structural particularities of national societies and nation-states and about the boundaries which are set to their integration into a supra-national political entity.

Before the state of research on the concept of citizenship (II.), the conceptual framework for this project (III.) and the procedure of investigation (IV.) are explicated in full detail, the underlying premise about the essential role of national concepts of citizenship for the eventual unfolding of Union citizenship needs a more thorough clarification.

2. Account of the historical development of 'European citizenship'

Since the insertion of the Articles 8 to 8e into the Rome Treaty on the European Economic Community every person holding the nationality of a Member State has been a citizen of the Union.[2] For the time being these articles embody the last step of a development of the European Economic Community which started with the purely economic aspiration of the Rome Treaty of 1957 to mobilize the "factors of production" -- capital and manpower -- in the Member States (Plender 1976: 39). The political-pathetic term 'citizen' was thoroughly alien to the wording of the original Treaty and probably to its spirit as well. When the treaty dealt with persons, they were addressed in their roles

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[2] It should be noted, however, that the rights connected with citizenship are not restricted to the newly inserted Part Two; d'Oliveira has rightly pointed to the fact that numerous relevant provisions are scattered throughout the Treaty (d'Oliveira 1994: 133 ff.).

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as economic actors, i.e., as employers, employees, or self-employed persons. The main goal of the Community was the integration of the economies of the Member States, and consequently the rights of individuals -- primarily the right to equal treatment of all participants of the market irrespective of their nationality -- were tailored according to the functional requirements of economic integration (Grabitz 1970: 65 ff.). Thus, with the guarantee of the free movement of persons, services and capital the treaty assured the mobility of workers and self-employed persons, the access to the labour market and the concomitant rights of the migrant worker and his family to enjoy the rights in the field of labour law and social security under the same conditions as the nationals of his host state (articles 48 through 73; regulation 1612/68).

In the meantime, the development of the Community has clearly gone beyond the 'functional integration' of the economies of the Member States. The narrow conception of individuals as workers or self-employed persons has been loosened. Three Council directives issued in 1990 define the right of a person who is a national of a Member State to reside in any other Member State so broadly that almost every citizen of a Member State is entitled to move and to reside freely within the territory of the Member States irrespective of his or her economic status.[3] Shortly before, in 1989, the European Court had already decreed that according to Article 7 (now: Article 6) of the Treaty not only the provider, but also the recipient of services who

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[3] See Council directives No. 364/90 of June 28, 1990, in OJ 1990, L 180, p. 26 (right of residence); No. 365/90 of June 28, 1990, in OJ 1990, L 180, p. 28 (right of residence for employees and self-employed persons who have ceased their occupational activity); No. 366/90 of June 28, 1990, in OJ 1990, L 180, p. 30 (right of residence for students).

travels in another Member State has the right to the same protection as the nationals of that Member State.[4]

Arguably the dissociation of legal protection of the nationals of the Member States "from their functional status as workers" (Mancini 1991: 185) is a major step towards European citizenship. However, by implication neither the market-related rights of the workers and of the self-employed persons to freely move and reside within the territory of the Member States nor the final dissociation of these rights from the economic role of the citizens of the Member States entail legal equality of the freely moving and residing Union 'citizen' with the nationals of the respective Member State in all other areas of life. Since the definition of nationality -- i.e., the definition of the class of individuals who have a particular and exclusive connection to the respective state -- remains within the jurisdiction of the Member States (d'Oliveira 1994: 129 ff.), nationals of Member States keep possession of their status of an alien when they enter the territory of another Member State.[5] The right of the nation-states to discriminate against aliens, i.e., to grant them fewer rights than their own nationals, is an inherent element of the sovereignty of the modern state which is accepted by international law. It has been restricted, but by no means abolished by article 6 of the EC Treaty which stipulates that "within the scope of application of the Treaty .... any discrimination on grounds of nationality shall be prohibited". Although "the scope of application of the Treaty" has continuously been extended

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4   *Case Cowan* v. *Trésor Public*, Case 186/87, ECR [1989] 195 at 216.

5   Admittedly, they enjoy a more favorable legal status than aliens from non-Community countries. They are, as it were, privileged aliens.

(Smit/Herzog 1993: 7.07.), it is equally clear that large areas remain untouched by this rule because they are thoroughly unrelated to the Treaty. In these areas citizens of Member States remain aliens in all Member States other than their own (Evans/d'Oliveira 1991: 310 ff.). Thus, 'citizenship of the Union' has not turned out to be a more or less automatic consequence of advancing economic integration.

2.1 Two possible ways towards European citizenship

In an analytical perspective, we can distinguish two different avenues towards European citizenship. The first method requires a *common European criterion* which defines a class of persons who enjoy some consequential rights or privileges (see Plender 1976: 40). A common European criterion which would render an individual a 'citizen of the Community' could be, for instance, her legal residence for at least five years within the territorial boundaries of the Community. For the sake of analytical clarity of this common European criterion we may even make the unrealistic assumption that residence within the physical boundaries of the Community is entirely independent of the -- existent or non-existent -- quality of a person of being a national of a Member State. Thus, it would be possible to be a Union citizen without being the citizen of any of the Member States because the Member States do not serve as intermediaries between the individuals and the Community -- an obvious analogy to the territorial status of Washington D.C. within the federal system of the U.S. The posession of this status would be the indispensable link to the enjoyment of rights and benefits granted by the Community. This path to European citizenship may be called the *status path*, because the acquisition of the status

of citizenship takes logical precedence over consequential rights attached to it. Rights are derived from the status. The second approach would pursue the reverse method: according to this approach the Community would confer rights on the citizens of all Member States. Individuals would enjoy these rights irrespective of their particular nationality. Concerning the institutions which are obligated by these Community rights, three different classes have to be distinguished (see also Clapham 1991: 31 ff.): (1) rights against institutions and agents of the Community - e.g., against the Commission, or the Council; (2) rights against institutions of the individual's own nation state applying Community law; (3) rights against the institutions of a member state other than the individual's own nation state applying Community law. All three classes of Community rights require that the otherwise important criterion of nationality of one of the Member States be neglected. If the number of this 'supranational' class of rights gradually increases, then -- this could be a tenable assumption -- the resulting bundle of Community rights would (or at least could) eventually create a bond of commonness among individuals who enjoy the same rights and who are protected by the same law (Marshall 1992: 62; Goodin 1988: 83 ff.), and this common bond of mutual loyalty may finally constitute the status of Community citizenship.

This hypothesis appears most plausible with respect to the rights classified under (3). Given the character of the Member States as entrenched nation-states, the disregard of a foreign nationality when granting rights to individuals is particularly difficult. If it becomes an established practice, we may expect that this is tantamount to the birth of a new, non-national legal status. This approach and the assumptions implied in it may be called the *rights path*, because rights

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take precedence over status. The status is derived from the rights granted by the Community.

One qualification with respect to the *rights path* seems necessary, however. The *rights path* might not work for the creation of citizenship if we regard rights as instruments in the hands of individuals to protect their interests in the first place. If 'self-interest rights' prevail, the idea of a sphere common to all individuals who enjoy the same rights is not likely to arise. But there is also the 'communitarian' assumption that rights play an important role for social and political integration. People who know that they have rights in common may develop a feeling of collective identity which binds them together in a common polity (Marshall 1992: 62; Goodin 1988: 84 ff.; Clapham 1991: 10, 14 f.). Whether the 'self-interest' or the 'communitarian' dimension of rights prevails in a particular polity depends on manifold circumstances, among which, *inter alia*, the concept of the state and the understanding of the role of the law play an important role. While an exhaustive analysis of these complex matters is hardly possible (at least it is not intended in this project), it is safe to hypothesize that the assignment of rights which further the efficient allocation of production factors, i.e., the free movement of capital and labour, will advance the 'self-interest' dimension of rights and hamper the emergence of a sphere of commonly shared interests and ideas. The social institution to which they refer and in which they have their field of operation is the market. In contrast, communicative rights such as the rights to the freedom of expression, assembly, association, religion, or conscience, but also the rights to life and bodily integrity, though certainly not thoroughly antagonistic to the 'self-interest' dimension of rights, refer to the idea of shared forms of life, ultimately to the concept of the polity.

Their civic character is predominant, and hence they are susceptible to a 'communitarian' interpretation.

The distinction between the 'self-interest' rights and rights which are amenable to 'communitarian' interpretations has been introduced in order to defend the hypothesis, that only the latter are able and likely to generate citizenship. Thus, if in the following argument reference is made to the *rights path* to European citizenship, the combination of two elements is presumed: first, the irrelevance of the particular nationality of the Member States as a criterion for the enjoyment of rights within the territorial boundaries of the Community; second, the inclusion of such rights in the packet of rights conferred on the citizens of the Member States which are open to a 'communitarian' interpretation. Measured by this standard, the framers of the EC Treaty did not pursue the *rights path* either. The Treaty conceived of the individuals as of mainly self-interested economic players, and the economic rights stipulated by it[6] were primarily devised as tools for the abolition of obstacles which threatened to curb the efficient use of economic resources. Apparently they were not imagined as means for the gradual realization of a common European status; but even if they had been devised with this intention, this approach would have been doomed to fail because the individualistic character of rights bestowed on the citizens of the Member States would not meet the requirements of the 'communitarian' assumption about the integrative and cohesive role of rights.

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[6] Articles 48 ff., 52 ff., 59 ff. (freedom of movement for workers, freedoms of establishment and to provide services for self-employed persons, and the concomitant rights).

2.2 The possible role of a European bill of rights

The dynamism of the common market as the main field of integration of the economies of the member states has widened the ho-rizon for the perception that individuals need protection of their individual, family and collective life against the threatening or even destructive consequences of this process (Clapham 1991: 16 ff). The dimension of rights beyond their purely functional role for economic integration has become a manifest issue of European integration. Depending on the extent and the meaning of rights, this issue has raised the question of whether this new dimension of rights will open the path to a European citizenship. Some authors claimed already before the Treaty on European Union that the bundle of rights which the Community conferred on the citizens of the member states has furthered the emergence of the concept of European citizenship. But its meaning has remained quite unclear. There is only broad consensus among experts that its obvious dissimilarities with the traditional concept of citizenship shaped by the structure of the nation state must warn us against any confusion of the former with the latter (v.d.Berghe/Huber 1981: 755 ff.; v.d.Berghe 1982: 3; Magiera 1987: 230; Oppermann 1991: 565 ff.). European citizenship is a particular kind of membership in the Community which is only partially comparable with citizenship based on nationality, i.e., on the existence of a nation state.

The assumption underlying the *rights path* to European citizenship has gained considerable support through the court decisions of the European Court of Justice (ECJ). Although, as mentioned earlier, the Treaty of Rome did not include a bill of rights, the ECJ acknowledged that the protection of fundamental rights as formulated by the constitutions of most of the member states, "whilst inspired

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by the constitutional traditions common to the Member States, must be ensured within the framework of the structure and objectives of the Community".[7] In the famous Nold Case the Court affirmed that it "is bound to draw inspiration from constitutional traditions common to the Member States", and that "it cannot therefore uphold measures which are incompatible with fundamental rights recognized and protected by the Constitutions of those States".[8] In the wake of the Nold case the ECJ recognized a considerable number of non-economic rights as acknowledged and protected by the Community, such as, e.g., the right to the freedoms of assembly and of religion, to the protection of the family, or the right to a fair trial (see the comprehensive documentation of Rengeling 1993; Clapham 1991: 244 ff.).

But the idea which seemingly suggests itself, namely that the Community should accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and adopt it as its Bill of Rights did not materialize. Instead, the European Parliament chose the approach to develop a distinct Bill of Rights for the Community and on 12 April 1989 adopted the Declaration of Fundamental Rights and Freedoms (see Clapham 1991: 70 ff., 192 ff.; Weiler 1991a: 621 ff.). Neither the Council nor the Commission were particularly favourable to this idea, and thus the declaration has remained a draft without legal force. As a consequence, the role to develop a catalogue of individual rights against the Community with the potential effect of

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[7]   *Internationale Handelsgesellschaft* v. *Einfuhr- und Vorratsstelle Getreide*, Case 11/70, ECR [1970] 1125 at 1133.

[8]   *Nold* v. *Commission*, Case 4/73, ECR [1974] 491 at 506.

creating the status of European citizenship was burdened on the European Court.

2.3 The Treaty on European Union

The Treaty on European Union which the governments of Member States considered as "a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizens" (Article A paragraph 2) did not subscribe to the idea of a separate bill of rights for the Community either. Nor did it incorporate the European Convention into either the EU or the EC Treaty. No more was the decision taken that the Community should accede to the European Convention for the Protection of Human Rights. According to the somewhat opaque wording of Article F paragraph 2 of the EU Treaty the Union "shall respect fundamental rights, as guaranteed by the European Convention...and as they result from the constitutional traditions common to the Member States, *as general principles of Community law*".[9] This reflects essentially the state of the European Court's adjudication as reported earlier. It is difficult to discern in it "a new stage in the process of creating an ever closer union among the peoples of Europe".

A more radical step towards the qualitative change of the Community from a community of states to a community of citizens has been submitted by the Committee on Institutional Affairs on the Constitution of the European Union.[10] According to Article 1 paragraph 1 of its draft constitution the European Union "consists of the Member

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[9]   emphasis added

[10]   See the Report of the Committee of 27 January 1994 (so-called Herman Report) DOC EP A3-0031/94.

States *and their citizens*[11], from whom all its powers shall emanate". If in fact not only states, but their citizens as well became constituent parts of the European Union, this would mean a major qualitative change of the legal and political quality of the Community. Although it is largely accepted in political, judicial and academic quarters that from its very origin the Community has been more than a merely international organization, i.e., an organization of states (see Oppermann 1991: 293 ff.), it is no less clear that only the states are its constituent elements, and that the citizens of the Member States enjoy their rights vis-à-vis the Community only through the mediation of the states which remain the ultimate *Herren der Verträge*. If individuals became, together with the states, constituent co-members of the Community, this would entail that the authority of the Union would be in part derived from the authority of those constituent co-members, i.e., its citizens. This in turn would require that they must be given the appropriate institutional means for channeling their ideas about the realization of the goals of the Community, its policies and about the proper operation of its institutions into the Community without the mediation of the Member States. This is what finally would make the citizens of the Community a corporate unity on behalf of which its authority is exercised.

The new wording of the EC Treaty as amended by the Maastricht Treaty is less clear about the constituent role of the citizens of the Member States for the Community than the draft of the Institutional Committee of the Parliament. "Every person holding the nationality of a Member State shall be a citizen of the Union" (Article 8 paragraph 1) --

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11   Emphasis added.

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evidently this stipulation does not mean that the citizens of the Member States are constituent members of the Community and that their corporate unity has become, besides the Member States, the other the source of its authority. This means, that the authors of the Maastricht Treaty did not choose the *status path* to European citizenship. But in contrast to the drafters of the Rome Treaty this time they adopted the *rights path* to European citizenship. The rights which the Treaty on European Union confers on the citizen of the Union (Articles 8a-8e EC-Treaty) include the well-known right to move and reside freely within the territory of the Member States. But in addition to that there are the new rights to vote and to stand as a candidate at municipal elections and in elections to the European Parliament in the Member State in which they reside, under the same conditions as nationals of that State; to enjoy the protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that state; and the equally new rights to petition the European Parliament and to apply to the Ombudsman appointed by the European Parliament. With the exception of the last two rights the rights obligate the governments of the Member States. Obviously this rights catalogue goes beyond the set of the well-known EEC market freedoms and their dominant 'self-interest' dimension. The voting rights and the right to consular protection, as well, possess a 'communitarian' dimension in that they presuppose, in addition to a common market, the existence of a European community to which every citizen of the Member States contributes and by which he or she is protected irrespective of his or her particular nationality of any of the Member States. Moreover, the Maastricht Treaty's invocation in Article 138a of the "political will of the citizens of the Union" (rather than of the peoples) is a

strong suggestion that the idea of European citizenship is the, albeit vague, expression of the quest for a European polity. Given the "maintenance of nationality as the criterion for enjoyment of citizenship rights" as the general principle of the Member States (Evans/d'Oliveira 1991: 317), the insertion of Part Two into the EC Treaty (Articles 8-8d) meets the requirements of what the *rights path* to European citizenship is essentially all about, namely the dissociation of nationality and citizenship: citizens of the Member States enjoy the same number and the same standard of rights in all Member States no matter which particular nationality they may possess.

2.4 The European character of citizenship: the abolishment of the 'disabilities of alienage in the other States'

As explained earlier, rights protected by the Community are involved if either an institution of the Community itself, the Member State other than the individual's own nation state, or the individual's own nation state applies Community law and hence wields Community authority. Since most of the Community law is implemented by the administrative agencies of the Member States rather than by distinct Union agencies, the Union citizen who exercises his or her 'European' rights is mostly confronted with agencies of (national) Member States. The European character of the rights conferred by the Community is hardly visible. If one adds the rather sparing list of the European citizens' rights as stipulated in the inserted Part Two of the EC Treaty, it is doubtful whether in fact it is justified to surmise a *rights path* to European citizenship. If the Community rights cover only a small facet of the daily life of a person who lives in a Member State other than her country of origin her status as

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an alien is likely to prevail over her alleged status as a fellow citizen of the European Community. In view of the rather limited scope of the Union rights which have been added to the original market freedoms of the EEC Treaty the minor relevance of the status of Union citizenship is a potential result.

However, the most convincing argument against the relevance of Union citizenship might follow from the small amount of intra-Community migration. If the distinctive attribute of Community rights is their disconnection from the right holder's possession of a particular nationality of one of the Member States, then Union citizenship matters most for those citizens of a Member State who reside in a Member State other than their home state. The number of these persons is not impressively high. In 1991, only 1.4 % of the gross population of the Community belonged to this group, whereas 95.8 % lived in their respective national Member State (the rest of 2.8 % were aliens coming from third countries). This amounts to a number of some 4.8 Million persons out of about 343 Millions. The distribution of these persons is of course quite uneven: 13.5 % of the Irish live in another Member State, mostly in the UK; the corresponding number for the Portuguese is 8.1 % (whereby some 75% of them live in France), for the Greek 3.8 % (of whom about 80% live in Germany), for the Luxembourger 4.9% Throughout the eighties these proportions have been relatively stable.[12] At a first glance it appears as if this tiny group of individuals encompasses the Union citizens proper, because only they seem to actualize the essence of the Union character of the rights enumerated in Articles 8a to 8d EC

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[12] The numbers are taken from Eurostat No. 6/1993 (Schnellberichte: Bevölkerung und soziale Bedingungen), pp. 1-10.

Treaty: they make use of rights which apply independently of a particular nationality. The implication of the Union rights is that their beneficiaries become ever less aliens in a country which is not the country of their origin. Yet, it is not only this small group of about five million individuals who are covered by the Community rights which eventually may lead to European citizenship. Both in the broad field of actions of Community institutions and in the areas where national authorities implement Community law also citizens of the Member States who live in their own country are subject to the legal order of the Community. Consequently, the principle of non-discrimination on grounds of nationality does not only prohibit a Member State to treat the citizens of another Member State worse than its own citizens, but equally to treat its own nationals worse than it treats the nationals of other Member States (Smit/Herzog 1991: 7.06; Oppermann 1991: 553; Groeben/Thiesing/Ehlermann 1991: Artikel 48, Rdnr. 9 ff.). Thus, also the great bulk of citizens of the Member States who do not make use of their right to freely move within the Community are affected by the Community and its legal order.

Its importance for the daily lives of the citizens of the Member State is likely to increase. There is broad consensus among politicians and scholars that the Community is based on a dynamic concept of integration (Oppermann 1991: 304, 709 f.; Weiler 1991: 2474 ff.) in which the vague goal of European Union serves as a permanent stimulus towards an ever closer union of the European peoples. The establishment of the economic and the monetary union is likely to expand the Community's field of action in the next years, and this in turn will probably entail increased pressure on the constitutionalization of the Union (Mancini 1989;

Arbeitsgruppe "Europäische Verfassung" 1991; Lenaerts 1991; Díez-Picazo 1993) which is inconceivable without an increased importance of the status of Union citizenship. Finally, it is possible that intra-Community migration will increase as an effect of the internal market and the dynamics set free by the economic and the monetary union, and this could mean that the number of persons who reside in Member States other than their country of origin might increase considerably.

With respect to this latter, still rather small group of individuals we may assume that the package of rights granted by the Union should be able not just to make them, as it were, feel "at home" in a foreign country, but -- to quote from a quite different, though in many respects comparable context -- to remove "from the citizens of each state the disabilities of alienage in the other States".[13] This judgement was made with reference to Article 4 section 2 of the U.S. Constitution which stipulates that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States". In another opinion issued more than one hundred years later, the Supreme Court ruled that "the primary purpose of this clause ... was to help fuse into one nation a collection of independent sovereign states"[14] (see Tribe 1988: 528 ff., 548 ff.) . A like ruling can be found in article 3 of the German *Reichsverfassung* of 1871.

In the American case the establishment of national citizenship served the goal to render the Union the protector

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[13]   US Supreme Court Case *Paul* v. *Virginia*, 75 U.S. 168, 180 (1869).

[14]   US Supreme Court Case *Toomer* v. *Witsell*, 334 U.S. 385, 395 (1948).

of individual rights which were jepardized by the Member States. The Federal State had to protect the freedmen against the likely infringement of their rights particularly through the the former slaveholder states; national citizenship became a harbour of safety against interferences by the states. Obviously this interpretation does not apply to the establishment of Union citizenship in Part Two of the EC Treaty, because individual rights are well protected within the constitutional systems of the Member States. Moreover, the priority of Union law over Member State law is already secured by the principle of supremacy of Community law over the law of the Member States (Weiler 1991: 2424). Rather, the structural significance of the rights of the citizens of the Union consists in the creation of a socio-legal sphere of the Union which embodies the goal of the Union to diminish, perhaps even to abolish the "disabilities of alienage in the other States". This includes not only those who settle in a Member State other than their own, but those who live in their own Member State as well. They have to cope with the fact that persons who used to be aliens have become their fellow-citizens in one respect -- in their quality as citizens of the Union -- without becoming full members, i.e., citizens in all respects of daily life of the respective Member State. What seems paradoxical at first glance, would articulate the very particularity of the European Union: Union citizenship is not so much a relation of the individual vis-à-vis Community institutions but rather a particular socio-legal status vis-à-vis national Member States which have to learn how to cope with the fact that persons who are physically and socially their citizens, are acquiring a kind of legal citizenship by means of European citizenship without being their nationals (see the brief remarks with Weiler 1994: 210).

'Alienage' will probably be the hallmark of citizenship of the Union, a kind of permanent and structural cognitive and emotional dissonance which, in contrast to the American case, is not likely to be levelled in a unitary national culture in the forseeable future. Obviously the most serious obstacle is the lack of a common European language. Thus, other than in most federal states Community citizenship is not likely to supersede national citizenship or to make it a status of minor importance frequently verging on mere irrelevance; rather, both statuses will co-exist, representing two different principles of political organization. While national citizenship uses territoriality as the basic means of integrating invididuals in the society, the concept of citizenship of the Union presupposes a more abstract polity the membership of which serves mainly the goal to integrate individuals in national societies who by all standards of the traditional nation-states and their social structures are aliens, or, as it was expressed in the "Proposals Towards a European Citizenship" submitted by the Spanish Government in September 1990, "privileged foreigners". The Spanish Government expected that making the step towards Community Citizenship "will eliminate the negative effects presently accompanying the condition of foreigner for a citizen of a Member State in another Member State" (Document in Corbett 1993: 156 ff.). It remains to be seen whether the "abolishment of the disabilities of alienage" which sometimes may amount to the attempt to avoid a 'clash of political cultures' can be understood in terms of the distinction between *territorial federalism* and *personal federalism* (see Fleiner-Gerster/Basta-Posavec 1993). In any case it seems safe to assume that the understanding of the meaning of citizenship of the Union will be shaped to a considerable extent by the prevailing concepts and the pertinent traditions of the Member States, because it is the

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emerging dualism of national and Community citizenship which will finally determine the legal status of the European citizens.

It is possible that out of the dissonances resulting from the dualism between the more concrete national citizenship and the more abstract Community citizenship serious conflicts may arise which ultimately might thwart the goal of integration. The removal of "the disabilities of alienage" requires the removal of "alienage", and this in turn requires the mutual understanding of what the involved parties -- migrating individuals originating in the several Member States, and the hosting Member States and their citizens themselves -- understand when they make claim to or have to accept, respectively, the institution of Union citizenship. Therefore the analysis of the meaning of citizenship in the different Member States is a precondition for the understanding of the potential meaning of European citizenship.

II.   State of research on the concept of citizenship

1.   Citizenship as a Monolith?

The year 1978 was to see an announcement that the concept of citizenship had finally gone out of fashion amongst political thinkers (van Gunsteren 1978). As a recent survey article (Kymlicka/Norman 1994), confidently entitled "The Return of the Citizen", has noted however, this assertion is now seen to have been somewhat premature.

It is perhaps understandable that T.H. Marshall's apparently all-encompassing definition of citizenship (Marshall 1964) was followed by a certain lull in research

into the topic. Identified as "the end of the history of citizenship" (van Steenbergen 1994), Marshall's historical thesis of the successive development of civil, political and social rights within the modern Nation State was quickly to find its clearest expression as a legal formula. This juridification of Marshall's work was, however, to have two far-reaching effects. It first provided a rigid framework within which any academic analysis of the concept might proceed. Furthermore, it furnished a material blueprint to any person wishing to convert the theory of citizenship into practice.

The rigidity of this formula might still be seen today within the legal literature on citizenship. This literature continues to concentrate overwhelmingly upon the effectiveness of the law in delimiting and guaranteeing citizenship and consequently divides its thinking into two broad but interrelated categories: the first, nationality; the second, legal rights (a selection: Dummet/Nicol 1990, Blackburn 1993, Juss 1994). Citizenship is therefore seen as a double-sided concept, being first exclusive, indicating membership within a group, and secondly inclusive, serving to bestow substantive rights upon those who are members of that group (Bauböck, 1993).

The view that the last word on citizenship appeared thus not only to have been spoken but also to have been crystallized in law, held good for two decades. Citizenship seemed to have become an undisputed monolith within advanced societies, a fixed structure both defining the individual's membership within the modern Nation State and guaranteeing that same individual's central position within the "democratic, unique and consequential", political and social life of the Nation (Brubaker 1989b).

Against this trend, however, the late 1980s and early 1990s have witnessed a powerful resurgence of interest in the concept. Citizenship is no longer a spent academic force, but has become "the buzz word among thinkers on all points of the political spectrum" (Kymlicka/Norman 1994, citing Heater 1990).

2. The Renaissance of Citizenship

The specific reasons for this sudden and world-wide renewal of the academic debate on citizenship, will be seen to be of particular importance to this research project. Crudely paraphrasing the literature, three such major motivating forces might be identified: the first relating to present trends in political philosophy; the second, to the demands currently being made within 'new' political programmes; and the third, to fundamental 'structural uncertainties', or more precisely, the oft heralded demise of the Nation State as a unit of political, social and cultural organisation.

2.1 Citizenship and Political Philosophy

With regard to the first of these points, it has recently been noted (Kymlicka/Norman 1994) that as "the concept of citizenship appears to integrate the demands of justice and community membership" it has become a central focus for the on-going debate, initially established between liberal and communitarian philosophers during the 1970s (as a landmark text, Rawls 1971). With its dual linkage to individual entitlement on the one hand, and community membership on the other, the concept "helps to clarify what is really at stake" in this liberal/communitarian discussion (for an explicitly communitarian approach to the subject of citizenship, Sandel 1992; Miller 1992 - for a liberal view of the concept, Kymlicka 1992; see also Dworkin 1992 - for a

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general examination of communitarianism vs universalism, Rasmussen 1990). Consequently, the past few years have hosted an explosion of philosophical works on the topic.

As might be expected, such studies have seen communitarians concentrate upon the membership element within citizenship. In this view, citizenship is all about a status of membership: this status itself being built upon a particularly intense degree of social solidarity between the individual and the community or society in question (Walzer 1983). This social solidarity is likewise indispensable if citizens are "to actively shape their common future as a community" (Avineri/de-Shalit 1992). The opposing response, following the liberal tradition, lays less emphasis upon social solidarity and more upon a universalist approach. The essence of citizenship therefore lies in a co-operative undertaking between free moral actors, recognized as being equipped with equal rights and entitlements. It is thus this recognition of equal entitlement rather than particular antecedent moral values, which binds participants together and which constitutes their community.

This rarified philosophical discussion, has, however, also been somewhat sharpened by recent political events throughout the world. Both communitarians and liberals, have thus been much exercised by a re-focussing of debate upon the *active* role of the individual citizen. In particular, events in Eastern Europe have clearly demonstrated that "the health and stability of a modern democracy depends, not only on the justice of its basic structures, but also on the qualities and attitudes of its citizens" (Kymlicka/Norman 1994). In other words, "the institutions of constitutional freedom are only worth as much as a population makes of them" (Habermas 1992).

This radical redirecting of thought away from the structures of citizenship and towards the activities of the citizen has manifested itself in various ways. The first such relates directly to events in Eastern Europe and is most clearly reflected by renewed interest in the notion of the civil society (Arato/Cohen 1988; Klingsberg 1992). This has in turn led to a re-examining of the origins of citizenship in the cities of antiquity. There is thus comprehensive agreement that "a first citizenship" (Riesenberg 1992) is to be found in the *koinonia politike* of ancient Greece and the *civitas* of pre-imperial Rome (a selection: Klingsberg 1992; Arato/Cohen 1988; Keane 1988; Heater 1990). This pre-Nation-State citizenship is based upon the political organisation of the classical city-state, where "select group[s] of autonomous individuals.....interacted to create the mature rules of practical reason for a given community" (Klingsberg 1992: 871). In short, communities were small and no distinct structures of political governance were required: the intimacy of the unit determined that social interaction be commensurate with political interaction. As has been pointed out (Arato/Cohen 1988), such an organisational structure determined that "civil society was coterminous" with the state. In other words, the 'private individual' was commensurate with the 'public individual'. Consequently, such 'civil society' authors are largely concerned with attempts to recreate this more 'fluid' relationship as between the modern citizen and the modern state, precisely so that each individual citizen might once again genuinely offer up a more 'personal' contribution within the national polity.

Likewise, American literature on the topic of citizenship is now most markedly characterized by an increasing use of the term "civisism" (Riesenberg 1992). In other words,

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debate in the US appears presently to be engaged with the fostering of "civic virtue" (Galston 1991). Alternately, the concept of citizenship once again includes the idea that an individual might owe a debt of "responsibility" to the society in which he or she lives (Kymlicka/Norman 1994). Equally, this pre-occupation appears now to have crossed the Atlantic with European studies reverting to the use of a once deeply unfashionable word, 'duty' (Bellamy 1993; Selbourne 1994). In Europe, as in the States, the re-introduction of such notions have challenged the post-war orthodoxy that citizenship was primarily about the passive receipt of rights from the state. Instead, modern thought now once again balances the bestowal of rights by the state against individual responsibility, or the active performance of duties by the individual within and on behalf of the community.

In brief, political philosophy has once again taken citizenship seriously because of two particular elements within it: the first, the basis for belonging or the search for identity; the second, the meaning of responsibility within modern societies.

2.2 'New' Political Programmes

A recent and significant challenge to the accepted post-war orthodoxy in the matter of citizenship has emerged amongst a group of thinkers characterized as the 'new right' (for an extremely critical analysis, Roche 1992).

In brief, this line of thought might be identified as having redirected the spotlight away from the notion of community and towards the concept of the individual. Its most powerful expression has correspondingly been made within the 'welfare debate' in the United Kingdom.

Although the liberal tradition continues to regard welfare rights as universal in nature and a prerequisite for genuinely moral behaviour (Rawls 1971), they are generally perceived to be communitarian instruments, enabling and/or sustaining the individual within a distinct society (an extraordinarily extensive idea, ranging from the 'Tory' notion of a social market which is apparently designed merely to induce "allegiance", Gray 1993, to enabling concepts which see welfare rights as supportive of social interaction within the group, Jones 1990). This communitarian element within the notion of citizenship is correspondingly challenged by 'new right' authors who point to the possibly contradictory relationship between the market economy and welfare rights (Hindess 1993). Drawing upon the Hayekian premise that the market offers the individual the most efficient and apposite means of individual expression, and having observed the fact that welfare tends as a matter of course to be organised on a community basis (from a different viewpoint, Goodin 1988), such authors contend that community welfare demands cannot but practically distort spontaneous market structures and thus deny the individual his or her unfettered means of personal expression.

It should nevertheless be noted that this particular conceptual approach appears now to be increasingly unpopular in the face of a backlash against the practical results of its application in the UK (Kymlicka/Norman 1994). Interestingly, this backlash has itself had the effect of intensifying the debate on community or the notion of collective responsibility (hence the re-introduction of the notion of welfare into 'new right' texts, Gray 1993).

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2.3 Citizenship and the Nation-State - Fundamental Doubts

Perhaps the most pressing concern in relation to citizenship, however, is the increasing doubt as to whether it is desirable to continue as a matter of course to link rights of citizenship to the traditional nation-state (Habermas 1994; Dahrendorf 1994). Marshall's historical analysis of the development of the concept of citizenship inextricably entwined the modern concept of citizenship with the modern Nation State. Citizenship concerns the relations maintained between the individual and the community: in the post-war orthodoxy, however, this community was primarily to be understood as being commensurate with the Nation State.

It is precisely in relation to this point that some of the most penetrating critiques of the concept of citizenship are now to be found. Whilst such criticism initially appears to consist of an attack upon the internal elements of citizenship, it is in fact better to be understood as a questioning of the continued ability of the Nation State to function as the primary unit which guarantees citizenship. In other words, such doubts reflect the generally weakened position of the Nation State in a modern world characterized by mass migration and increased economic and political interrelatedness.

Such a weakening of the Nation State might, terminologically at least, be represented as being an assault upon its sovereignty. Such attacks may similarly be further sub-divided into the questioning of the internal sovereignty of the Nation State, and a reduction in the external sovereignty of that form of State.

With respect to the weakening of the internal sovereignty of the Nation state, one author, arguing from a communitarian standpoint and taking recent mass

immigration into France as a starting point (Leca 1992), has noted that certain Nation States are now faced by a major dilemma. The roots of this problem lie in the supposed or possible rejection of the prevailing national "high culture" by resident migrant groups. Such a rejection, it is suggested, arises either as immigrants are concerned only with economic advancement and thus themselves make no effort to seek cultural assimilation, or since the "high culture" itself has rebuffed the integrative advances of those immigrants. Where, however, this "culture" is understood to encompass those elements such as language and education (in the sense of Gellner 1983) which themselves go to make up the social solidarity (Walzer 1983) which binds the communitarian-type State together, the internal sovereignty of that State cannot but be strained. In other words as social solidarity is diminished through rejection, the State's ability to command respect from those living within its borders is itself curtailed.

Somewhat curiously, this same author suggests that a solution to this problem might lie in decoupling rights of citizenship from nationality. Presumably, such a step would be undertaken in the hope that the immediate granting of rights of citizenship to immigrants would act as a substitute to the acceptance of "high culture" and would thus foster in them the requisite sense of social solidarity to secure their respect for the state in which they live. The most immediate point to note here is that such a step would most obviously herald the death of the nationality element within the concept of citizenship. It should, however, also be recognized that such a suggestion cannot but appear strange from a communitarian perspective. In the face of the watering down of the exclusivity of the concept of citizenship, is there any longer any reason to make a

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positive virtue out of the distinctiveness of particular communities?

Universalist perceptions of citizenship, however, seem equally troubled by this challenge to the traditional nation State. One of the core features of universalism is thus the role which the law plays in securing the collective co-operative undertaking. The law guarantees the moral status of the citizen and in return requires nothing more than that the citizen obey loyally the law. It is, however, undeniable that 'national legal traditions' exist. In other words, the legal systems of the 'organisational units', or Nation States, of the universalist tradition are as a matter of course culturally distinct, drawing heavily for support upon elements of national high culture such as language and educational tradition. And it is in this respect that any rejection of high culture might be damaging to universalist traditions of citizenship. If the law is identified in the minds of individuals with a culture that they cannot grasp, there then arises a danger that it, along with the basis for citizenship, might be rejected.

A reaction to this dilemma has been the development (or the proposed development) of pluralist strategies with regard to legal (and indeed political culture). Deprived of the luxury of a homogenous culture, national law is required to take greater note of and adapt itself to varied cultural perceptions (Habermas 1994).

Ironically, however, this pluralist strategy itself might be understood as a challenge to the notion of the Nation State as an organising unit. The great advantage of such a state in these terms, was as a labour saving device. Homogenous populations gave rise to single high cultures which in turn gave rise to legal systems, readily accessible to all those who shared in that culture. Where the luxury of a common

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culture is no longer a factor, and law must continually adapt itself to varied cultural demands, one is drawn to ask whether there is any residual advantage in continuing to organize co-operative undertakings on the basis of the Nation State? Why should not smaller communities, or even international organisations take on the role of distributing rights?

The challenges to the external sovereignty of the Nation State identified within the literature (MacCormick 1993; Turner 1993a) are likewise of a practical nature and relate most particularly to the growing economic and political interdependence of States.

This phenomenon appears most pronounced in relation to rights of welfare. Oversimplifying greatly, a pre-requisite for the development of national welfare strategies was always the presumption that national governments maintained a certain degree of sovereignty in the matter of the control of national economies. In other words, the means of support of welfare rights was the redistribution of resources gleaned from the national market via the taxation of market actors. The growing interdependence of national economies, however, has determined that governments are no longer as independent as they once were in the matter of determining levels of taxation, or indeed who might be taxed. A growing theme within the welfare debate is thus quite simply whether such rights are affordable: seen practically the extent of welfare must be balanced against international competitiveness (Hindess 1993).

Increased political interdependence between Nation States may likewise be seen as a challenge to the linkage of citizenship to the Nation State. A notable theme within recent literature has thus been the development of various concepts of "earth citizenship" (Stewart 1991). Such models

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are based upon the premise that mankind as a whole, must now shoulder those moral obligations arising out of a shared dependence on the preservation of global resources. Simply stated, the use of resources in one area of the globe, should be tempered by concerns as to the effects of that use in other geographical zones. Such a notion, with its elements of shared resources and moral obligation, combines both communitarian and universalist perspectives. It might, however, be doubted that such a mixed conceptual approach will ever prove itself to be strong enough to prompt the development of truly global perspectives of obligation and rights.

2.4 Citizenship and the European Union

The three major trends outlined above confirm the timely nature of this proposed project on European Citizenship. If the novel notion of Union Citizenship is considered in the light of such movements, it becomes apparent that this particular topic combines all of the modern concerns about citizenship in general.

Thus, surely one of the major motifs within Union Citizenship is to be identified as the search for a common European identity or a 'sense of belonging' to Europe (Münkler 1991; Häberle 1991)? Likewise, the notion of civisism. If Union Citizenship acts to lessen the "disabilities of alienage", might it not also prompt "active participation" amongst Union Citizens? Similarly, the renewed interest in notions of community following a period of overemphasis upon individualism. Here, Union Citizenship would seem to offer a practical reflection of developments within the literature. After all, is not the appearance of Citizenship within the Maastricht Treaty, an admission that individual economic rights were not in themselves enough to create 'a

sense of Europeaness'? Finally, those concerns with the relationship between the Nation State and citizenship are clearly captured within this new notion of 'a citizenship without a nationality'.

It is in relation to these points that the major failings within the current work on Union citizenship might be identified. There is thus already a great deal of literature, taking as its focus the foundations of European citizenship (a selection: Mancini 1989; Evans 1984; Durand 1979; Closa 1992). Such literature takes its cue from the assertion that Union citizenship is not at present to be regarded as a citizenship designed to supersede national citizenship. Union citizens are not directly granted rights by the Union, but instead inherit such Union rights *qua* their status as nationals of the Member States and *qua* their function as units of economic production (Mancini 1989). Conceptually at least, Union citizenship does not present a challenge to the sovereignty of the Member States: it is supposedly a matter for those Member States alone to determine the relations which are to be maintained between States, their nationals and aliens. Bearing this in mind, however, such studies nevertheless go on to detail how the Community's reliance upon the European economic citizen as a means to promote the goal of the completion of the internal market has led to the incidental development of a series of citizenship-type rights at the European level and thus to an "incipient and partial" form of citizenship (Closa 1992, Mancini 1989).

In other words, (and with one notable exception, Meehan 1994) such literature has by virtue of its emphasis on *legal rights*, almost exclusively concentrated its research within the framework of the legal definition of citizenship. In so doing, it has merely repeated the post-war orthodoxy and

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has consequently failed to make a connection to the modern debate on the conceptual foundations of citizenship in general.

3. A New Definition of Citizenship?

Having identified the gap which this project hopes to fill, it is perhaps advisable to return to two particular themes within modern literature which may provide some guidance as to exactly how this gap should be filled.

Simply stated, these two initial and recurring themes go someway to explaining why the post-war orthodoxy has not been replaced by one clear-cut modern definition of citizenship (Heater 1990). The first of these motifs is the supposedly inherent linkage of citizenship to particular communities (Turner 1993a). The second, is the normative character of citizenship. Citizenship is thus seen as entailing a vision. In essence, it is all about the manner in which men feel their particular community *should* be organised (Riesenberg 1992; Hindess 1993).

Building upon these two strands of thought, those stressing the linkage of citizenship to community (though not necessarily to communitarianism), consequently emphasize the unique nature of each particular community's view of citizenship. The failure of this section of the literature to identify one non-controversial definition of citizenship is thus simply revealed as follows: if citizenship primarily concerns those relations maintained between each individual and his or her own community (and vice versa), and if communities are varied, then logically, these relations cannot but differ from community to community, or society to society (Turner 1993a).

The second such initial theme to be found in the literature, maintains that citizenship the organizing force,

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gains its vigour from its normative character. It is a powerful feature within political life, precisely because it provides men with visions as to the way in which the world in which they live might be ordered.

Of those who underline the normative nature of citizenship, one group, somewhat influenced by communitarian aspects of citizenship, would see this force as being cumulatively positive. "The power of the citizenship ideal" lies in the fact that "...it is a means well suited to draw out the best in people ". "...[i]t has survived so long and served in so many political environments because of its great inspirational challenge to individual's to make their neighbour's, their fellow citizen's life better and, by so doing, make their own nobler" (Riesenberg 1992).

A second strand within the literature, despite owing slightly more to individualism than to communitarianism, also highlights the normative nature of citizenship. It thus somewhat pragmatically suggests that individuals who are immediately concerned with their own interests will nevertheless take note of any existing concepts of citizenship and will seize upon them to their own ends. "Ideas of citizenship...(thus become)...significant because of the part they play in the political rhetoric and the political calculations of governments, non-governmental agencies and political and social movements" (Hindess 1993; in disapproval of this trend, Dahrendorf 1994).

Both the idealistic and the more pragmatic line of thought, however, have one thing in common. Just as different men will have different ideas as to how the lives of their fellow citizens might be made better, so too will different men use different ideas of citizenship to pursue different goals. In both cases, the end result is clear: it is highly unlikely that one definitive vision of citizenship will

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emerge ("Citizenship means many different things to different people", Blackburn, 1993).

The inability to identify one, non-contentious definition of citizenship, together with the reasons for this failure, therefore determines that the conclusions drawn in the current literature on the topic, be sharply differentiated along two distinct lines. Certain sections within the literature are thus 'culturally specific' (a critique currently made of the work of T.H. Marshall, see, for example, Turner 1993b, Hindess 1993). In other words, the patterns of argument followed, are very much determined by the make-up of particular communities. This specificity is only increased by the present tendency of much of the literature to restrict its investigations of particular societies to particular times, mostly the modern day (one such example, Leca 1992). To add to the complexity of this present literature, however, further segments within it are, to a greater or lesser degree, 'normatively determinist'. In elucidation, specific attributes of citizenship are thus given more or less prominence, according to each particular author's individual commitment to contrasting political theories on the general nature of social or political organisation, and the concept of citizenship is framed accordingly. This determinist tendency has undoubtedly been most apparent in the on-going tussle between 'communitarian', 'liberal' and 'universalist' perceptions of citizenship.

Thus, perhaps the most important conclusion to be drawn from the literature is that it would be unwise to initially attempt to develop a monolithic 'European' definition of citizenship. Instead, any study of the emergent notion of Union citizenship should simply accept that the 'peoples of Europe' possess a great variety of understandings of the

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concept of citizenship. Future research should consequently seek honestly to identify such conceptions, and should only then assess their likely impact upon the emerging notion of Union Citizenship.

III. The conceptual framework

1. The broad historical scope of meanings of citizenship

In the long history since its first appearance in Greek antiquity until recent times the term 'citizenship' has covered an extremely broad scope of possible meanings. If it is at all possible to discover an invariable element in it, it is probably the notion of an individual's membership of a political community, be that the Greek city-state (*polis*), the Roman empire, the Christian medieval city, or the modern territorial nation-state (Koessler 1946/47; Wiessner 1989: 1 ff.; Manville 1990; Riesenberg 1992; van Gunsteren 1994). Evidently the implications of membership are largely determined by the character of the community to which the bonds of affiliation are drawn. Given the diversity of communities which Europe has experienced in the last 2500 years, it is not surprising to encounter a rich diversity of very disparate, if not opposite meanings.

Although the etymological roots of the term refer to the dwellers of a city, the 'city' (*polis*) signifies not so much a merely physical location but a symbolic space in which a new ethics of cooperation has emerged. In its ancient Greek origins the city, and hence citizenship, replaces the familial and tribal bonds of the individuals and creates a mode of 'civic' cooperation. Its essence consists in the idea of the commonness of fates of individuals who are bound together

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by the more abstract ties of common religion (Weber 1964: 946) and, particularly, of common laws (Riesenberg 1992: 20 ff.). From its very origination in ancient Greece, citizenship has included a distinct status which draws symbolic boundaries not only against those who live physically outside the community, but, what is even more important, also against those who do live within the physical space of the community but who do not belong to it socially. In other words, in its original meaning the concept of citizenship is a social construction which is not only constitutive of the identity of a particular - political - community, but which, at the same time, defines the social identity of the individuals who in their quality as members replace their family, clan, or tribal affiliation with their status in a more abstract community, the polity. Thus, citizenship is a concept which is counterfactual in a twofold sense: it sharply distinguishes between the physical and the social boundaries of a society, and it transcends the boundaries of the 'natural' groups of the family, the clan, and the tribe towards a *political* organization of a social group.

In fact, a common feature of the concept of citizenship throughout different historical contexts has been its polemical usage as a counter-term against other social roles: a citizen is not only different but is, in a way, the positive counter-image of a person whose defining social characteristics is his or her quality as a consumer, a producer, a client, a subject, a family member, or simply a private person. This is perhaps only the consequence of a more fundamental property of citizenship rooted in its historical origin, namely its inherent bent towards a universalist perception of the individual and the ensuing refusal to tie him and her to narrow, parochial, and

particularistic social roles. As Max Weber analyzed in his sociology of the city (Weber 1964: 936 ff.), citizenship is a genuinely occidental institution. It is closely associated with the development of the western-type city and its main characteristics, namely its foundation on the corporate unity of the city dwellers, as opposed to the oriental cities which were religious and/or clan associations and did not create a distinct sphere of corporate unity on the city level.

Abstracting from manifold historical and local differences, one prominent occurrence gave birth to a particular meaning of citizenship that finally was transplanted into the - equally occidental - concept of the modern state. Indeed the occidental medieval city, and with some qualifications the ancient Greek polis as well, was not the place of settlement of clans, families, tribes, or other, predominantly religious communities (i.e., of communities which existed prior to this locus) but rather the location of settlement for individuals who were alien to each other (Weber 1964: 947 f.) and who were bound together through oaths of fraternization which affirmed a secular community. The corporate unity of the city was based on acts of association of individuals, it was the corporation of the "burghers as such" who in this quality were subject to a law to which only they had access and which was only shared by them (Weber 1964: 944). Membership in the corporation of the city was an original state of social embeddedness, it was neither derived from membership in a prior social community, nor did it imply a purely physical association to a particular place of settlement; it was a social-political status which had its own meaning and relevance.

Despite the origination of the concept of citizenship in the Greek polis, its relevance has not at all been restricted to the sphere of politics. Throughout ancient Greek history

citizenship was an institution which created distinctions which referred to almost all aspects of social life, not just to the area of 'politics' in the narrow sense of this term, i.e., to the realm of public honor and the participation in the rule of the city. It was significant for the kind of military service and of religious worshipping that would be done by the members of the *polis*; it was of consequence for the sort of their occupation and for their legal capacity to own land; and it was relevant to sexual conduct (Riesenberg 1992: 28 ff.). Much less can we conceive of the *modern* concept of citizenship as a homogeneous and unvarying institution over the last three centuries and throughout the societies in which citizenship gained importance. The familiar civic-republican notion of 'active and virtuous participation' in the affairs of the community tend to be attributed to the ancient world and its renaissance played, for instance, a prominent role in the reasoning of the founding fathers of the American constitution (Pangle 1987). This notion, howeder, embodied only one meaning among several others which emerged in the modern age.

The scope of meanings covers extremely antagonistic understandings. They reach, for example, from a notion of citizenship which includes the right of the head of the family to participate in the governance within the hierarchical order of the pre-modern 'societas civilis sive politica' (Riedel 1972: 676 ff.; Koselleck 1989: 118 ff.) to the opposite concept according to which citizenship entails the passive status of a subject under an absolutist regime (Stolleis 1981; Riesenberg 1992: 203 ff.). After the French Revolution which established the principle of equal national citizenship in France (Sabine 1952: 462) this idea of an individual's status of political equality in a centralized state was challenged by the opposite claim that the idea of citizenship

embodies membership in a rich diversity of predominantly local associations (cf. Turner 1992: 54). As a consequence, according to this latter understanding citizenship does not primarily mean active political participation but rather "taking part in neighbourhood watch schemes, caring for dependents, running schools and housing estates, exercising consumer rights..." (Meehan 1993: 30). Or, to mention another contrasting couple, some, following the famous claim of T. H. Marshall, regard citizenship as an instrument of modifying the structure of class inequality (Marshall 1963; Barbalet 1993), while others tend to consider it a discursive instrument for a mere rhetoric of equality, without contributing to changing the reality of inequality in capitalist societies (Hindess 1993). Finally, it may be mentioned that in the view of some theorists citizenship is viewed as an instrument of political homogenization 'from above' (Mann 1987), whereas others emphasize its usage as an instrument of poltical, social and economic struggle 'from below' (Turner 1992: 38 f.).

2.   Ten analytic distinctions

The broad scope of potential functions and meanings of the concept of citizenship reveals -- very much like the notions of 'civil society' or *bürgerliche Gesellschaft* inherently connected with it (Koselleck/Schreiner 1994: 13) -- that it contains at the same time economic, sociological, cultural and legal elements which in their entirety constitute the particular connotation of the concept. Depending on which of these dimensions is prevalent in different times and in different societies, the idea of citizenship will change considerably. A comprehensive historical account would certainly produce such a plethora of meanings that its distinctive feature would hardly be discernible. As

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expounded above (I. 1.), we have opted for a middle-range notion of citizenship specifying it provisionally as the set of (predominantly, but not necessarily legal) rules which define a person as a competent member of the polity.

This notion is broad enough as to allow the analysis of the socio-political meaning of the concept without, on the other hand, limiting the research to the collection of the more or less formal definitions of the respective legal orders which normally enumerate the rights and duties attached to this status. Important as this is, it appears indispensable to include the historical, sociological and cultural contexts which provide the reasons for particular understandings of a person's political status (Meehan 1993: 2).

With this understanding of citizenship as background, the analytical approach can be introduced. We can categorize concepts of citizenship along different significant dimensions. Whereas Turner has developed a heuristic typology along the divisions private/public and above/below -- the first referring to the question of whether citizenship includes primarily private or public values, the latter asking whether citizenship has been achieved by popular struggles 'from below' or whether it was introduced 'from above' -- we propose a broader range of dimensions which we consider to provide a more differentiated account of the different meanings of citizenship both across history and societies.

2.1 Reasons for the assignment/acquisition of citizenship

The first distinction deals with the reasons for the assignment and the *acquisition* of citizenship. On a hypothetical spectrum they range from concepts of "citizenship as a fate" at the one end to "citizenship by

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individual choice" at the other. They include quasi-sacred membership in purely symbolic communities (like the *ius sanguinis*, or personal qualifications for religious communities, or sexual orientation), personal qualities which combine symbolic and physical criteria of membership (like, e.g., the birthplace), or a rational-utilitarian kind of membership characteristic of 'societal communities' (like, e.g., permanent residence as an indicator for having a stake in the community, the possession of property, or a certain degree of rational and moral capacity). A further category would cover the case of citizenship as a reward (for loyalty, obedience, economic efficiency, etc.), and finally we would have to cover those criteria which abandon the idea of bonds of mutuality and refer to models of rational transaction (like, e.g., buying or selling, respectively, citizenship).

2.2 Dissociative relations of citizenship

Concepts of citizenship vary according to their respective relevant counter-concept to which they more or less explicitly refer and against which they are more or less consciously delimited. It may be justified to speak of the *dissociative role of citizenship* if it stands in an extremely 'asymmetric' relation to other statuses or social roles (for the concept of 'asymmetric counter-concepts' see Koselleck 1979: 211 ff.) Two different versions are conceivable. According to the first the positive meaning of citizenship is elevated against the background of an extremely negative and despised status. In the reverse case of asymmetry citizenship is devaluated in that it serves as the negative basis of comparison for some other valued social role. An example for the former case is the opposition of the 'citizen' to the aristocrat which was of essential political significance

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in 18th- and 19th-century Western Europe. The famous couple 'citoyen-bourgeois' is another, maybe even more polemical opposition in that the status of slavery was not a matter of choice, whereas the role of a 'bourgeois' somehow was. Paradigmatic of the latter case is the devaluation of the 'citizen' against the 'comrade' in the communist societies. More interesting than these extreme cases which serve a mostly heuristic purpose are of course the cases in between which pertain more aptly to our contemporary constitutional states. Here oppositions like 'citizen-head of the family / family member', 'citizen-woman / housewife', 'citizen-labourer / employee / entrepreneur', 'citizen-client', 'citizen-artist' and the like, reveal a particular understanding and colouring of the concept of citizenship which may help us to better understand its cultural context. In this dimension the private/public division proposed by Turner can provide an additional criterion in that depending on the weight of the one or the other orientation the couple of counter-concepts will be more or less polemical.

2.3   Associative relations of citizenship

Closely related to the second dimension are distinctions which follow the opposite strategy in that they do not ask for conceptual oppositions to and dissociations from the idea of citizenship but rather inquire into the *associations* which the concept of citizenship may have undergone across times and societies. In many cases we may encounter reconciliations of formerly dissociative relations, like the German *'Bürger in Uniform'* (the citizen-soldier), the 'market citizen' (*'Marktbürger'*) or the 'economic citizen' (*'Wirtschaftsbürger'*). But there are also other cases in which the associative relation reveals an institutional ideal

which appears only attainable if the values embodied in the concept of citizenship are, as it were, transferred into a sphere where these values are perhaps not endemic. The 'academic citizen' may be such a case. In some cases there might be a relation which is associative for some, dissociative for others; the German 'Kirchenbürger' may be an example for this instance which points to religious cleavages in the society. This list is of course not exhaustive, and further research is likely to discover quite different cases for the associative dimension of citizenship.

2.4   Exclusion and inclusion

The aforementioned dissociative relations of the concept of citizenship entails of course the exclusion of the polemical counter-concept from the scope of its possible meanings. Never can a slave be a citizen, because this would be tantamount to the annihilation of the notion of citizenship itself. But apart from this polemical opposition which is constitutive of the essential meaning of the concept, there have always been other exclusions which refer to particular attributes which are considered to be indispensable in order to make a person eligible for the status of citizenship. Or, put in a reverse manner, there have always been attributes of persons which disqualified them from the access to the this status without necessarily exposing them to a polemical delineation. Whereas the dissociative-relations dimension points to the incompatibility of values, there is also the dimension of social hierarchy which contains a mechanism of inclusion and exclusion. The most obvious example for this case is of course the asymmetric couple 'citizen-slave' in the ancient Greek *polis*. But it did not only apply in antiquity. The slave issue, i.e. the exclusion of human beings from the category of personhood and, consequently,

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from citizenship, has also played a pivotal role in the history of the United States ever since its foundation (Shklar 1991). A hardly less apparent instance is the exclusion of women from the status of citizenship from the times of Aristotle until the 20th century (Löther 1994; Spree 1994). The exclusion of the poor from citizenship through many decades of the 19th century is another well-known case. In view of the undisputed validity of the principle of equal citizenship in all Member States of the EU, the exclusion/inclusion distinction seems of little value for the analysis of contemporary citizenship, since today -- with some negligible exceptions -- every adult national is a citizen irrespective of his or her social status, religion, gender, or political opinion. The all-inclusivity of the status seems to make the search for exclusion mechanisms pointless. To this two answers are in place: first, given the number of up to 8% of the population of some Member States which are aliens from third countries and which belong physically to the society without belonging socially and legally to it, citizenship has become exclusive again, if in a manner different from what we have experienced in past history. The quality of this new kind of exclusivity of citizenship in the different Member States is part of the meaning which this concept has acquired and which is the object of our analysis. Second, even past exclusions may have an important impact on the contemporary meaning of citizenship. Thus, Judith Shklar has convincingly shown that the present understanding of American citizenship, the idiosyncrasies and the hopes associated with it are inherently bound to the American experience of slavery. It is equally possible that in other countries similar more or less traumatic past experiences have shaped the present meaning of citizenship.

Finally, it should be noted that the exclusion/inclusion distinction need not necessarily suggest a dichotomy. We can conceive of a spectrum which comprises different rights bundles and hence different degrees of membership which cannot be fully grasped with the binary code of exclusion/inclusion. Still, the distinction makes sense in that it allows the demarcation of the point on the scale where the different kinds of para- or sub-membership change into full citizenship.

2.5   Statist and societal concepts of citizenship

Concepts of citizenship can be distinguished along the division statist-societal. In the framework of a *statist conception* citizenship serves predominantly the purpose to sustain a relation of obedience-for-protection between the state and the individual. Ultimately rooted in its method to create order and social discipline out of what it perceives as chaos and the constant potentiality of civil war, the modern territorial state as an ideal type is based solely on its territorial sovereignty. According to its purely conceptual premises citizenship exists independently of any kind of personal bonds between individual and state. However, the mere threat to punish disobedience is not a sufficient means to create social cohesion, and thus reliable attitudes of submission and loyalty can be generated and maintained by a status which combines subjection with loyalty and acceptance. A large variety of normative reasons which contain the justifications for loyalty and acceptance can occur: they may comprise, to give just three fairly obvious examples, a thoroughly apolitical ideal of the 'right life' (like in the 19th-century German ideal of *Bildungsbürgertum*), a Hegelian notion of the inherent reasonableness of the state in which the individual

participates and to which she defers by virtue of being its good citizen, or the republican ideal of the general will as incarnated in the law to which therefore 'a good citizen' owes willful obedience (an understanding which we might tend to associate with the French tradition of citizenship).

In contrast, within the framework of a *societal conception* of citizenship this status does not primarily serve the purpose to provide and to sustain obedience to the political power, but rather to demarcate a sphere of action where the individual is shielded against the intrusion of political power. Citizenship protects the individual's independent standing in a world of primarily horizontal social relations such as the market, voluntary associations, or the family. Here, too, we may encounter diverse meanings of independence as embodied in the status of citizenship, like, e.g., a passive-privatist (Germany in the 19th century?), an active-privatist (US conception?), or an active-republican (the Netherlands?).

Note that the division statist-societal is not the same as the distinction between (passive) citizenship handed down 'from above' and (active) citizenship seized in social struggles 'from below' proposed by Turner. Admittedly, normally a statist concept will be imposed 'from above' (like in 19th-century Imperial Germany); but the case of the French revolution shows, that it can be introduced 'from below' as well. On the other hand, if we examine the authoritative introduction of a capitalist market economy in the post-communist countries of East and Central Europe we may even find some indications of the ostensibly rare case of a societal concept of citizenship imposed from above.

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2.6 Boundaries of citizenship, physical and symbolic

A further defining element of citizenship is the character of the boundaries which demarcate citizens from non-citizens. Given the character of the modern state, the distinction between physical and symbolic boundaries may provide a meaningful tool for the understanding of the concept of citizenship. Obviously territoriality and territorial boundaries are essential elements of modern statehood (Ruggie 1993: 148 ff.). Of course political rule has always had a spatial dimension, but the sharp territorial demarcation as an essential component of the modern state and its specific kind of rule had not prevailed before the end of the 18th century (Conze 1990: 25). Although geographical boundaries, i.e. physical territorial demarcations, had been drawn in Europe since the 14th century, the idea that territoriality was a *defining* element of political rule is thoroughly modern. The European medieval system was structured by "a nonexclusive form of territoriality" in which different political units like cities "viewed themselves as municipal embodiments of a universal moral community" (Ruggie 1993: 150).

In contrast, the modern state delimits its authority and sovereignty along physical boundaries, and its claim to obedience is (with few exceptions) based on the physical control over its territory. The physical boundaries of its authority is an important means of the making of a coherent social order. Non-territorial institutions like the Catholic church, the Communist Party or a national liberation group with hardly less control over their resprctive members clearly draw symbolic rather than physical boundaries to their outward worlds. But in some respects the modern constitutional state, although based on territoriality, has overstepped the physical limitations of its authority and

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developed non-physical boundaries of its power, for instance when it claims respect for the symbols of its stateness (e.g., the flag, the head of state) outside its territorial boundaries (a claim which is supported by international law). Similarly, we can observe a concept of citizenship which draws more on the physical, more visible boundaries of this status for social and political integration as opposed to one which relies on less identifiable non-tangible boundaries. The *ius soli-ius sanguinis* distinction fits well into this frame. Thus, in Germany people who have been living physically in the country for more than one generation have been denied citizenship until recently, whereas persons whose ancestors emigrated two hundred years ago and who never entered German territory have the right to citizenship by virtue of their symbolic affiliation with 'Germanhood' via the *ius sanguinis*. Of course there are more complex cases, for instance in the British case, and presumably in all European countries which have a colonial past with particular links to their former dominions and their inhabitants. One of the hypotheses of this research project with respect to the distinction physical-symbolic is that the two elements represent two different modes of social integration and that defining citizenship primarily in the former sense has quite a different meaning than conceiving of it in the latter.

2.7   Rights vs. primordial membership

Concepts of citizenship may be distinguished along the criterion of whether they are mostly defined by the *rights* attached to it or by the bonds which link the individual with the respective state and which are conceived as antecedant to rights. We may refer to this distinction in the terms rights-primordial membership. In the former case the enjoyment of the rights connected with the status of citizenship may (or

may not) create some kind of communitarian spirit in the individual, whereas in the latter instance the concept requires that there already be in existence a community between the individual and the state in order that rights inherently connected with citizenship can be assigned to him or her. Essentially, this dimension is much the same as the familiar liberal-communitarian distinction which needs no detailed elaboration in this proposal. However, it should be realized that there are also liberal conceptions of citizenship which take into account the communitarian concerns (see, e.g., Dworkin 1991), and communitarian approaches which in fact are responsive to the issue of rights (see, e.g., Taylor 1992). Thus, it seems more precise to draw the distinguishing line between rights and membership. Of course the question is not about finding a concept of citizenship (in the afore-mentioned sense of a legal definition or of political, economic, juridical or cultural practices) which is exclusively based on the notion of rights or, reversely, which is exclusively determined by the idea of membership. Rather, the analytical approach requires the classification of diverse concepts of citizenship according to the respective degree in which it tends more into the one or the other direction and which finally shapes its social meaning.

2.8 Representation vs. self-interest

Closely related to the preceding criteria is a distinction which points to the meaning which citizenship may have for the individual to whom this status is assigned. Is citizenship primarily an element which works for the accomplishment of some collective value, or is it an instrument in the hands of the individuals which serves purely personal purposes? The political theory of the French revolution provides an

example for the former case: citizenship was a status which embodied the personal and political attributes of a person who was qualified to exercise the quasi-sacred mission to represent the nation. Until our days it is what we call the 'active citizenry' (*Aktivbürgerschaft*) that represents the whole people in that its political will as it is expressed in the national elections is taken to be the will of the people at large, including those who are either not entitled or not capable or not willing to participate in the democratic will-formation.

Should this be the inherent rationale of democratic citizenship, it cannot be neglected that in some EU-countries the quantity of physical members of the society who are not their legal members, viz. their citizens, amounts to 7%; if we add those who are nationals but who do not qualify for the civic right to vote (particularly minors, mentally disabled persons, some catagories of persons who have forfeited their right to vote), the force of the citizenry to bind others who have no say in that decision is at least in some EU-countries considerable. The quantitative discrepancy between those who have the authority to bind and those who are bound may be used as an indicator for the investigation of a more general question: to what degree is citizenship regarded as a status which fulfills the demanding task to represent the unity and the values of the polity (the people, the nation) and which then would probably not only be a status of rights, but of duties and responsibilities as well? Or, quite contrariwise, is citizenship primarily regarded and in fact used as a kind of personal asset, a potential which enables a person to pursue her or his interests more efficiently and which of course can be waived on purely personal grounds. Is, in other words, the status of citizenship primarily a representative status or primarily a

status of personal self-promotion, self-expression and and of furthering personal identity? Evidently, the answer -- which, again, will always be an answer in terms of degree -- will have some impact on the understanding of the democratic culture of the respective country and hence contribute to the understanding of the political and cultural context of citizenship.

2.9 Entitlements and provisions

The idea that citizenship may be an asset which grants the individual life chances which would otherwise be unavailable for her is the underlying assumption of the distinction between *entitlements* and *provisions* suggested by Dahrendorf ['*Anrechte und Angebote*'] (Dahrendorf 1992: 22 ff., 31 ff.; Dahrendorf 1994). Entitlements offer individuals a normatively legitimized access to goods (in a broad sense of this term), be they legal rights, money (spending power), or some other kind of power, be it political, cultural, or religious. Provisions include the quantity and the variety of material and immaterial goods to which individuals aspire. For the sake of explanation we may imagine a society which distributes a huge amount of entitlements but where no provisions are available, and, conversely, a society in which a huge amount of provisions is present, but only few entitlements. The case of the first example is a socialist society in which everybody has the equal right to all goods, but where the goods (provisions) are simply not existent; the latter case is the present Russian society where an unprecedented amount and variety of goods are existing, but very few people have sufficient entitlements to acquire them. Whereas these extreme cases are of merely theoretical interest, there are cases in which the relation between entitlements and provisions is less

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clear. Thus, the struggle about the appropriate structure of the liberal welfare state is mostly about the question of whether the enlargement of entitlements -- particularly of legal rights -- will necessarily entail the decline of the provisions or whether, in reverse, the increase of the quantity and the variety of goods and services can only be achieved if the entitlements of the masses are reduced (for details see Kymlicka/Norman 1994: 355 ff.).

Relating the couple entitlements-provisions to the issue of citizenship we shall realize that citizenship is a very special status in that it affords its holder the access both to entitlements and to provisions. Citizenship is a right to have entitlements and to take satisfaction from provisions. It seems plausible to assume that concepts of citizenship vary with regard to the benefits which they allot: the more entitlements citizenship imports, the less provisions will be available, and vice versa. This statement is a rough version of the obvious trade-off between safety and liberty. In the research project a thorough inquiry will be conducted into the problem of whether citizenship is primarily determined by opening the individuals the access to entitlements or by emphasizing the supply-side (provisions) of the status by leaving the access to most of the society's welfare to social mechanisms other than citizenship, like the allocative and distributive forces of the market, the family, or communal organizations. In the former case social (welfare) rights would clearly play a pivotal role in the concept of citizenship, in the latter citizenship would be of inferior, if any, importance in the creation and maintenance of the distributional pattern of the society. Thus, in this dimension the relation of citizenship to the welfare state are the focus of the analysis. In the project it will be necessary to set up classifications of different types both of entitlements and of

provisions in order to identify the particular colouring of the concept (for a list of potential areas of comparison see in Wiessner 1989: 147 ff.). Again it should be kept in mind what has been said with respect to other distinctions: we shall hardly find a concept of citizenship which covers exclusively entitlements and hence excludes any kind of provision, and vice versa. What has explicatory force is the degree to which different concepts of citizenship diverge in this dimension of comparison.

2.10 Political vs. non-political meaning of citizenship

Finally, concepts and practices of citizenship may differ according to their basic character as political or non-political concepts. Obviously the political concept of citizenship dates back to the French revolution whose exponents claimed that both the nation and citizenship were based on an act of voluntary political association (Finer 1975: 88 f.; Brubaker 1989a; Safran 1991). In this framework citizenship embodies the claim of the individual to actively shape the polity and to participate in the exertion of its authority. A predominantly non-political understanding of citizenship may materialize in different versions: a more cultural notion, like the German 'Bildungsbürger' (Turner 1993b: 9 ff.), or a more economic colouring like the 'citizen-merchant' who may have played an important role during the colonial times of the European nation-states. But the distinction between political and non-political meanings of citizenship may also surface in the context of conflicting understandings of the nation. For some authors the main characteristic of citizenship is its inherent link to the nation-state. For instance, David Miller contends that "nationality and citizenship complement one another. Without a common national identity, there is

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nothing to hold citizens together, no reason for extending the role just to these people and not to others" (Miller 1992: 94; see also Wiessner 1989: 109).

This statement suggests that citizenship is an exclusive status which can be bestowed only on those individuals who share some common pre-political properties (descent, religious beliefs, or language and culture) beforehand, and who on the ground of these jointly felt commonness share some properties which are unaccessible to non-members of the national community. In this case the pre-political idea of the nation would determine the status of citizenship and define the group of persons who qualify for this status. Even if citizenship is associated with political rights of the individuals, its pre-political origination may impose a meaning on it which is quite different from a genuinely political derivation of both nationhood and citizenship. Here again, also the political/non-political distinction serves a merely heuristic purpose; it does not suggest that the familiar dichotomy of ethnic nation and citizen/political nation provides an exhaustive understanding of the real political foundations of polities and nations. This dichotomy denotes the extreme ends of a spectrum on which the countries under study shall be inserted in the course of the research work.

3. The relevance of the distinctions

These ten dimensions of comparison are not meant to be mutually exclusive. To the contrary, only if they are applied in their entirety can we hope to grasp the essentials of the multi-faceted phenomenon of citizenship. Since the research is not aimed at a thorough comparison of the legal contents of the concepts of citizenship in the EU-countries (a considerable part of this undertaking is done by de Groot

1989) but rather at a comparison of the different *meanings* of citizenship in the countries under study, emphasis has to be laid on the respective political, economic, social and cultural *contexts* in which the concept is used. This cognitive interest calls for analytic instruments which are receptive to the hermeneutic subtleties of the -- frequently changing -- meaning of an apparently essential concept. This is why, furthermore, the dimensions suggested here are not always razor-sharply demarcated against each other. If they sometimes overlap, this is due to the necessity to apprehend the particular colouring of a meaning which would be missed if one tried to avoid overlapping criteria. Thus, the dimension listed in section 2.8 (representation vs. self-interest) is in some respects rather close to the dimension enumerated in section 2.5 (statist and societal concepts), and they are likely to intersect at several points. But this is not regarded as a (more or less inevitable) weakness, but as a necessary element of the analytic tool itself.

IV. Research questions and expected results

The project aims at the explication of the potential meaning (or, for that matter, of the range of potential meanings) of 'European Citizenship'. We start out from the assumption that the meaning and the importance of European citizenship for the ongoing process of integration will largely be shaped by the concepts of citizenship which have been developed in the several national Member States of the Community. Furthermore, we hypothesize that the concept of citizenship in the Member States of the European Union are not alike; rather, we presume that different historical experiences, legal systems, religious and cultural traditions, economic conditions etc. have generated a rich variety of national

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concepts of citizenship. While the former assumption is presently not amenable to either verification or falsification because it refers to a future development, the latter can be tested by this research. Obviously, this hypothesis takes a view on the project of a concept of European constitutionalism slightly different from the ECJ which emphasizes "the constitutional traditions common to all Member States".[15] Equally, we are -- like, e.g., Habermas (Habermas 1994) -- more reluctant to presuppose the existence of a common European set of constitutional principles which can be regarded as constituting a *gemeineuropäisches Verfassungsrecht*, as Häberle assumes (Häberle 1992: 71 ff.; more sceptical Ipsen 1987).

The scope of meanings shall be positioned within the boundaries set by the ten analytic distinctions expounded in the preceding section. The conceptual framework is sufficiently open for surprising findings. We presume that 'citizenship' belongs to the essentially contested political concepts (Somers 1994) whose particular meaning is likely to vary within the national societies along the lines of ideological divisions, socio-economic or religious cleavages, cultural fragmentation etc. Thus, we are prepared to run across a plurality of (competing) notions of citizenship even within the several Member States under scrutiny. Still, the hypothesis underlying the project makes the claim that in each of the national Member States of the Community -- hence in the five countries which are at issue here -- a dominant concept of citizenship has emerged which has had major influence on both the legal order and the political and social practices which somehow refer to the idea of

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15   See *Internationale Handelsgesellschaft* v. *Einfuhr- und Vorratsstelle Getreide*, Case 11/70, ECR [1970] 1125 at 1133; *Nold* v. *Commission*, Case 4/73, ECR [1974] 491 at 506.

citizenship. As a consequence, it is conceivable that elements which are characteristic of a minority concept in one Member State turn out to be constitutive of the dominant concept of citizenship in another. The research project can test such assumptions quite directly.

The findings shall provide an answer to the succeeding question, namely whether and to which degree the different elements of the explored national concepts of citizenship are sufficiently akin to and consistent with each other so that they can serve as the conceptual building blocks of the idea of European citizenship. Until now no analytical tool is available which promises to yield an unequivocal answer to this question because the compatibility/incompatibility of social institutions depends on too many empirical and historically particular circumstances as to be conceivable by general analytical concepts. Yet the research is expected to allow approximate results by the application of the distinctions developed above (I. 2.1) between, first, the *status path* and the *rights path* to European citizenship and, second, between the 'individualistic' and the 'communitarian' dimension of both the status and the rights. The following table displays the possible range of variations which can be attributed to the relevant versions of concepts of citizenship to be found in the countries under scrutiny.

Obviously these are fairly rough distinctions which represent rather ideal types than classifications of empirical findings. Moreover, it should be noted that the four fields are not mutually exclusive. To the contrary, it can be expected that in all Member States of the Community all four constellations are existent, although in different mixes. Still, in order to be able to categorize the different countries in terms of their affinity of their notion of citizenship to either the *status* or the *rights path* and to either a more

communitarian or a more individualistic approach the knowledge of the relative position of the countries unter scrutiny in the framework of these criteria will provide us with a better understanding of the potential avenues to European citizenship.

	Communitarian	Individualistic
Status	Protection of individual identity and symbolic affiliation: common descent, language, religion etc. (1)	Protection of social/economic roles: employee, entrepreneur etc. and of physical affiliation: residence (2)
Rights	e.g. cultural rights (expression, association, religion etc). (3)	freedoms of contract, movement, exchange of goods and services etc. (4)

To give a few examples (based more on estimation than on thorough research): in the European Union clearly the fields (2) and (4) prevail, although (according to the adjudication of the ECJ) also field (3) is weakly existent (see also article 138a EC Treaty). On the other hand, in the German constitutional practice which has been largely shaped by the Federal Constitutional Court we may state a preponderance of the fields (1) and (3) for the definition of the individual's status within the polity. The question is of course whether a dominant role of combinations of (1) and (4) or (2) and (3) are conceivable and empirically in existence in one of the countries under scrutiny. (The latter combination would be

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represented by a country with a strong neo-corporatist kind of socio-political regime, whereas the former is likely to prevail in some of the newly emerging East and Central European democratic and market economy regimes). Since this research project is limited to the exploration of five Member States (among presently 12, soon 16), it is possible that indeed we shall not encounter all field combinations. But the matrix can be used for the analysis of further countries which might be done in other projects which pursue the same research goals.[16] As the result of the research we expect not only the verification or falsification of the hypotheses about the existence of a plurality of concepts of citizenship within both the European Union and its Member States themselves, but more thorough knowledge about the range of meanings which influence the contemporary legal and political European discourses on citizenship (and on the closely related issue of a European constitution). Finally, the project is expected to yield the conceptual elements of a possible or even likely notion of European citizenship derived from the national components of citizenship consistent with each other and applicable to the quite new and unprecedented supranational polity, the European Union.

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[16] Should Sweden, Norway, and Finland accede to the EU at the beginning of 1995, the extension of the Community by the 'Scandinavian dimension' is likely to add considerably to the variety of concepts of citizenship.

V. Methodology and procedure of investigation

1. Selection of countries to be studied

The investigation is scheduled to cover Britain, France, Germany, Italy, and Belgium. Both scarcity of resources and manageability advise not to aspire to include all present Member States in the survey. Hence the due selection must be sufficiently representative of the diversity of the Member States. Since the final analysis aims at the realization of the contribution which the several Member States might make to a possible concept of European citizenship, two criteria advised the choice: one criterion looks at the influence which the Member States have on the development of the Union due to their economic and political weight. It is assumed that the influence of a Member State's political and legal culture on the evolvement of European citizenship will largely, although not entirely, correspond to their respective economic and political rank. This is more or less a quantitative criterion. The second criterion is more qualitative in nature and looks at the particular feature of the Member States with respect to their history as nation-states. It is assumed that the historical properties which have formed the Member States' development to nation-states have shaped their basic concept of citizenship as well and that they are likely to have a major impact on the respective concept's compatibility with the requirements of supranational integration. There has certainly not been a historical 'standard path' to European nation-statehood which could serve as a yardstick by which the development of all Member States of the Community can be gauged. Thus each and every European nation-state has had its very special development. Hence each of them would be an appropriate candidate for the selection as an object of this

study because each of them contributes to the variety of national versions of citizenship within the Community. For the comparative purposes of the project it is important to study a selection of sufficiently diverse cases in order to cover the broadest possible scope of variants. According to this measure countries whose nation-building processes display some striking features which may have a special impact on the evolution of Union citizenship are the most appropriate candidates.[17] This second criterion does not suggest that all countries which fall within its scope will necessarily have a major impact on a possible future concept of European citizenship. Rather, this criterion pursues the goal to encourage the actors of the European integration to attend to the rich variety of basic political concepts among the Member States and to make prudent use of them when shaping a European polity.

The two criteria are not mutually exclusive. To the contrary, it can be expected that they overlap to a large degree. Thus, the inclusion of Britain, France, Germany and Italy is due to the application of the first criterion; they are the four countries whose votes in the Council weigh most (article 148 EC Treaty). At the same time, each of these countries is also an example for the relevance of the second criterion in that they represent quite different experiences with nation-statehood which in some way or other may have an impact on the unfolding of Union citizenship.

Great Britain seems indispensable for the comparison because as the inheritor of a previous multinational colonial

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[17] It should be mentioned, however, that also practical reasons of research play a role. Easy accessability to the necessary materials and to research groups which work in this field has been taken into account as well.

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empire and as the core of a still existing commonwealth of nations it is likely to have generated legal, social and cultural concepts of citizenship which transcend the horizon of the classical nation-state. Moreover, Great Britain is a multi-national, though not a federal state, and this is likely to shape its understanding of the relation of individuals to their polity, and vice versa.

France, on the other hand, can be considered as the ideal type of a nation-state which is based on the idea of equal citizenship (Brubaker 1989a; Safran 1991). Although France, too, can look back on a colonial past and has created a *communauté* between the European homeland and its overseas territories, the dominant feature of French political reasoning has been the centrality of a political concept of the nation, of its unity, undivisibility, integrity, homogeneity and sovereignty. Hence, one may hypothesize that the French concept of citizenship is the most radical challenge to the idea of Union citizenship.

Germany, the 'belated nation', has experienced considerable periods of its history in the 19th and the 20th centuries in which there was a German nation, but no German nation-state. On the other hand it has been frequently overlooked that there is also the German experience of a strong and successful German state which was not a nation-state. This latter case points to Prussia which has neither been a nation-state nor a multinational state; nor did it ever aspire to become either. Moreover, Germany is a federal, although not a multinational state. Thus, Germany adds a special part to the variety of European political experiences with nation-statehood which differs both from Britain and from France and which may at the same time facilitate the development of a concept of citizenship whose basis is no longer the nation-state.

Italy, is, like Germany, a late-comer among the European nation-states. In contrast to Germany (and similar to France) the Italian nation did not exist independently of and prior to the Italian nation-state. For the purposes of the study it is more important that Italy is one of the Mediterranean Member States of the Community which means that their political concepts are influenced by historical and geographical experiences and by socio-economic properties which differ considerably from those of the European states of the industrialized Northwest of the continent. One such salient characteristic is the fact that the European countries of the Southern rim have traditionally been emigration countries with considerable numbers of their former citizens living abroad (mostly as citizens of their host country). This is of course not only true for Italy, but for Portugal, Spain and Greece as well. Given the prominent role of the medieval Italian city republics in the development of the concept of citizenship in Europe (Riesenberg 1992: 87 ff.) and given the comparably difficult Italian path to nation-statehood -- which may be traced back to the particular role of city republics in Italian history -- it seems advantegeous to choose Italy among the relevant countries of the Mediterranean rim.

Finally, Belgium has been selected solely according to the second criterion. The country is a multinational federal state which has to struggle hard for its political unity. Thus, its political experience reflects both the difficulties and the achievements of a polity whose social and political coherence cannot be based on the idea of pre-political homogeneity. In a way, with respect to the concept of citizenship Belgium could perhaps be regarded as the Member State which comes closest to the structure of the

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Community in that its survival, too, perhaps depends on its renunciation of the idea of the nation-state.

2.   Methods and procedure, sources

The research seeks to expound the social and political meaning of citizenship, defined as the "set of (predominantly, but not necessarily legal) rules which define a person as a competent member of the polity" (see above III. 2.). Therefore its methodological tools must be able to perceive the semantic ambiguities of the term 'citizenship' ('citoyenneté', 'cittadinanza', 'Bürgerschaft') in their respective national contexts. Since the primary sources for the investigtion into the concepts of citizenship will be legal (constitutional or statutory) texts, the first step of the analysis will be comparative law. One of the basic rules of comparative law requires the legal interpreter to read the text according to the method of its proper legal order (Constantinesco 1972: 216 ff.; see also Großfeld 1984). Thus, the traditional methods of legal interpretation of the respective country will be applied in order to determine the exact *legal* meaning of the term 'citizenship' (for the methods of legal comparison in the fields of public law and international law see Hailbronner 1976; Ress 1976). Yet, according to our understanding essential legal concepts cannot fully be understood by mere interpretation of the legal *text*; hence, in a second interpretative step, the contributions to the reading of the concept which have been added by both the legal profession and the many forces of civil society which constitute the public discourse in a democratic society will be included in the analysis. Legal interpretation is conceived as the result of what has been termed the 'open society of constitutional interpreters' (Häberle 1978: 155 ff.); Häberle 1992: 27 ff.). The

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comparison between the legal meanings of 'citizenship' (or the corresponding concept, respectively) aims at the understanding of both the common and the divergent features which the concept has adopted in the relevant countries.

In a third step, the research will be enriched by the analysis of the social and the cultural *contexts* of the legal texts and their interpretation. The analysis of the social contexts focuses on the social function which the status of citizenship exercises in a given society (in one country it may play an important role for the economic life, e.g., for the access to economic resources, whereas in another it may primarily serve as a functional element for the symbolic reproduction of the society). This dimension of the analysis can properly be regarded as still being part of the 'teleological' interpretation of legal texts. It comes close to a 'functionalist' view and is likely to produce knowledge about the *common* features of citizenship in the relevant countries. In contrast, the project is more interested in the potential *differences* of the respective concepts because we want to find an answer to the research question of whether concepts of citizenship employed in the European nation-states are consistent with each other. Hence, for the purpose of the project, the *cultural* dimension of a given constitution and a legal order at large is of particular importance because it is the culture of a given society which shapes the (different, frequently contested) understanding(s) of concepts, determines the collective memory, plays the dominant role in the constitution of meaning, and expresses and sustains the distinctiveness of a community. In other words: the cultural context of the legal texts provides the symbolic framework for their proper understanding

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(Häberle 1992; with regard to collective memory see Halbwachs 1985; Le Goff 1992).

This 'contextual' method of legal interpretation points into the direction of what is the ultimate purpose of the project, namely the analysis of the significant meanings of the concept of citizenship in the political culture of the countries under scrutiny. In part the analytic distinctions submitted earlier (III. 2.) already outline the field in which the diverse meanings of the concept of citizenship are likely to be discovered. They suggest that the domain of legal interpretation has to be widened and that the analysis must enter into the field of socio-political semantics. Here the analysis of concepts must take into account that political concepts have mostly polemical implications. They serve polemical goals and are involved in the struggle for cultural hegemony, ultimately for political power. The unescapable politicization of essential political concepts is one of the major reasons for their equivocal and fluctuating character. Another reason is what Koselleck has called the 'democratization' of concepts. With that he points to the historical experience that concepts which originally were only used and understood by the educated elites of a society become ever more commonplace among the ordinary people and finally may become ideological weapons for their struggle for political, economic, and social emancipation (Koselleck 1972; Koselleck 1979: 107 ff.).

For the present age this observation is clearly generalizable; it is safe to assume that today all contemporary basic political concepts have become subject to mass democratic politics and that both their meaning and their use can only be understood in the framework of democratic politics (Koselleck 1979: 107 ff.; Reichardt 1985: 67). They reflect collective experiences, knowledge

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and aspirations. Hence, they are important ingredients of a community of understanding in which the vacillating meanings of concepts are arranged and re-arranged and the motives for political action shaped (Gumbrecht 1979). Thus, the merely legal meaning of citizenship, albeit of great practical relevance, does not fully import the role which the concept may have in the framework of the pertinent political discourses. In order to understand its social and political meaning and -- what is of utmost importance for the integration process of the Community -- its potential impact on the European peoples' perception of and inclination towards a Union citizenship, the study must surpass the boundaries set by legal texts and practices and enter the discursive field of mass democratic politics.

This approach determines the selection of the materials which shall be studied. The primary source of findings which at the same time can be expected to provide the most unequivocal results are the constitutions and the pertinent laws of the countries under study. Two classes of legal texts are relevant, namely (1) the constitutional and statutory rules about the acquisition, the assignment, and the loss of nationality (*status rules*) and (2) those legal rules which contain the rights and duties which are constitutive of the concept of citizenship in the respective country (*rights/duties rules*). The former rules are easily accessible and subject to the aforementioned method of interpretation.[18]

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[18] This does not suggest that, contrary to what has been said above (I. 1.), citizenship is identified with nationality. But since nationality has become the point of departure for the assignment of citizenship, the conditions under which it can be acquired or lost might be informative for the legal, social, and political meaning of citizenship proper.

What regards the latter, not only those rules are relevant for the study which contain rights or duties (or benefits and burdens) exclusively for citizens. No less instructive about the status of citizenship is the awareness of rights and duties which the respective state allots to all denizens, possibly to all human beings (e.g., basic welfare rights, human rights). In order to be truly informative the investigation must be as comprehensive as possible, because only the entirety of rights and duties (including benefits and burdens) which are exclusively attached to the status of citizenship will provide the full range of actual social and political meanings of citizenship. Thus, it would not be surprising to learn that the right to vote at national elections is restricted to citizens. What this implies for the meaning and the importance of citizenship, however, can only be realized if we know at the same time whether, e.g., the restriction with respect to national elections applies also to municipal elections, to the political freedoms of association, assembly, and free speech, to the access to the labour market, to the system of social security, etc. Still, it should be noted that the the examination of the legal order of the countries under study is inherently limited by the analytic distinction elaborated earlier (III. 2.).

An intermediate position between the two classes of texts mentioned so far are court opinions which interpret and thus shape the legal understanding of the different categories of legal rules. They will be analyzed with respect to the basic political and pre-political ideas underlying the legal interpretation. This analysis will be complemented by the study of sources which simultaneously create and mirror the changing character of meanings of concepts which play an important role in the political discourses of the polity. Quite different participants in the different discursive spheres of

the society (Dryzek 1990) produce meanings and elements of semantic areas in the field of politics: academics, professional politicians, intellectuals, journalists, members of Unions, political parties, churches, religious and other associations of the civil society, and the mass media which reach by far the greatest number of the common citizen and which, by their capacity to coin powerful stereotypes, play a particularly important role in the creation of collective knowledge and social meanings. But also literary works and other artistic works could be a valuable source of interpretive information. Moreover, given the aforementioned structural politicization of political concepts in contemporary mass democracies we must expect the debate of the issue of citizenship and the coining of its semantics to occur in political and conceptual fields which may have solely a quite loose connection to the genuinely legal concept. Thus, it is likely that the idea of citizenship is more thoroughly shaped in public discourses on nationhood, national identity, or the waning of the national state than in debates on the concept of citizenship proper.

Obviously the study cannot cover all these spheres and the materials produced in them in all countries under study. This is even not desirable. It can be assumed that the different arenas are not equally influential in the generation of collective knowledge and that, due to historical particularities, they play quite different roles in the single Member states. Since it depends on the particular country which of the categories of sources is the most resourceful for the goal of the study, it is part of the research to find the most informative source and to make the appropriate selection.

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