

## EUROPEAN CIVIC CITIZENSHIP AND EU INTEGRATION POLICIES

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# European civic citizenship and EU integration policies

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## I. Introductory remarks

This essay on citizenship is about an idea of citizenship on residential basis, distinct from nationality, and deemed as a way to socio-economic, political and cultural integration of people who become part of a host community, first of all at local level, but also at national and, on the whole, at European level.

In general terms, the reason for this thematic choice is traceable in the trend established and consolidated during last decades within both the European Union (EU) and the Council of Europe (CoE), in favour of an intercultural model of integration policies.

It suffices here to mention, in the case of the EU, the *common basic principles* for immigrant integration policy adopted by the Justice and Home Affairs (JHA) Council of the Union in 2004<sup>1</sup>, and repeatedly confirmed afterwards. While in the case of the CoE, reference should be made to the White Paper on intercultural dialogue *Living together as equals in dignity* issued in 2008.<sup>2</sup>

In addition, it is worth mentioning the Intercultural Cities programme (ICC), originally launched in 2008 as joint action of the Council of Europe and the European Commission<sup>3</sup>.

As regards this model it can be said, in short, that it differs both from the assimilationist and multicultural model. Indeed, the model based on assimilation places citizenship – understood in the sense of nation-state membership –

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1 JHA, Brussels 19.11.2004, 14615/04.

2 White Paper on Intercultural Dialogue, CoE, 2008.

3 See CoE dedicated ICC website. On the need to rethink citizenship in an open and inclusive key at the European level, see L. MOCCIA, “Education to Inter-Cultural Citizenship: A European Perspective to Global Citizenship”, in *La cittadinanza europea*, 2014, n° 2, pp. 161-180.

as the very purpose of integration, up to the point of identifying it with nationality, thus exhausting the breadth of citizenship scope and meanings, including the possibility – ever more evident in a globalised world still with local and national identity roots – of multiple memberships: *i.e.* the so-called plural or differentiated citizenship<sup>4</sup>. In turn, the model based on multiculturalism tends to relativize the concept of citizenship in the name of a culture of diversities that are an end in themselves, thus resulting in a polarisation effect of the relations between majority and minorities, connected to the risks of marginalisation of secluded minority groups, each one closed in its own identity.

Ultimately, assimilationism and multiculturalism, while differentiating in the sense that the former pursues a policy of homologation of minorities with respect to the majority, while the latter promotes a policy of separation between majority and minorities, both share the same idea of society based on the dichotomy between majority and minority groups.

The intercultural model instead, assuming diversity as a fact, rather than as a problem to be faced either in the direction of a homologation of the *other*, or in that of its identification as such, in the perspective however of an identity polarisation *us* and *them* that ends up emphasizing what divides, rather than looking for what unites, focuses on an open, plural and inclusive idea of citizenship as a means aimed to coexistence based on mutual respect. Whereby, as stated in the first of the above mentioned basic principles: “Integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member states”<sup>5</sup>. A process that takes place and that only can take place, with regard to local communities of residence in the territories of the member states, within the framework of shared values at EU level. Whereby, as the second of these Principles states: “Integration implies respect for the basic values of the European Union”<sup>6</sup>.

In other words, the intercultural model looks at the diversity management, in the context of today’s increasingly pluralist and highly heterogeneous European societies, because of their multi-ethnic, multi-religious and multicultural composition, with a global approach that seeks to overcome the majority-minority dichotomy, within a dimension of social coexistence grounded on mutual respect for interaction and cohesion purposes, in the framework of shared values at the base of a space of common citizenship. Therefore, the intercultural approach does not accept or formalize cultural diversity as an absolute and static value; rather, it considers diversity an instrument of cultural enrichment, a means of developing human relations, for the purpose of social and territorial cohesion and also of greater security and better human safety<sup>7</sup>.

4 E.-F. ISIN and P. NYERS (eds.), *Routledge Handbook of Global Citizenship Studies*, Routledge, London and New York, 2014.

5 JHA (2004), cit., n° 9.

6 *Ibid.*, n° 10.

7 L. MOCCIA (ed.), *Identity Issues and Intercultural Challenges. A European and Global Perspective*

In this sense, in the intercultural discourse takes shape an idea of citizenship disengaged from its more traditional foundation expressed in terms of group identity (national population). That is to say, an idea understood in prospect and, more particularly, as a dynamic process of socio-cultural growth and development which, faced with the complexity and latent conflictuality of ever more heterogeneous societies, proposes to advance along the path of a revision of the traditional concept of citizenship<sup>8</sup>. In order to make of this new idea of citizenship the privileged base for a possible mediation between a sense of belonging to a people (nation-state), or a community with a strong identity (linguistic-territorial, ethnic or religious), and the need for universal openness to the other, the diverse (from us). An idea of citizenship thus grounded on the recognition of the equal dignity of every human being in the aim, precisely, of living together as equals in dignity.

That said in general terms, useful to outline a perspective of discourse, the reasoning that will follow here below, is articulated in the following passages.

To begin with, an introductory premise concerning the areas of normative relevance of the citizenship of the Union, as an example of post-national citizenship.

Following, a brief reflection on the meaning and scope of this form of citizenship, from the point of view, respectively, of its foundation and its conceptual autonomy.

Lastly, a reference to the relationship between immigration-integration and citizenship, with particular regard to the specific usefulness of a notion of citizenship distinct from nationality, in the form of the so-called *civic citizenship*, such as the one proposed by the European Commission, at the beginning of 2000. For the purpose of an effective exploitation of the common European area of freedom, security and justice; although in a context, today more than then, characterized by prevailing security needs, combined with feelings and attitudes of closure, uncertainty and fear, fuelled by populist and nationalist forces in an anti-European function.

## II. Areas of normative relevance of European citizenship

The current treaties refer to citizenship of the Union in various areas. In the context of our discourse, we can identify three distinct but connected areas.

A first one, according to the *Provisions on democratic principles* under Title II of the Treaty on the European Union (TEU), refers to the principled basis of the Union's democratic legitimacy. In this sense, Union's citizenship becomes relevant as foundation of the equality of citizens vis-à-vis the Union: "In all its activities, the

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on *Peace in the World*, Kuwait City, Abdulaziz Saud Al-Babtain Cultural Foundation, 2017.

8 A. PAPISCA, "Citizenship and Citizenships *ad omnes includendos* : A Human Rights Approach", *La cittadinanza europea*, 2017, n° 2, pp. 5-26.

Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies”<sup>9</sup>.

A second area, according to Part II of the Treaty on the Functioning of the European Union (TFEU), entitled *Non-discrimination and Citizenship of the Union*, refers to principles of non-discrimination and equal treatment against discrimination based on nationality (“any discrimination on grounds of nationality shall be prohibited”)<sup>10</sup>, as well as any other «discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation»<sup>11</sup>. In this last sense, the principle of equality extends to every person who is a victim of discrimination.

Finally, a third area of relevance is the “area of freedom, security and justice” as a space “without internal frontiers”, within which the free movement of persons (of all persons) is ensured, together with “appropriate measures” for control of external borders and, in particular, on asylum and immigration<sup>12</sup>.

This area is the subject of a more detailed regulation on common immigration policy aimed at ensuring “fair treatment of third-country nationals residing legally in Member states”, such as migrants and refugees, “with a view to promoting” their “integration”<sup>13</sup>.

It thus follows that the general principle of equality, typical of every form of citizenship, including citizenship of the Union, is to be taken into consideration with regard both to discrimination on grounds of nationality, with regard to citizens of other EU countries, and to discrimination based on other motivations (race, religion, personal beliefs, etc.), with regard also to third country nationals legally residing in the member states, who live in situations of vulnerability and disadvantage; and more particularly, with regard to people, such as migrants and refugees, belonging to minority groups or communities.

The extension to all subjects, Union citizens and not, of the prohibition of non-discrimination, consequently to the principle of equality, makes this principle a cornerstone of the EU legal system: as a system that draws its own legitimacy and normative force from the values common to member states<sup>14</sup>, such as in particular the dignity and autonomy of the person at the base of principle of the equality and non-discrimination<sup>15</sup>.

9 TEU, art. 9.

10 TFEU, art. 18.

11 TFEU, art. 19, 1.

12 TEU, art. 3, 2.

13 TFEU, art. 79, 1 e 4.

14 TEU, art. 2.

15 See the opinion of the Advocate General M. POIARES MADURO, delivered on 31 January 2008, Case C 303/06, *S. Coleman v Attridge Law And Steve Law*, at n° 8.

### III. Meaning and applicability of European citizenship

Union citizenship is defined in the treaties as additional to national citizenship, but without replacing it: “Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship”<sup>16</sup>.

Such definition, while preventing European citizenship from assuming a primary character of supranational citizenship prevalent with respect to state citizenship (nationality), nevertheless permits to look at it as a common citizenship at European level: in the sense that, although bound, on one side, by a dependency bond to national citizenship, on the other side, opens it up to the European legal and political space without internal frontiers<sup>17</sup>.

This brings about a twofold problem.

First, the problem of the qualification of its conceptual as well as legal basis, synthesizable under the following question: A citizenship whose attribution cannot be traced back to a people membership, to a territory of belonging, or even less to a European federal (nation) state, from which other criterion could be qualified?

To this regard it is necessary to reaffirm that European citizenship refers to the principle of equality, and that this principle inasmuch is worth qualifying the concept of Union citizenship, as it is understood in connection with indivisible and universal values such as dignity, freedom and autonomy of the person, in turn based on the democratic principle and the rule of law, on which the Union as a whole is founded.

In this sense, therefore, at the base of European citizenship it is possible to recognise a direct and identifying link with the patrimony of values and principles common to member states, of which are expression the rights established by the Charter of Fundamental Rights of the European Union (EUCFR), as well as those guaranteed by the European Convention on Human Rights (ECHR), together with those resulting “from the constitutional traditions common” to the member states, all of which are part of the Union’s law as its “general principles”<sup>18</sup>.

This direct and identifying link (already singled out in the Spinelli project of Treaty on the European Union of 1984, approved by the first European Parliament elected by universal suffrage, whose initial articles were respectively dedicated to Citizenship of the Union, art. 3, and Fundamental Rights, art. 4), is expressly mentioned in the Preamble to the EUCFR where, with reference to the “spiritual

<sup>16</sup> TFEU art. 20; in equal terms TEU, art. 9.

<sup>17</sup> See the opinion of the Advocate General M. POIARES MADURO, delivered on 30 September 2009, Case C 135/08, *Janko Rottmann v Freistaat Bayern*, at n° 23: “Union citizenship assumes nationality of a Member State but it is also a legal and political concept independent of that of nationality [...] founded on the existence of a European political area from which rights and duties emerge”.

<sup>18</sup> TEU, art. 6.

and moral heritage” of common European values and the rights and principles based thereupon, it is stated that the Union “places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice”.

In this way the EUCFR (which with the entry into force of the Treaty of Lisbon has assumed full legal value equal to that of the treaties), in addition to strengthening the link between citizenship and fundamental rights, further qualifies it by its contextualization in reference to the common area based on shared values, which give to European citizenship its own meaning at Union level, *vis-à-vis* member states.

Without dwelling into technical details, it suffices here to observe, on the background of this conceptual and legal framework, that European citizenship is now firmly rooted in EU treaties and the EUCFR, along with the basic principles and values there enshrined; therefore taking a shape of its own as an original EU institution, whose definition and characteristics, including its present and prospective scope of application, are matters of competence of the Union itself<sup>19</sup>.

Whence we arrive at the second problem: the one concerning the subjective or personal scope of the notion of citizenship of the Union; or the problem of the conceptual autonomy of this new category of citizenship. This problem can be summarised in such terms: if and to what extent it is possible to go further the questionable link of the Union citizenship with the nationality of a Member State as the sole criterion to obtain this additional status. In other words, if and to what extent it is possible to envisage EU citizenship as distinct (disengaging it, so to say) from nationality. Not only because of the lack of a European nation; but also because of the problematic and fragile grounding of this form of citizenship at European level, understood as a mere addendum to national citizenship, and resulting “in the mere sum of Member State nationals”<sup>20</sup>.

Indeed, the qualification of the EU citizenship that places it in relationship to the person at the centre of the Union’s action, beyond its political ideal implications, takes on a double significance. In the sense of establishing certain fixed points which should inspire a common European legislation to protect and guarantee the rights of the person. As much as, and above all, in the sense of welding together the main areas of relevance of the notion of European citizenship, mentioned earlier. Thus emphasizing the transnational space without internal frontiers of freedom, security and justice, as a space guarded by fundamental values and rights capable of offering to European citizenship an autonomous character, within the Union’s legal system; understood in its turn as an autonomous system, with respect to the systems of the each member states that are integrated by it and through it.

19 See the European Economic and Social Committee (EESC) Opinion on “Access to European Union Citizenship”, OJEU C 208/76, 3.9.2003, § 4.2; and on “A more inclusive citizenship open to immigrants” (own-initiative opinion), OJEU C 67/16, 6.3.2014, § 5.5: and post, §§ 4-5.

20 EESC Opinion on “Access to European Union Citizenship”, cit., § 4.13.

In this perspective, European citizenship contributes to enriching the framework of the semantic transformations of a new post-national political-social and legal order, providing it with a reading key and a conceptual frame of reference, as a new category of citizenship: enfranchised from nationality and open on a common European area, whose boundaries are marked by values and principles at the base of a European model of inclusive and intercultural society, grounded on pluralism, non-discrimination, tolerance, justice, equality and solidarity (as stated in the EU Treaties)<sup>21</sup>.

By assuming the Union citizenship as the denominator of this common space, it is clear that a discussion on this subject can only concentrate on the relevance of this notion with regard to two main aspects, distinct but connected, relative to its meaning and its scope. They concern, respectively: the foundation of legitimacy of the political-institutional set-up of the powers and competences formed with the Union; the subject-rights relationship within this new trans-national order. These aspects both recall the problem, as mentioned before, of the theoretical-conceptual qualification of the citizenship of the Union and, consequently, that of its salient or identifying features.

The potentially autonomous nature of European citizenship is echoed in the formula, coined and repeatedly reiterated by the Court of Justice of the European Union (CJEU), according to which Union citizenship “is destined to be the fundamental status of nationals of the Member States”<sup>22</sup>.

In this sense European citizenship is also given an open and inclusive character, confirmed by the fact that the EUCFR is addressed, in most of its provisions, to *all* (people) and not only to citizens.

Incidentally, the right to equality is recognised in the Charter (article 20) with the statement of principle that “Everyone is equal before the law”; thus becoming relevant for its inclusive vocation and, in any case, for its openness based on the centrality of the person and human rights that make universal its normative reach.

The idea of Union citizenship that appears to emerge, though in the prospect of its potential applications, is no longer just a mere appendage to the national (state) citizenship, but a category of its own, in some respects even prevalent, with respect to national citizenship.

Indeed, already today, as a result of important decisions by the European Court of Justice (ECJ), there are cases in which, for example, European citizenship has shielded the right of minor children of foreign parents, born in a member country and whose citizenship they had acquired, not to be removed from the territory of the Union, following his parents who, as foreigners, would instead have to leave the member country according to the internal regulations, thereby guaranteeing the right of residence for their own parents too<sup>23</sup>.

21 TEU, art. 2.

22 ECJ, *Grzelczyk*, 20 September 2001, C-184/99; *Baumbast*, 17 September 2002, C-413/99; *Zhu*, 19 October 2004, C-200/02; *Zanotti*, 20 May 2010, C-56/09, and still others.

23 ECJ, *Gerardo Ruiz Zambrano*, 8 March 2011, C34/09.



As well as, according to another example, cases in which Union citizenship was invoked to prevent a citizen from losing, together with the citizenship of a member state acquired by naturalization (fraudulently obtained), also that one of the European country of origin, thus serving as a limit to the sovereign power of the states as holders of exclusive competence in the matter of attribution and revocation of citizenship, in so far as this competence must be exercised in compliance with the Union's law and corresponding individual rights<sup>24</sup>.

But precisely these cases, and still others, if they demonstrate the potential of European citizenship, make it still a sort of failed or largely unsatisfactory promise, because of the concerns and resistance opposed by the governments of the member states, contrary to developments in a federal direction, so to say, of this category of citizenship.

The European Court of Justice itself has taken charge of these resistance and concerns, in rulings subsequent to the cases just mentioned, resizing their scope in terms of principle and applicability. While the national regulations which gave rise to these same cases were, following the Court's rulings, amended in more restrictive terms.

Against this background, in which the autonomous foundation as well as the potentially open and inclusive character of European citizenship contribute to defining its notion, on the assumption of the centrality of the person and in relation to the construction of the area of freedom, security and justice, it is then possible to deal more closely with the issue of relations between citizenship and immigration-integration policies.

In this regard, it is useful to bring the discourse on the progressive development, or rather regressive, depending on the points of view, of the area of freedom, security and justice, taking into account some documents issued over the years by the European institutions.

#### IV. The relationship between immigration and integration in the area of freedom, security and justice

The area of freedom, security and justice, first introduced by the Maastricht Treaty (1993) on the basis of intergovernmental cooperation between member states (so-called third pillar, originally named Justice and Home Affairs, JHA), then partially communitarised with the Amsterdam Treaty (1997), it achieved a more structured definition as constituent part of the European Union with the Treaty of Lisbon (2009). Regardless of this progressive development, from a treaties point of view, to date, the balance sheet appears, from the viewpoint of the related

<sup>24</sup> ECJ, *Janko Rottman*, 2 March 2010, C-135/08.

implementation policies, to be quite negative. So much so that, as reported in a briefing note recently issued by the Research Service of the European Parliament, with regard to the so-called Cost of Non-Europe<sup>25</sup>, this area still represents, as a whole and in some sectors in particular, an “untapped potential”<sup>26</sup>.

It is just the case to add that with the Treaty of Lisbon, the European Parliament has assumed the responsibility of co-legislator in this matter; so as to make this area a real bench test and a ground for discussion upon which to evaluate the provisions and regulatory guidelines that can be adopted by European institutions, with regard to policy choices and objectives relevant both to strength the Union and keep it moving along the road to a greater integration.

The abolition of internal borders, in fact, together with the guarantee of free movement in the countries of the Union, amplifying the impact of the migratory phenomenon, has posed and poses the problem of its coherent and coordinated regulation among EU member states, not only in matters of security (internal and external), but also about the hospitality and, above all, the integration of people coming from third country, migrants and refugees alike.

It is worth mentioning here that according to Eurostat data: “On 1 January 2016, the number of people living in the EU-28 who were citizens of non-member countries was 20.7 million, while the number of people living in the EU-28 who had been born outside of the EU was 35.1 million”<sup>27</sup>. These data, together with data showing that third country nationals residing in the EU continue to be in a disadvantaged position vis-à-vis Union citizens, in terms of results concerning employment, education and social inclusion, make the problem of integrating immigrants a priority to be pursued at a fast pace, as stated in the Action Plan on the Integration of third country nationals, issued by the European Commission in June 2016<sup>28</sup>. This, however, in a difficult context, as well as it recognises the same Commission document, yet highlighting that it is in the common interest of all member states the effective integration of migrants and refugees<sup>29</sup>. In the sense, in particular, that a failed or unjust integration of such people can lead, for all the countries of the Union, to greater risks of insecurity and an increase the relative costs.

Hence the vital importance, for the future of European unity, that carries with it the construction of an area of freedom, security and justice, which will have to be, apart from a welcoming place, also and above all a space to integrate the multitude of people who come to stay and live here. Fully aware of how much this challenge involves everyone, such as local, national and European institutions and authorities, as well as civil society, in terms of pro-integration public policies

25 See “Mapping the Cost of Non-Europe, 2014-19”, EPRS, PE 603.239, December 2017.

26 “Area of freedom, security and justice: Untapped potential”, EPRS, PE 611.000, October 2017.

27 *Migration and migrant population* in “eurostat Statistics Explained” (website, consulted 22/03/2018).

28 Strasbourg, 7.6.2016, COM(2016) 377 final, p. 2.

29 *Ibid.*

and social attitudes oriented in that direction, “to make Europe an inclusive, plural and intercultural society”; according to the opinion time ago expressed on this matter by the European Economic and Social Committee (EESC)<sup>30</sup>. Yet having in mind that: “To properly integrate present and future residents from third countries is a strategic objective for Europeans”<sup>31</sup>.

If it is true that the actions taken so far to this regard have brought to light and still highlight a difficult compromise between, on the one hand, the needs of coordination and support of the relevant policies by the European institutions, and, on the other, the competences and resistance of the member states ever more conditioned in their choices by social, economic and political internal dynamics, it is also true that significant steps have been taken in that direction.

Without entering into details, some regulatory measures can be here mentioned. Such as the two directives issued in 2000, with a view to putting into effect in member states the principle of equal treatment: one for combating discrimination on the grounds of racial or ethnic origin<sup>32</sup>; the other one for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation<sup>33</sup>. Moreover, two 2003 directives, respectively concerning the conditions for the exercise of the right to family reunification by third country nationals residing lawfully in the territory of the Member States<sup>34</sup>; and the harmonisation of the terms for conferring (and withdrawing) long-term resident status, granted by member states to third country nationals, and related rights<sup>35</sup>, with the aim to promote their integration and allow them to enjoy equality of treatment with citizens of the Member State in a wide range of economic and social matters<sup>36</sup>.

As well as Directive 2011/98 EU, laying down a single application procedure for issuing a single permit for third-country nationals to reside for the purpose of work in the territory of a Member State, in order to simplify the procedures for their admission and to facilitate the control of their status, together with a common set of rights to third-country workers legally residing in a Member State, irrespective of the purposes for which they were initially admitted to the territory of that Member State, based on equal treatment with nationals of that Member State<sup>37</sup>.

But for the purpose of our discourse an aspect of even greater interest, which is worth emphasizing here, is given by the so-called multiannual programmes prepared by the European Council on the developing of the area of freedom, security and justice; whose leading role to this regard has been strengthened by a

30 EESC Opinion on “Access to European Union Citizenship”, 2003/C 208/19, OJEU, C 208/76, n° 1.5.

31 *Ibid.*

32 Dir. 2000/43/EC of 29.6. 2000, OJEC L 180/22, 19.7.2000.

33 Dir. 2000/78/EC of 27.11.2000, OJEC L 303/16, 2.12.2000.

34 Dir. 2003/86/EC of 22.9.2003, OJEC L 251/12, 3.10.2003, art. 1.

35 Dir. 2003/109/EC of 25.11.2003, OJEC L 16/44, 23.1.2004, recital n° 24.

36 *Ibid.*, recital n° 12.

37 Dir. 2011/98/EU of 13.12. 2011, OJEU L 343/1, 23.12.2011.

new treaty provision which states : “The European Council shall define the strategic guidelines for legislative and operational planning within the area of freedom, security and justice”<sup>38</sup>.

It is the case to specify that such programmes are not binding on member states: they nevertheless set the working agenda and related objectives for the Commission, as well as the other European institutions (Parliament and Council of the Union), that must be followed in order to direct their action in this area. For this reason, considering the time span during which these programmes have succeeded each other, from that one of Tampere (1999), to that of the Hague (2004) and of Stockholm (2009), up to last one adopted at the Ypres European Council (2014), these programmes, besides offering a privileged point of observation on the lights and shadows of the process of implementation of the area of freedom, security and justice, also allow to food for thought on the topic of an open and inclusive citizenship at the European level that (at least in some of such programmes) it was explicated and however evoked with reference to the idea of a common European territory, in the perspective and facing the challenge represented by the integration of all those people forced to leave their countries of origin, sometimes for their own survival and in any case for adverse circumstances, seeking hospitality, together with a hope for their future within the Union borders.

In the first of these programmes, the Tampere programme for the period 1999-2004 (not by chance cited as relevant for the purposes of the 2003 directives mentioned before), under the title of Tampere milestones towards a Union of freedom, security and justice, in the part dedicated to a common EU asylum and migration policy, in a paragraph titled *Fair treatment of third country nationals*, it is highlighted the commitment of the EU institutions to recognize to these subjects, such as migrants and refugees, a status that brings them closer, in terms of rights and guarantees, and in the name of the principle of non-discrimination, to the citizens of the member states. It is thus expressed that:

“The *legal status of third country nationals should be approximated to that of Member States’ nationals*. A person, who has resided legally in a Member State for a period of time to be determined and who holds a long-term residence permit, *should be granted in that Member State a set of uniform rights which are as near as possible to those enjoyed by EU citizens*; e.g. the right to reside, receive education, and work as an employee or self-employed person, as well as the principle of non-discrimination vis-à-vis the citizens of the State of residence”<sup>39</sup>.

Commitment reaffirmed in the Stockholm Programme for the period 2009-2014<sup>40</sup>, named *An open and secure Europe serving and protecting citizens*, and divided into several chapters, with a significant initial chapter called *Towards a citizens’ Europe in the area of freedom, security and justice*. The first paragraph, on the political priorities of the Union, opens with a far-sighted look to the problem of

38 TFEU, art. 68.

39 Tampere European Council 15/16.10.1999, Presidency Conclusions, n° 21, italics added.

40 Stockholm Programme, OJEU C 115/1, 4.5.2010.

balancing security needs with the protection of individual rights and the rule of law. Emphasizing the need to focus future actions “on the citizen of the Union and other persons for whom the Union has a responsibility”, with a clear allusion to migrants and refugees, and mentioning as the first of such priorities that one of “Promoting citizenship and fundamental rights”, in the following terms:

“European citizenship must become a tangible reality. The area of freedom, security and justice must, above all, be a single area in which fundamental rights and freedoms are protected [...]. Respect for the human person and human dignity and for the other rights set out in the Charter of Fundamental Rights of the European Union and the European Convention for the protection of Human Rights and fundamental freedoms are core values. [...] Allowance must be made for the special needs of vulnerable people. Citizens of the Union and other persons must be able to exercise their specific rights to the fullest extent within, and even, where relevant, outside the Union”<sup>41</sup>.

Most noteworthy in this formulation is the idea of a European citizenship as a “tangible” reality, referring to a “single area” of freedom, security and justice, in which fundamental rights are protected, as rights focused on “core values” consisting of respect for the person and his human dignity. A single territorial area that includes both citizens of the Union and “other persons”, with regard to the explicitly stated objective of a coexistence that respects diversity and, at the same time, the most vulnerable people, whether they are citizens of the Union or not.

## V. Integration through citizenship: the proposal for a European *civic* citizenship extended to third country nationals who are stable or long-term residents

In this perspective, a model of society takes shape at European level, in which the classic citizen/foreign dichotomy tends to fade away and transform itself into a more articulated relationship scheme of open and inclusive nature, based on the rights and duties of a civic citizenship, according to a terminology coined at the beginning of the 2000s by the European Commission, on which it is worth to dwell, because of the relevance of its contents from the thematic point of view here considered.

The reference is to a Commission proposal, first formulated in a 2000 communication<sup>42</sup>, subsequently resumed and developed in another communication in 2003<sup>43</sup>, where emphasis was placed on civic citizenship as “a new concept which [...] can be used to promote integration”<sup>44</sup>.

41 *Ibid.*, n. 1.1., italics added.

42 Brussels, 22.11.2000, COM(2000) 757 final.

43 Brussels, 3.6.2003 COM (2003) 336 final.

44 *Ibid.*, § 4.3, “Civic citizenship and nationality: tools to facilitate integration”.

The hindsight seems to disprove this prediction. Nevertheless, the proposal then advanced retains, in my opinion, its current validity and, in any case, it offers interesting and pertinent food for thought, which are useful for advancing our discourse and bringing it up to its conclusions.

A starting point is the principle (mentioned in the introductory remarks above) of fair treatment of third country nationals who legally reside in the territory of the member states, consisting of ensuring to immigrants living and working conditions comparable to those of the nationals. This principle (basically and essentially of equality) is related to an idea of residential civic citizenship, commensurate with the stability of stay in a given local community, but kept distinct from nationality.

The notion of civic citizenship, initially proposed by the Commission in its first communication of 2000, was taken up again, even more explicitly, by the European Economic and Social Committee (EESC) in its opinion of 2003, quoted above. In such opinion, at the time elaborated as part of the participation of EESC to the works of the Convention charged with the drafting of the text of the so-called Constitutional Treaty on the European Union, it was put forward the proposal to introduce in that same treaty “a *broad definition of European citizenship covering third country nationals* who are stable or long-term residents in one of the Member States”; by arguing that “*this broad definition corresponds to the one adopted by the Commission and termed civic citizenship*”<sup>45</sup>.

Focused on the close link between citizenship and the universal principle of equality<sup>46</sup>, the Committee’s proposal is thus directed to broaden not the contents but the subjective ambit of European citizenship, in order to make it open and inclusive as a way to integration, by the proposed adoption of a new criterion for granting this citizenship status, beyond member state nationality, towards residence, in favour of third country nationals legally residing (as stable or long-term residents) within that European single area – to say it in the language of Tampere Programme – in which fundamental rights and freedoms are protected.

The content of this civic (European) citizenship is identified by the Commission – in its communication of 2003, under a paragraph significantly titled “Nationality, civic citizenship and respect for diversity” – in such terms: “guaranteeing certain core rights and obligations to immigrants which they would acquire gradually over a period of years, so that they are treated in the same way as nationals of their host state, even if they are not naturalised”<sup>47</sup>.

To this end, and this is a second point of interest, the EUCFR is referred to. Although not yet endowed, at that time, with a legally binding value, the Charter was nevertheless evoked and considered by the Commission as capable (in perspective) to provide “a basic framework for civic citizenship some rights

45 EESC Opinion on “Access to European Union Citizenship”, cit., n° 2.2 (italics added).

46 “This broad definition of European citizenship, or ‘civic citizenship’, is the supreme legal expression of the European Union’s commitment to gradually and increasingly giving tangible effect to the indivisible and universal right of all people to equality before the law”: *ibid.*, n° 2.3.

47 COM (2003) 336 final, cit., § 3.3.6.

applying because of their universal nature and others derived from those conferred on citizens of the Union”<sup>48</sup>.

A further point of interest and relevance valid today is offered by the definition that, already since its first communication of 2000, the Commission has given of *integration* (in a paragraph entitled “Integration of third country nationals”) as “a two-way process involving adaptation on the part of both the immigrant and of the host society”<sup>49</sup>.

Such definition is reaffirmed and further developed in the 2003 communication, understanding the integration process as a relationship of mutual commitment between the host society, on one side, called to guarantee migrants participation in economic, social, political, cultural and civil life, and, on the other, the migrants themselves, called in turn to respect fundamental norms and values, and to participate actively in the integration process, “without having to relinquish their own identity”<sup>50</sup>.

It is worth noting that this position, later accepted by the Council JHA in the above mentioned common basic principles for immigrant integration policy of 2004, involves the issue of the diversity management, in the direction of an alternative model to both the assimilationist and the multicultural one.

In this sense, other important points of relevance refer to what is called (again in the communication of 2003) a *holistic approach* to the challenge of integration. That is to say, a multi-sectoral approach, taking into account “not only the economic and social aspects of integration but also issues related to cultural and religious diversity, citizenship, participation and political rights”<sup>51</sup>. Together with a multi-dimensional approach, based on the involvement at different levels of a variety of actors, besides governments, national and European institutions, such as local authorities, social partners, non-governmental organizations, religious groups, as well as immigrants themselves and their associations and communities<sup>52</sup>.

Without forgetting, of course, the decisive role of education for the development and dissemination of adequate intercultural knowledge and skills, based on an interaction between different cultures and religions, good practices of dialogue and mutual respect in working and study places, on the territories and in society at large<sup>53</sup>.

All this retains full relevance and validity, at least in a perspective that looks to the future of the Union and, in particular, to the socio-economic and political-cultural dynamics, as well as legal ones, linked to the phenomenon of immigration, destined to continue over time, with its implications on the side of integration<sup>54</sup>.

48 *Ibid.*

49 COM(2000) 757 final, cit., § 3.5, p. 19.

50 COM (2003) 336 final, cit., § 3.1, pp. 17-18.

51 *Ibid.*, § 3.2.

52 *Ibid.*, §§ 3.4.

53 *Ibid.*, §§ 3.3.2, 3.3.5.

54 To this regard, see EESC Opinion on “A more inclusive citizenship open to immigrants”, cit., (reno-



But nowadays it seems to lag behind, faced with growing resistances and difficulties. As it shows the last, in order of time, of the multiannual programmes for the implementation of the area of freedom, security and justice: the one launched by the European Council of Ypres, for the period 2015-2020<sup>55</sup>. A programme resolutely oriented towards security, conceived as a priority to be pursued in terms of a common policy aimed at controlling EU external borders and combating illegal immigration. Where emphasis is on the external dimension of the area of freedom, security and justice, looking at the migratory phenomenon mainly as a threat to be tackled, through the outsourcing of its management to non-EU countries: above all those of transit, with the related problems and risks concerning the protection of those rights which the Union undertakes to guarantee within that same area.

Moreover, also from other viewpoints, it appears ever more evident a trend on the issue of cultural diversity, if not of closure as shown by the resurgence of nationalist and populist movements, however inclined to express some concern about the limits of a sustainable diversity; as resulting, for instance, from the opinion of the Advocate General in the discussion before the ECJ, in a case concerning the prohibition imposed by the employer to wear the Islamic veil in the workplace as a cause of dismissal<sup>56</sup>. A case resolved with a Solomonic decision by the Luxembourg Court: rather disappointing for someone; for some else, instead, quite wise to deal with a difficult exercise of balancing the fundamental rights involved.

## VI. Final remarks

A point of relapse that is also a synthesis of all the things so far said may be the following.

Today's world places us, in terms of a challenge but that is also an opportunity, before the reality of ever more diversified and heterogeneous societies.

The development of a European model of open and cohesive society, based on shared values such as democracy, rule of law and respect of fundamental rights, it is a process, as well as long-term one, eminently dynamic and of mutual commitment of all social and cultural components, which calls into question a new idea of citizenship, plural and inclusive, as cornerstone of construction of this model.

The crucial junction of this process is represented by the relationship between immigration and integration in the light of an idea of citizenship that transfers (i.e., translates) its semantic core from an identity membership status, in the name

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ating the proposal for a "civic citizenship" by recourse to a broad notion of European citizenship grounded on the criterion of residence).

55 Brussels, 26/27.6.2014, EUCO 79/14.

56 ECJ, *Samira Achbita*, 14 March 2017, C-157/15.



of the nation state, to a civic function of coexistence grounded on shared values, within the transnational common space of the Union. So to offer the different cultural identities not only a common ground of encounter and dialogue, but also the common rules of play, for the purposes of social cohesion and, at the same time, of democratic participation.

In other words. If, today, and for a long time yet, it will not be possible to give shape (from above) to a kind of federal citizenship (supra-national), it is however necessary to try since now to put in place a form of common citizenship at European level, based on residence criteria, and which goes beyond situations of trans-border mobility. Taking into account the European and in any case transnational dimension of phenomena that affect the general living conditions of the population within member states; and in contexts such as to require and justify the Union intervention. As in the case, in addition to immigration and related reception problems, of security in the perspective – more recently promoted by Commission with regard to terrorist threats – of a “shared agenda” between the Union and member states finalised to create “an *EU area of internal security where individuals are protected in full compliance with fundamental rights*”<sup>57</sup>. As well as in the case of the repercussions of the economic crisis on employment, inequality, poverty and marginalization, in the perspective of European solidarity, clearly indicated in the EUCFR, at the base of the recognition, in principle, of the rights to security and social assistance aimed “to ensure a decent existence for all those who lack sufficient resources”<sup>58</sup>, including in particular that one to a minimum income, listed among the key principles of the so-called European Pillar of Social Rights, proposed by the European Commission<sup>59</sup>, and adopted in November 2017 with a Joint Declaration signed by the Presidents of the European Parliament, the Council and the Commission<sup>60</sup>.

A form of citizenship, then, that can act as a bridge of integration and vector of inclusion. Not only between nationals of member states of the Union, as an added value factor capable of enriching national citizenships within the European area without internal frontiers, so as to confer fullness of legal subjectivity to individuals inside the EU legal system, But also between different cultures, European and non-European ones, and above all between the people belonging to them, who are resident in this European common area, presided over by values and principles of civil coexistence, based on living together as equals in dignity.

This notion of a new citizenship that becomes relevant under the name and the shape of European citizenship, can be understood in a variety of ways, depending on the visual angle from which one looks at it: just as common citizenship; or as civic citizenship, residential, intercultural and, even, stateless. Provided, however,

57 Strasbourg, 28.4.2015, COM(2015) 185 final, p. 2 (italics added).

58 Art. 34, para 3 (italics added).

59 Brussels, 26.4.2017, COM(2017) 250 final.

60 *Ibid.*, n. 14; see also “On the social dimension of Europe”, COM(2017) 206, 26 April 2017.

to agree on the importance of two main features that qualify its conception.

A first feature is represented by the de-nationalisation of the notion of citizenship, looked at European level no longer in terms only of membership to a state made of a people, a territory, and a national identity. That does not exclude, indeed, requires its own territorial rooting; consisting above all in the connection with a place of living and working, in (stable) residence, within a given community, as a place of civic cohabitation, among people (*cives*) equals in rights and duties, who as such give shape and body to the community itself (*civitas*), and not vice versa.

In this sense, the European *civitas* comes into play not as a membership community inside a pre-established state or political entity (*polis*), but as a relationship community between people who mutually recognise themselves as citizens (*cives*), within an area of cohabitation whose very existence as public good (*res publica*), to be founded, organised, preserved and developed, becomes the common purpose of their membership and, therefore, the *raison d'être* of their citizenship.

This distinction, in the measure of its validity and usefulness for a discourse on citizenship declined according to the oxymoron of the European citizenship, without belonging to a European state, people, homeland, refers to a historical-cultural problem broadly speaking, but of obvious political, social and institutional relevance, regarding a double model of citizenship. The one of Greek origin, based on the idea of *polis*, as a political entity that establishes the unitary belonging of all its members, the *politai*, who are therefore its expression. The other one of Roman origin, based on the idea of *civitas*, as civic consortium implying the association of all its members, the *cives*, who are therefore its foundation<sup>61</sup>.

A second basic feature is represented by the plural and inclusive nature of this new form of citizenship, directly grounded on the person dignity, that is on the fundamental rights and duties of the human being as such and everywhere (*ius humanitatis*), regardless of any other granting criterion, like *ius sanguinis* or *ius soli*<sup>62</sup>.

In fact, an essential feature of the European citizenship is not so much that of being additional to nationality, but rather that of drawing from the expansive force of human rights an autonomous qualification, making it the emblem of a space – not only metaphoric but normatively identifiable with the Union territory – for shared values and principles of which such rights, and corresponding duties, are expression.

Thus resulting in a route tracked at least on paper – though still long and uphill – towards an idea of citizenship at European level in the sense of the *civitas*, understood as both a community of living between people of different origin, and a community of fate relying on the coexistence function of being citizen. In view

61 See É. BENVENISTE, *Deux modèles linguistiques de la Cité*, in J. POUILLON et P. MARANDA, *Échanges et communications. Mélanges offerts à Claude Lévi-Strauss*, vol. I, Paris, 1970, pp. 589-s.

62 A. PAPISCA, *Citizenship and Citizenships ad omnes includendos*, op. cit., p. 25.

of a model of social, political, economic and legal integration, grounded on the link of this community and function with the principles of democracy, equality and respect for fundamental rights at the base of the dignity of every person.

In this perspective, it is therefore a matter of accompanying, favouring and developing the European integration process, making of the common citizenship, inclusive and plural, a model for rethinking and renewing the very idea of citizenship, as stronghold of a European *civi(li)tas*, called to face with the challenges of the global world.

## Abstract

Starting with a general overview on integration policies based, respectively, on the assimilationist, multicultural and intercultural model (§ 1), the paper focused on the notion of European (Union) citizenship, looked at from the point of view of its normative relevance in the Union treaties, as well as of its meaning in relation to the basic issues of the qualification criteria and the subjective or personal scope of this notion, with regard to the problem of its conceptual autonomy (§§ 2-3). Against this background, in which it can be observed an autonomous foundation with a potentially open and inclusive character of European citizenship, the relationship between immigration and integration within the area of freedom, security and justice is analysed, having regard to EU rules and the European Council multiannual programmes (§ 4), with an aim to argue (§ 5) the feasibility of a broad definition of European citizenship, in the form of the so-called *civic citizenship* such as proposed by the European Commission in two communications, respectively of 2000 and 2003; then supported and further relaunched in more recent times by the European Economic and Social Committee in two opinions, respectively of 2003 and 2014. This broad notion of European citizenship could apply, in virtue of the principle of equality, to third country nationals (migrants and refugees) who are stable long-term residents in a member state. In the last paragraph (§ 6), some final considerations are made regarding the need of a paradigm shift, consisting in re-thinking at European level the notion of citizenship no longer in terms only of nationality (related to state citizenship), but on a residential basis, in terms of function of civic coexistence, grounded on shared values, within the transnational common space of the Union.

## Résumé

En commençant par un aperçu général à propos des politiques d'intégration basées respectivement sur le modèle assimilationniste, multiculturel et interculturel (I.), la contribution se concentre sur la notion de citoyenneté (de l'Union) européenne, du point de vue de sa pertinence normative dans les traités de l'Union, et de sa signification en rapport avec les questions fondamentales des critères de qualification et des portées subjective ou personnelle de cette notion, en ce qui concerne le problème de son autonomie conceptuelle (II., III.). Dans ce contexte, où il peut être observé une fondation autonome avec un caractère potentiellement ouvert et inclusif de la citoyenneté européenne, la relation entre immigration et intégration dans l'espace de liberté, sécurité et justice est analysée, en prenant en considération les règles de l'UE et les programmes pluriannuels du Conseil Européen (IV.), afin de soutenir (V.) la possibilité d'une définition large de la citoyenneté européenne, sous la forme de la soi-disant *citoyenneté civile*, tel que présenté par la Commission Européenne dans deux communications, respectivement, de 2000 et 2003 (soutenue et relancée récemment par le Comité économique et social européen dans deux décisions, respectivement, de 2003 et 2014). Cette notion large de citoyenneté européenne pourrait s'appliquer, en vertu du principe d'égalité, aux ressortissants des pays tiers (migrants et réfugiés) qui sont résidents de longue durée dans un État membre. Dans la dernière partie (VI.), quelques considérations finales sont tirées, concernant l'exigence d'un changement de paradigme, consistant à repenser au niveau européen la notion de citoyenneté non plus uniquement en termes de nationalité (en relation avec la citoyenneté de l'État), mais sur une base résidentielle, en termes de fonction de coexistence civile fondée sur des valeurs partagées, dans l'espace commun transnational de l'Union.