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25. Supranational Citizenship

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Introduction

Supranational citizenship, as a concept, sits somewhat uncomfortably between the regional experience of European citizenship and discourses on global or cosmopolitan citizenship. To the former, supranational citizenship is semantically married, as the notions of European and supranational citizenship are often used interchangeably in relevant interdisciplinary literature. To the latter, if conceived as a genus, supranational citizenship belongs as a sub-part. However neither option offers a satisfactory account of supranational citizenship: European citizenship is too narrow to exhaust the concept, and global or cosmopolitan citizenship is too broad to embrace it firmly.

Hence the contours of the notion remain rather fuzzy. The objective of this chapter is to dispell this fuzziness. The first part traces a conceptual definition of supranational citizenship, distinguishing it from other forms of citizenship beyond the state. The second part reinforces this conceptual definition by distilling further elements from the experience of European citizenship. The third and fourth parts rely on this reinforced definition to, respectively, examine other concrete examples and consider the theoretical prospects of supranational citizenship.

1 Defining Supranational Citizenship

Literally, 'supranational' means 'extending beyond or free of the political limitations inhering in the nation state'.¹ Supranational citizenship thus points to a notion of citizenship beyond the state. In this respect, it shares the premises of accounts of global or cosmopolitan citizenship. The latter label is used in the context of a variety of intellectual projects on citizenship beyond the state, some adopting a moral viewpoint, others grounded in democratic theory, others still focusing on institutional dimensions.² With these projects, supranational citizenship partakes in

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¹ Webster's *Third New International Dictionary of the English Language* (2002).

² See chapter [by Kok-Chor Tan] in this book; also see Richard Falk, 'The Making of Global Citizenship' in *The Condition of Citizenship* edited by Bart van Steenbergen (1994), p. 127-140; Daniele Archibugi, *The Global Commonwealth of Citizens: towards Cosmopolitan Democracy* (2008), p. 114-119.

the endeavor to re-conceptualize citizenship in a non-hegemonic sphere overcoming state boundaries.³

However, in contrast with accounts of cosmopolitan citizenship, the non-hegemonic sphere to which supranational citizenship points is not a world-wide one. It rather coincides with a supranational entity organized around a collective purpose and having set boundaries. From this perspective, supranational citizenship fits with regional citizenship better than with global citizenship.⁴ As its very name suggests, it posits an enduring albeit reconfigured relation with nationality.

Indeed supranational citizenship stands in both continuity and contrast with other notions of membership conceived to challenge the conflation of citizenship and nationality. An intrinsic association of citizenship and nationality is often taken for granted in discourses surrounding modern citizenship. However the demands of liberal democracy, globalization, and the human rights movement have problematized this association, prompting alternative visions.⁵

Some of these visions rely on a transformative understanding of the relationship between citizenship and nationality. Post-national citizenship, for instance, grounds the rights of membership not in nationality but in universal personhood. It distinguishes the perspective of rights fruition, where universal aspirations defeat narrow conceptions of national citizenship; and the perspective of rights dispensing, where sovereign and democratic closure lead back to the nation state as the main point of reference.⁶ Other accounts instead propose a pluralist understanding of the relation between citizenship and nationality, emphasizing how the conjugation of citizenship and nationality no longer exhausts the spectrum of membership. From one perspective, pluralism in citizenship finds expression in instances of multiple citizenship, implicating the simultaneous possession of several nationalities.⁷ From a different pluralist perspective, transnational citizenship emphasizes how national citizenship has become just one of several nested and overlapping circles of membership, many of which transcend national

³ On the idea of transnational non-domination see Kalypsa Nicolaïdis, 'European Democracy and its Crisis', *Journal of Common Market Studies* 51 (2013): p. 351, 358-359.

⁴ See Richard Falk, 'An Emergent Matrix of Citizenship: Complex, Uneven and Fluid' in *Global Citizenship: A Critical Reader*, edited by Nigel Dower and John Williams (2002), p. 23-25.

⁵ For an articulation of relevant arguments, see Yasemin Nuhoglu Soysal, *The Limits of Citizenship* (1994); Seyla Benhabib, *The Rights of Others-Aliens, Residents and Citizens* (2004); Rainer Bauböck, *Transnational Citizenship-Membership and Rights in International Migration* (1994).

⁶ Benhabib (n 5), p. 178; Soysal (n 5).

⁷ See Peter Spiro, 'The Citizenship Dilemma', *Stanford Law Review* 51 (1998-1999), p. 597, 617-630. See also Chapter [X] on 'Multiple Citizenship' by P. Spiro in this volume.

boundaries.⁸ Equality of citizenship can only be preserved, from this perspective, by recognizing that nation states owe obligations also to non-members.⁹

Supranational citizenship points to yet another relation between citizenship and nationality in comparison to the above models. It denotes a status that stems from nationality, yet re-articulates citizenship beyond its boundaries. This re-articulation relies on a rule of mutual recognition: each member state in a supranational community recognizes national citizens of other member states to some extent as its own. Political and residence rights granted to supranational citizens in national communities beyond their own give concrete expression to this rule of recognition. While it has elements in common with both post-national and transnational accounts, supranational citizenship hence remains distinct from both: from the former, because it places national citizenship at the centre of gravity of belonging; from the latter because it situates nested circles of national membership within a broader, but clearly bounded supranational sphere.

Comparing and distinguishing supranational citizenship from notions of citizenship beyond the state and beyond nationality yields a concept with three key prongs: projection of citizenship beyond the state in the context of a non-hegemonic project; articulation of this beyond-state citizenship within the boundaries of a supranational entity pursuing a collective purpose; and reconfiguration of citizenship beyond nationality through a dynamic of mutual recognition of national citizenships. This conceptual sketch provides a starting point to consider concretely what forms of citizenship may count as supranational.

First, forms of multilevel citizenship that do not reconfigure citizenship beyond nationality, such as federal citizenship, fail the test of supranational citizenship.¹⁰ The same applies to hegemonic extensions of citizenship beyond nationality. For instance, this is the case with colonial citizenships in the fashion of the status of 'British subject', recognized since 1914 to all persons born in the British Empire, and grounding their common membership in allegiance to the crown;¹¹ or the status of nonmetropolitan citizenship that Italy extended to the natives of its colonies in northern and eastern Africa.¹²

⁸ See Bauböck (n 5), chapter 1. From a EU citizenship perspective, see Rainer Bauböck, 'The Three Levels of Citizenship within the European Union', *German Law Journal* 15, no 5 (2014): p. 751; Rainer Bauböck, 'Why European Citizenship? Normative Approaches to Supranational Union', *Theoretical Inquiries in Law* 8, no. 2 (2007): p. 454, 455.

⁹ See Bauböck (n 5), chapter 12. Also see Dora Kostakopoulou, *The Future Governance of Citizenship* (2008), p. 100-122.

¹⁰ [See chapter by W. Maas in this book.]

¹¹ J.E.S Fawcett, 'British Nationality and the Commonwealth', *The Round Table* 63, no. 250 (1973): p. 259, 260-261. Jatinder Mann, 'The Evolution of Commonwealth Citizenship, 1945-48 in Canada, Britain and Australia', *Commonwealth and Comparative Politics* 50, no.3 (2012): p. 293, 294.

¹² See Sabina Donati, *A Political History of National Citizenship and Identity in Italy, 1861-1950'* (2013), p.120-125 and 128-130.

Post-colonial citizenships in the frame of post-imperial arrangements that have lost their hegemonic character may however fit the concept of supranational citizenship. Commonwealth citizenship, which represents the supranational evolution of the status of ‘British subject’, offers a prime example. The ‘British subject’ status had become inadequate, after the Second World War, to express the conundrums of rights and forms of belonging resulting from nationalist ferment in the British dominions and colonies, and of the first stages of decolonization.¹³ These transformations called for configuration of a dual status, combining nationality of a colony or newly independent dominion, and Commonwealth citizenship. Such dual status, in the form of a supranational Commonwealth citizenship, was introduced, following a conference of the Commonwealth Countries in 1947, with the British Nationality Act 1948.¹⁴ The Act extended recognition as “British subject” or “Commonwealth Citizen”, two expressions with the same meaning, to any citizen of the UK or its colonies, as well as to citizens of the Commonwealth countries.¹⁵ A White Paper accompanying the Act encouraged all Commonwealth countries to incorporate in their own legislation, along with a definition of their own citizens, a recognition clause whereby they would recognize citizens of other Commonwealth countries as British subjects.¹⁶ A post-colonial supranational citizenship, centered precisely on recognition of different Commonwealth nationalities, had found its birth. In the frame of the supranational entity that survived dissolution of the British empire, this citizenship served the goal of preserving the collective identity of its English speaking holders as British people.

In terms of content, Commonwealth citizenship varied among the different Commonwealth countries.¹⁷ In Britain, at its fullest, it entailed rights of entry and abode as well as political rights for its holders. However it lasted in this full form only a few decades. Immigration restrictions for Commonwealth citizens were introduced from 1962 and the 1981 British Nationality Act, in response to the urge to rebound British identity, redefined British citizenship and deprived the holders of Commonwealth citizenship of the right of abode in the UK.¹⁸ Commonwealth

¹³ See E.F.W. Gey Van Pittius, ‘Dominion Nationality’, *Journal of Comparative Legislation and International Law* 13 (1939): p. 199; Randall Hansen, *Citizenship and Immigration in Postwar Britain* (2000), p. 42-43.

¹⁴ British Nationality Act 1948. See Andrew Mycock, ‘British Citizenship and the Legacy of Empire’, *Parliamentary Affairs* 63, no. 2, (2010): p. 339, 343; Robert R. Wilson and Robert E. Clute, ‘Commonwealth Citizenship and Common Status’, *American Journal of International Law* 57, no.3 (1963): p. 566, 567-568; Fawcett (n 11), p. 261-262.

¹⁵ British Nationality Act 1948, sect. 1(1) and 1(2). The term ‘commonwealth citizen’ was introduced at the request of the Government of India to avoid misunderstandings. See Cabinet Conclusions, meeting of 6 May 1948, CAB 128/12, accessed 18 May 2016, <http://discovery.nationalarchives.gov.uk/details/r/D7663145>.

¹⁶ Wilson and Clute (n 14), p. 567-568. Hansen (n 13), p. 41-50.

¹⁷ Wilson and Clute (n 14), p. 573-581.

¹⁸ British Nationality Act 1981. Also see Mycock (n 14), p. 342-343; Christian Joppke, ‘How Immigration Is Changing Citizenship: A Comparative View’, *Ethnic and Racial Studies* 22, no.4 (1999): p. 629, 641. Robert Moore, ‘The Debris of Empire: The 1981 Nationality Act and the Oceanic Dependent Territories’,

citizenship survives today as a thin supranational status, embodying just a handful of mostly symbolic rights.¹⁹

Thicker contemporary examples of supranational citizenship can be found in forms of interstate citizenship in the context of regional trade arrangements. Thoughts immediately go to European citizenship. While not an isolated case, the European Union's model of supranational citizenship deserves special attention in this context and is a compulsory next step for any attempt to further spell out the concept under discussion. This is not only because European citizenship is arguably the most developed concrete form of supranational citizenship in the frame of a regional association. But also because in relevant interdisciplinary literature it is considered almost as the alter ego of supranational citizenship. The only two English language monographic works on supranational citizenship are centered on European citizenship.²⁰ Interdisciplinary literature on global and cosmopolitan citizenship treats European citizenship as the first and foremost example of relevant models.²¹ And reference books on citizenship often include an entry on European citizenship rather than more generally on supranational.²²

2 European Citizenship

European citizenship was formally introduced by the 1992 Treaty of Maastricht, with which political union found its place among the objectives of European integration. It is an additional legal status that follows automatically from nationality of one of the Member States of the European Union.²³ It entails a short list of rights, the most important of which is the right to move and reside in any Member State.²⁴ At first sight, European citizenship appears to fit all three prongs of the above-proposed definition of supranational citizenship. It comes in the context of a non-hegemonic project of supranational union, pursuing shared economic and political goals. It represents the means to achieve one of these goals, namely fostering people's ownership of the integration project through the recognition of 'special rights' to Community citizens.²⁵ These 'special rights', in the model of supranational citizenship that eventually made its way into the Treaties, are based on reciprocal recognition, among the Member States, of the status of their respective nationals.

Immigrants & Minorities 19, no.1 (2000): p. 1, 1-4; Rieko Karatani, *Defining British Citizenship – Empire, Commonwealth and Modern Britain* (2003), 145-165.

¹⁹ Tendayi Bloom, 'Contradictions in Formal Commonwealth Citizenship Rights in Commonwealth Countries', *The Round Table* 100, no.417 (2011): p. 639, 640-642.

²⁰ Lynn Dobson, *Supranational Citizenship* (2006); Francesca Strumia, *Supranational Citizenship and the Challenge of Diversity – Immigrants, Citizens and Member States in the EU* (2013).

²¹ See e.g. Keith Faulks, *Citizenship* (2000), p. 158; Luis Cabrera, *The Practice of Global Citizenship* (2010), p. 181; Archibugi (n 2), p. 117.

²² See e.g. *Handbook of Global Citizenship Studies*, edited by Engin Eisin and Peter Nyers (2014).

²³ TFEU, art. 20.

²⁴ TFEU, art. 21-24.

²⁵ See Pietro Adonnino, A People's Europe. Reports from the ad hoc Committee, Bulletin of the European Communities 7/85, accessed 18 May 2016, <http://aei.pitt.edu/992/>.

In its Treaty version, European citizenship is a rather skinny status. However the combination of expectant analyses in a vast interdisciplinary literature,²⁶ and of purpose-oriented interpretations of the Court of Justice of the EU, have given it body and weight. The Court, in particular, has relentlessly repeated in its jurisprudence that ‘Union citizenship is destined to be the fundamental status of nationals of the Member States’,²⁷ and it has resorted to European citizenship to stretch, and gradually vest in constitutional garb, pre-existing free movement rights for economic actors.²⁸

To achieve the latter result, the Court has aggressively deployed, in its ‘classical’ citizenship case law, the principle of non-discrimination on the basis of nationality: it has found that European citizens residing in a Member State other than the one of nationality are entitled to equal treatment with nationals for purposes of a number of entitlements and benefits, including social assistance.²⁹ Until a recent change of trend,³⁰ the Court has extended the reach of European supranational citizenship to embrace not economically active intra-EU migrants in the name of ‘a minimum degree of financial solidarity’ expected among the Member States and their citizens.³¹ With the excuse to further protect the effectiveness of European citizens’ free movement, the Court has recognized rights of residence and work for non-EU national family members of migrant European citizens, even beyond those secured through secondary European legislation.³² In the same vein, the Court has pushed³³ beyond the non-discrimination paradigm to sanction also restrictions to the right to free movement imposed in a Member State of origin.³³

Ultimately, judicial endeavors have molded a supranational citizenship relying on a sophisticated web of rights and duties of recognition. This becomes evident when looking at European citizenship from the perspective of its subjects: the Member States, the citizens themselves, and

²⁶ For a small sample see Dora Kostakopoulou, ‘European Union Citizenship: Writing the Future’, *European Law Journal* 13, no. 5 (2007): p. 623; Elizabeth Meehan, *Citizenship and the European Community* (1993); J.H.H Weiler, ‘To be a European Citizen: Eros and Civilization’, *Journal of European Public Policy*, (1997): p. 495; Massimo La Torre, ed., *European Citizenship: An Institutional Challenge* (1998).

²⁷ See e.g. case C-184/99 *Grzelczyk* EU:C:2001:458, par. 31. Also see Daniel Thym, ‘Towards Real Citizenship? The Judicial Construction of Union Citizenship and its Limits’ in *Judging Europe’s Judges: the Legitimacy of the Case Law of the European Court of Justice*, edited by Maurice Adams, Henry De Waele, Johan Meeusen & Gert Straetmans (2013).

²⁸ Francesca Strumia, ‘Citizenship and Free Movement: European and American Features of a Judicial Formula for Increased Comity’, *Columbia Journal of European Law*, 12, no. 3 (2005): p. 713; also see Willem Maas, ‘The Origin, Evolution and Political Objectives of EU Citizenship’, *German Law Journal*, 15 (2014): p. 797, 807-808 and 814; Francesco De Cecco, ‘Fundamental Freedoms, Fundamental Rights and the Scope of Free Movement Law’, *German Law Journal*, 15, no. 3 (2014): p. 383, 395-397.

²⁹ E.g. case C-456/02 *Trojani* EU:C:2004:488.

³⁰ Case C-333/13, *Dano* EU:C:2014:2358; case C-318/14, *Commission v UK* EU:C:2016:436.

³¹ *Grzelczyk*.

³² E.g. case C-200/02, *Zhu and Chen* EU:C:2004:639; case C-456/12, *O. and B.* EU:C:2014:135.

³³ E.g. case C-499/06, *Nerkowska*, EU:C:2008:300.

the third country nationals (TCNs), that is nationals of a country not belonging to the EU, who are European denizens, but potentially aspirant citizens.³⁴

For the Member States, European citizenship grounds duties of recognition both in respect of nationals of other Member States and in respect of TCNs. The Member States have indeed an obligation to recognize the status and rights of nationals of other Member States, guaranteeing rights to any such nationals residing in their territory as well as to their TCN family members. As a result, European citizenship affects the power of each Member State to draw the boundary between insiders and outsiders, citizens and denizens.³⁵ Not only because it extends the obligations of each Member State as 'provider' of citizenship entitlements towards outsiders to national citizenship, but also because it limits Member States' discretion in exercising their powers to grant and withdraw their nationality.³⁶

For the citizens, who are European citizens by virtue of their nationality, European citizenship brings about three classes of rights to recognition.³⁷ First, the right to be recognized as part insiders in the Member State of residence; this right underpins the principle of non-discrimination on the basis of nationality that informs European rules on free movement of persons. Second, the right to keep being recognized as insiders in the Member State of nationality, even while residing as European citizens in other Member States. As European citizenship does not diminish national citizenship, certain entitlements granted by the Member State of nationality to its nationals, such as for instance war victims' benefits and study finance, are 'exportable' to the Member State of residence.³⁸ And finally the right to have one's condition of simultaneous belonging to more than one Member State, such as the one of nationality and the one of residence, recognized and respected. For instance, a European citizen national of Spain but growing up in Belgium has an entitlement to have his last name recorded in Belgian documents according to traditional Spanish rules on name composition.³⁹ This can be seen as recognition of the fact that national identity, that names in part express, does not get diluted through the exercise of the transnational rights of European supranational citizenship.

³⁴ The perspective of the subjects is developed further in Strumia, (n 20), p. 258-273.

³⁵ See Francesca Strumia, 'EU Citizenship and EU Immigration: A Democratic Bridge between the Third Country Nationals' Right to Belong and the Member States' Power to Exclude?', *European Law Journal* 22, no. 4 (2016).

³⁶ See case C-369/90, *Micheletti*, EU:C:1992:295; case C-135/08, *Rottmann*, EU:C:2010:104.

³⁷ Francesca Strumia, 'Looking for Substance at the Boundaries: European Citizenship and Mutual Recognition of Belonging', *Yearbook of European Law* 32 (2013): p. 432, 443-448.

³⁸ See e.g. case C-499/06, *Nerkowska*, EU:C:2008:300; Joined Cases C-523/11 and C-585/11, *Prinz and Seeberger*, EU:C:2013:524. Strumia, 'Looking for Substance' (n 37), p. 448.

³⁹ See e.g. case C-148/02 *Garcia Avello* EU:C:2003:539; also see Francesca Strumia, 'Individual Rights, Interstate Equality, State Autonomy: European Horizontal Citizenship and its (Lonely) Playground in Trans-Atlantic Perspective' in *Citizenship and Federalism in Europe: the Role of Rights*, edited by Dimitry Kochenov (2016).

In addition to these variously shaped rights to recognition, with European citizenship also comes a duty of recognition. Citizens of each Member State have an implied obligation to recognize citizens of any other Member State as part members of their national community. They have to recognize, for instance, the entitlement of other European citizens to raise claims against the welfare system into which national citizens are potentially longer term contributors. This obligation to contribute also for outsiders is the counterpart to the right of every European citizen to move to a different Member State and claim certain rights as an insider.

Turning to the TCNs, as national citizenship represents the gateway to European citizenship, it may appear that European citizenship is of little relevance for their inclusion claims. However European citizenship affects the condition of TCNs both directly and indirectly. Directly, because it brings about a discrete set of rights for TCNs who are family members of European citizens.⁴⁰ And indirectly, because as suggested above, it grounds Member States' obligations towards outsiders. In respect of TCNs, these obligations translate into a duty, a soft one for the time being, to take into account the measure of belonging that a TCN has already accrued in other EU Member States.⁴¹ A similar duty, albeit not directly linked to European citizenship, finds concrete expression in some of the instruments adopted as part of the EU common immigration policy.⁴² It also descends as a side effect from each Member State's duty to internalize, to some extent, the interests of any other Member States in discharging its functions. This duty begins to change the texture of the boundary between inclusion and exclusion that national citizenship continues to mark. Whilst not shifting this boundary, European citizenship makes it partly permeable.⁴³

This web of rights and duties of recognition spells out more fully the norm of recognition that was already evident in post-colonial citizenship. It also reflects a broader notion of mutual recognition echoing into the citizenship domain from other areas of European integration. This broader notion of mutual recognition offers theoretical depth to supranational citizenship.

Mutual recognition fulfils several tasks in the context of European integration. It is a regulatory principle governing the movement of goods in the internal market and the recognition of professional qualifications for purposes of free movement of persons. It is also a model of governance informing cooperation in judicial and criminal matters.⁴⁴ And it is a political principle

⁴⁰ Directive 2004/38, articles 7, 12, 13. *O. & B.*

⁴¹ Strumia, 'EU Citizenship and EU Immigration' (n 35).

⁴² For instance, long-term resident TCNs who have already complied with integration requirements in a first Member State cannot be subjected to integration requirements in a second Member State. Directive 2003/109, art. 15(3).

⁴³ For the articulation of this argument, see Strumia, 'EU Citizenship and EU Immigration' (n 35).

⁴⁴ For an overview, see Francesca Kostoris Padoa Schioppa, ed., *The Principle of Mutual Recognition in the European Integration Process* (2005); Christian Janssens, *The Principle of Mutual Recognition in EU Law* (2013).

and normative aspiration, offering one explanation for the process of European integration, as well as a horizon for its continuation.⁴⁵ In the words of Kalypto Nicolaidis:

‘As a ‘demoicracy’, the European Union requires its many peoples not only to open up to one another but to recognize mutually their respective polities and all that constitutes them: their respective pasts, their social pacts, their political systems, their cultural traditions, their democratic practices. It is a very demanding notion of mutual recognition.’⁴⁶

This demanding notion ultimately relies on building and managing trust among the Member States and their polities.⁴⁷ This dynamic of reciprocal trust and recognition yields a novel norm of belonging, supporting supranational citizenship. A set of polities that open up to one another and recognize one another’s social contracts, trust one another’s political principles, and respect one another’s traditions and memories, are capable of recognizing one another’s citizens as shared members. After all, those citizens are bound to respect rules, and are committed to political projects and social pacts that all participating polities recognize and respect. Hence the bond between state and individual that justifies citizenship becomes transferable across the participating states, and belonging in the participating polities becomes to some extent interchangeable. Supranational citizenship is born from this idea of interchangeable belonging: it is premised in a related right, not just to have rights, but to have rights, and ultimately belong, across national borders.⁴⁸ In this sense it problematizes the boundaries of the national citizenships to which it adds without replacing them.

A first implication is that the glue of supranational belonging is not a strong shared identity or ethno-cultural affinity. It is rather a measure of reciprocal trust, coupled with the acknowledgment of shared goals and with regular transnational interactions. Ideas of a thin civic identity grounded in recognition are well represented in European citizenship literature.⁴⁹

From a further perspective, a right to belong across borders grounded in mutual trust requires mutual responsibility on the part of the Member States for citizens of other Member States, and on the part of the citizens for the welfare of the migrant members of their own polities. This mutual responsibility lays the ground for the web of rights and duties of recognition examined above.

⁴⁵ See Kalypto Nicolaidis, ‘Trusting the Poles? Constructing Europe through Mutual Recognition’, *Journal of European Public Policy*, 14, (2007): p. 684

⁴⁶ Kalypto Nicolaidis, ‘The Idea of European Demoicracy’, in *Philosophical Foundations of European Union Law*, edited by Julie Dickinson, Pavlos Eleftheriadis (2012), p. 248. Also see Nicolaidis, ‘Trusting the Poles?’ (n 45), p. 682; Pavlos Eleftheriadis, ‘The Content of European Citizenship’, *German Law Journal* 15, no 5 (2014): p. 795-796.

⁴⁷ Nicolaidis, ‘Trusting the Poles?’ (n 45), p. 686.

⁴⁸ Strumia (n 35).

⁴⁹ See e.g. Dobson (n 20), p. 137-150; Paul Magnette, ‘How Can One be European? Reflections on the Pillars of European Civic Identity’, *European Law Journal*, 13, no. 5, (2007): p. 664.

This norm of belonging based on mutual recognition has reached only partial realization in the EU, of course. It provides a rationale for the architecture of supranational citizenship advanced, mostly, by the European Court of Justice. However it does not resonate in political sentiment and in societal perceptions, as evidenced by arguments about lack of solidarity and mutual trust displayed in the context of the EU referendum in the UK in June 2016. Such resonance would perhaps require internalization of some of the cosmopolitan ideas inspiring the global citizenship accounts with which European citizenship flirts.⁵⁰ Relatedly, this account of supranational citizenship relying on mutual recognition lends itself to two critiques.

A first critique is that it offers a too rosy account of European supranational citizenship. Part of the literature indeed emphasizes that European citizenship dilutes citizenship, failing to rearticulate several of its traditional components beyond national boundaries. From a first perspective, with European citizenship comes a loss in solidarity. European citizenship is ultimately a market citizenship that promotes a dis-embedded understanding of economic freedoms.⁵¹ Protection of these freedoms comes at a cost for the role of the Member States as welfare providers; as it is conceived, supranational citizenship threatens the very ability of the Member States to discharge their social functions, thereby undermining the foundations of modern social citizenship.⁵² In a second sense, supranational citizenship impoverishes the participation content of citizenship. Not only because the political rights attached to European citizenship are limited, but also because there is hardly a supranational public sphere in Europe; European citizens do not voice their political self through their supranational status, and despite the tools for political participation at their disposal, the agenda of the EU remains quite impermeable to the citizenry's input.⁵³ Further, European supranational citizenship entails a downgrade in collective identity. It appeals to atomized individuals and 'accidental cosmopolitans',⁵⁴ whose whims it serves and whose autonomy it enhances.⁵⁵ However it does away with the collective bonds and the legacy of groupness that national citizenship stands for.⁵⁶ There is also the problem that analyses of European supranational citizenship over-rely on the

⁵⁰ See Andrew Linklater, 'Cosmopolitan Citizenship', *Citizenship Studies* 2, no.1 (1998): p. 23, 32.

⁵¹ See e.g. Menéndez (n 57), p. 922-928. Michelle Everson, 'A Citizenship in Movement', *German Law Journal*, 15 (2014): p. 965.

⁵² Menéndez (n 57), p. 923-927 and 931-932. Also see Alexander Somek, 'Europe: Political not Cosmopolitan', *European Law Journal*, 20, (2014): p. 142, 155-156.

⁵³ See Jo Shaw, 'Citizenship: Contrasting Dynamics at the Interface of Integration and Constitutionalism' in *The Evolution of EU Law*, edited by Paul Craig and Gráinne De Burca (2011), p. 646-647; Joseph H. Weiler, 'In the Face of Crisis: Input Legitimacy, Output Legitimacy and the Political Messianism of European Integration', *Journal of European Integration* 34, no. 7 (2012): p. 825, 829; Menéndez (n 57), p. 931; Somek (n 52), p. 143.

⁵⁴ Somek (n 52), p. 145.

⁵⁵ Joseph H. Weiler, 'Van Gend en Loos: The Individual as Subject and Object and the Dilemma of European Legitimacy', *International Journal of Constitutional Law* 12, no 1 (2014): p. 103 (European integration 'places the individual in the center and turns it into a self-centered individual').

⁵⁶ See Menéndez (n 57), p. 909-910; Andreas Follesdahl, 'A Common European Identity for European Citizenship?', *German Law Journal* 15, (2014): p. 765, 766.

meaning of the same for a tiny minority of transnational migrants. A vast majority of static European citizens finds little or no protection in European citizenship.⁵⁷ Despite the CJEU's interpretation efforts, and with the exception of the *Ruiz Zambrano* doctrine on interference with the substance of European citizenship even in internal situations,⁵⁸ European citizenship is only activated in the presence of a cross-border link. That is when a European citizen works, resides, or at least travels regularly to provide or receive services in a Member State other than the one of nationality. As a result static European citizens may incur 'reverse discrimination': as their rights are only protected under national law, and not under EU law, they may find themselves treated less favorably, in their own Member State, than a migrant European citizen.⁵⁹

These different critiques of European supranational citizenship are shortsighted in one respect: they treat the relation between national and supranational citizenship as a zero sum game. Whatever is secured for supranational citizenship is lost to national one, and vice versa. A similar approach disregards the transformative potential of supranational citizenship. It fails to consider how supranational citizenship, in reshuffling rights, status, identity and participation, re-engages national citizenship at a different level, so that national and supranational are better conceived on a continuum rather than in the alternative. Far from diluting or emptying national citizenships, supranational citizenship actually enhances it.⁶⁰ It stretches national citizenship's reach extra-territorially and complements it with a set of transnational rights that let it tap into the domain of other national citizenships. National citizenship emerges enriched from this process. This is true not only of the national citizenship of intra-EU migrants who concretely benefit from fruition of rights on a transnational basis. Also settled national citizens see their status strengthened by supranational citizenship, which gives them a stake in the community of any other Member State.

A further critique is that an account based on mutual recognition, with its reliance on national citizenship and focus on the horizontal capacity of European citizenship, disregards the vertical link between the supranational entity and the people, thereby discounting the *supra*-national element of European citizenship. Yet the vertical link is crucial to supranational citizenship intended in this sense from at least three perspectives. First it is the Union's commitment to the people, who are both the ultimate principals and addressees of the supranational project, that

⁵⁷ See Agustín José Menéndez, 'Which Citizenship? Whose Europe? – The Many Paradoxes of European Citizenship', *German Law Journal*, 15 (2014): p. 907, 917.

⁵⁸ Case C-34/09, *Ruiz Zambrano* EU:C:2011:124; Niamh Nic Shuibne, 'The Resilience of EU Market Citizenship', *Common Market Law Review* 47 (2010): p. 1597, 1611; Koen Lenaerts, 'Civis Europeus Sum: from the Cross-Border Link to the Status of Citizen of the Union' *FMW-Online Journal on Free Movement of Workers within the European Union*, 3, (2011): p. 6, 7-8.

⁵⁹ See joined cases C-64 and C-65/96, *Uecker and Jacquet*, EU:C:1997:285. Also Niamh Nic Shuibne, 'Free Movement of Persons and the Wholly Internal Rule: Time to Move On?', *Common Market Law Review*, 39 (2002): p. 731; Alina Tryfonidou, 'Reverse Discrimination in Purely Internal Situations: an Incongruity in a Citizens' Europe', *Legal Issues of Economic Integration*, 35, no. 1 (2008): p. 43.

⁶⁰ But see Gareth Davies, "'Any Place I Hang my Hat?'," or: Residence is the New Nationality', *European Law Journal* 11, (2005): p. 43.

provides impetus and legitimacy for the design of a supranational citizenship, albeit one concretely based in the recognition and trans-nationalization of national ones. Second, supranational citizenship does not rely on horizontal mechanisms only. The vertical link of belonging in a supranational entity enables the enforcement of recognition and provides a check on the operation of the Member States in this sense. Finally, the mutuality of interests and discourses that descends from the trans-nationalization of national citizenships is conducive to creating an enlarged public sphere. In this enlarged sphere, the supranational citizens may ultimately glean their second, 'vertical', political capacity.

The experience of European citizenship ultimately corroborates the supranational citizenship definition proposed in the first section, helping to distinguish a functional and an aspirational role for that definition's prongs. From a functional point of view, free movement rights are a primary expression of the rule of recognition underpinning supranational citizenship. However, per se, they are not sufficient to ground supranational citizenship. For the latter to ensue, they have to be part of a strategy to reconfigure national citizenships in the context of a broader discourse of common citizenship. From an aspirational perspective, reconfiguration of national citizenships through mutual recognition must be prompted by bonds of trust and mutual responsibility developed in the context of a common supranational project. Such project must entail shared political goals or recuperate common identity elements, and it must inspire a reconceptualization of notions of belonging.

In the European context, this reinforced definition allows distinguishing supranational European citizenship from lesser forms of transnational rights such as those enjoyed by nationals of countries in the European Economic Area.⁶¹ Beyond Europe, it provides an analytical tool to consider both other instances and the prospects of supranational citizenship.

3 Other Instances of Supranational Citizenship

Aside from the most advanced instance of supranational citizenship represented by EU citizenship, free movement regimes in other regional associations and trade agreements offer a promising terrain. However, not all transnational arrangements involving free movement amount to supranational citizenship. Adopting a reinforced definition along the lines distilled from European citizenship, contemporary regional agreements can be divided into three groups in terms of supranational citizenship-capability. A first, low-capability group includes the North American Free Trade Agreement (NAFTA) and the Association of Southeast Asian Nations (ASEAN). A second intermediate group includes the Economic Community of West African States (ECOWAS) and the Andean Community. A third, more advanced group, includes the Gulf Cooperation Council, the Caribbean Community (CARICOM) and the Common Market of the South (MERCOSUR). As with the European Union, in all these agreements, with the exception of CARICOM, it is national citizenship, more or less narrowly defined, that provides the gateway to

⁶¹ The European Economic Area is an enlarged single market including the EU Member States and Norway, Iceland and Liechtenstein.

supranational rights of movement and, where relevant, to a burgeoning status of supranational citizenship.

Agreements in the first group provide for sectoral and limited free movement rights. NAFTA, joining Canada, the United States and Mexico, allows for the temporary movement among participating countries of four classes of business travelers.⁶² These limited movement rights do not fit however within a broader discourse of citizenship. Similarly limited and unrelated to ideas of common citizenship are rights extended in the context of ASEAN. Established in 1967 as a regional cooperation project among 10 nations in Southeast Asia, ASEAN evolved into a free trade area in 1992 and into an economic community in 2015.⁶³ Milestones to be reached by 2025 include strengthening rights to free movement for natural persons, through the extension of agreements on mutual recognition of professional qualifications and the recognition of rights to temporary movement for business travelers.⁶⁴ Recognition is thus restricted to limited classes of travellers and fits within the frame of a rigorously economic project, not eliciting political or identity aspirations to reconfigure national citizenships into a common transnational status.

Reconfiguration of national citizenships through mutual recognition goes a step further into the second, intermediate, group of regional agreements. ECOWAS, established among 15 African States with the 1975 Treaty of Lagos, includes free movement of persons as one of its general objectives.⁶⁵ The right to free movement is specifically codified in the Treaty of Lagos as a right of the 'common citizens of the Community',⁶⁶ and it has been realized in three phases, abolition of visas, right to residence and right to establishment, detailed in a 1979 Protocol on free movement.⁶⁷ Various weaknesses plague ECOWAS's burgeoning supranational citizenship however, beginning from the very definition of ECOWAS community citizenship, spelt out in a 1982 Protocol to the Treaty of Lagos. The Protocol distinguishes between nationals of an ECOWAS country by birth, and naturalized nationals, who only become ECOWAS community citizens after having resided for 15 years in an ECOWAS country. In addition, possession of a

⁶² See NAFTA agreement, chapter 16, article 1603 and annex. For an overview, see Alejandro Canales, 'International Migration and Labour Flexibility in the Context of NAFTA', *International Social Science Journal* 52, no. 3, (2000): p. 409.

⁶³ For an overview see Lay Hong Tan, 'Will ASEAN Economic Integration Progress Beyond a Free Trade Area?', *International & Comparative Law Quarterly* 53, no. 4, (2004): p. 935.

⁶⁴ See 'ASEAN Economic Community Blueprint 2025', ASEAN Secretariat, November 2015 http://www.asean.org/storage/2016/03/AECBP_2025r_FINAL.pdf, section A5, p. 10.

⁶⁵ Economic Community of West African States, Revised Treaty, 1993 <http://www.ecowas.int/wp-content/uploads/2015/01/Revised-treaty.pdf>, art. 3.2(d)iii. The Treaty, originally signed in 1975, was revised in 1993.

⁶⁶ *Id.*, art. 59.

⁶⁷ Protocol A/P 1/5/79 Relating to Free Movement of Persons, Residence and Establishment, ECOWAS O.J. 1979/1, <http://www.unhcr.org/49e47c9238.pdf>.

second non-ECOWAS nationality makes the holder ineligible for community citizenship.⁶⁸ This restrictive definition of common citizenship signals weak recognition among the participating member states. Weak recognition is confirmed by the provision of the Protocol on free movement that reserves to the member states the right to deny entry to any ECOWAS citizen who is 'inadmissible according to their immigration laws', without any further guarantee or specification.⁶⁹ In addition, problems of road insecurity as well as illegal barriers hamper the concrete enjoyment of free movement rights.⁷⁰ In terms of concrete guarantees towards a form of supranational citizenship based on free movement, the Andean Community between Peru, Bolivia, Colombia and Ecuador seems to have reached a more promising level than ECOWAS. Established in 1969 with an agreement signed in Cartagena, the community evolved into a common market in the 1990s.⁷¹ As part of the common market project, the 2003 'Instrumento Andino de Migración Laboral' extends a general right to free movement for employment purposes to nationals of the Member States.⁷² The right is coupled with a guarantee of equal treatment and supported by provisions on access to social security.⁷³ If the frame of transnational rights appears thus more convincing than in the context of ECOWAS, on the conceptual side Andean free movement struggles at this stage to configure a true supranational citizenship. Recognition of national citizenships is limited to free movement for employment purposes, and the Instrumento de Migración Laboral makes clear that free movement is an instrument for the 'human development of the Member States':⁷⁴ an economic goal, rather than a subtler attempt to reconfigure the boundaries of belonging in the participating national communities.

More explicitly subversive of those boundaries are regional projects in the third group. The Economic Agreement of the Gulf Cooperation Council,⁷⁵ for instance, extends to citizens of participating countries a broad guarantee of equal treatment in all member states.⁷⁶ Equal treatment is not limited to movement, residence and work, but encompasses access to all

⁶⁸ Protocol A/P.3/5/82 Relating to the Definition of Community Citizen, 1982, http://documentation.ecowas.int/download/en/legal_documents/protocols/Protocol%20Relating%20to%20the%20Definition%20of%20Community%20Citizen.pdf.

⁶⁹ Protocol A/P 1/5/79 (n 67).

⁷⁰ See Malebakeng Forere, 'Is Discussion of the "United States of Africa" Premature? Analysis of ECOWAS and SADC Integration Efforts', in *Journal of African Law* (2012): p. 29, 45.

⁷¹ For an overview, see Karen J. Alter and Laurence R. Helfer, 'Nature or Nurture? Judicial Lawmaking in the European Court of Justice and the Andean Tribunal of Justice', *International Organization* 64, no. 4 (2010): p. 563.

⁷² Consejo Andino de Ministros de Relaciones Exteriores de la Comunidad Andina, Decision 545 of 2003, Instrumento Andino de Migración Laboral, <http://www.comunidadandina.org/Seccion.aspx?id=84&tipo=TE&title=migracion>.

⁷³ Id. art. 10 and 13.

⁷⁴ Id., preamble.

⁷⁵ Cooperation Council for the Arab States of the Gulf, established in 1981 and including the United Arab Emirates, Bahrain, Saudi Arabia, Oman, Qatar and Kuwait.

⁷⁶ Cooperation Council for the Arab States of the Gulf, Secretariat General, Economic Agreement, 31 December 2001, http://www.wipo.int/wipolex/en/other_treaties/text.jsp?file_id=227910, art. 3.

professions and economic activities, real estate ownership, tax treatment, education, health and social services.⁷⁷ The preamble to the Economic Agreement sets this promise of equal treatment in the frame of a clear citizenship project, clarifying that relevant rights respond to the citizens' aspirations for a 'Gulf citizenship'.⁷⁸ In the case of CARICOM, a grouping of 20 Caribbean countries originally established with the 1973 Treaty of Charaguamas, free movement achievements and citizenship aspirations have followed an incremental path. The Treaty of Charaguamas set free movement of persons as a programmatic objective, and codified, as a first concrete step towards this objective, free movement rights for certain groups of skilled citizens.⁷⁹ A 2007 decision of the Conference of the Heads of Government developed the Treaty free movement objective further in the direction of common citizenship, by recognizing to all citizens of a community country the right to stay for six months in another community country. This was meant as a means to foster the citizens' sense that 'they belong to, and can move in the Caribbean Community'.⁸⁰ The Caribbean Court of Justice, interpreting the decision, saw a fundamental transformation in the nature of the Caribbean free movement project: from a project addressed to the restricted group of those seeking economic enhancement, to a project for the citizens of the Community in general.⁸¹ A peculiarity is in that the status that qualifies for mutual recognition, in the context of this burgeoning Caribbean supranational citizenship, is not nationality of one of the participating countries as in the European Union, but the broader condition of 'belonger': that is, a person who, on the basis of a close connection to one of the Caribbean countries, has a right to enter and reside there even without being a citizen.⁸² Finally, in the context of MERCOSUR, established with the 1991 Treaty of Asunción between Brazil, Argentina, Uruguay and Paraguay (with the later addition of Venezuela), supranational citizenship has gone beyond aspirations. It has become a precise project, aimed to reconfigure national citizenships on the backdrop of concrete achievements and a clear roadmap. The MERCOSUR citizenship project builds on a number of instruments gradually implementing rights to free movement for the citizens of MERCOSUR countries, and remedying the silence in this respect of the original Treaty of Asunción.⁸³ A 2010 action plan details the steps to deepen the social and civic dimension of MERCOSUR integration through the achievement of a statute of common citizenship by 2021.

⁷⁷ *Id.*, art. 3.

⁷⁸ *Id.*, preamble.

⁷⁹ Caribbean Community Secretariat, Revised Treaty of Chaguaramas Establishing the Caribbean Community Including the Caricom Single Market and Economy, 2001, http://datd.cepal.org/Normativas/CARICOM/Ingles/Revised_Treaty_of_Chaguaramas.pdf, art. 45-46.

⁸⁰ Decision of the Conference of Heads of Government at their Twenty Eighth Meeting, 1-4 July 2007. Also see David S. Berry, *Caribbean Integration Law* (2014), p. 258-259.

⁸¹ Caribbean Court of Justice, *Shanique Myrie v Barbados*, [2013] CCJ 3(OJ), par. 62; also see Berry (n 80), p. 253.

⁸² Treaty of Chaguaramas (n 79), art. 32(5(a)(ii)); Berry (n 80), p. 250.

⁸³ Diego Acosta Arcarazo, 'Toward a South American Citizenship?' *Journal of International Affairs* 68, no.2 (2015): p. 216-218; M. Belén Olmos Giupponi, 'Citizenship, Migration and Regional Integration: Re-Shaping Citizenship Conceptions in the Southern Cone', *European Journal of Legal Studies* 4, no. 2 (2011): p. 104, 126-131.

The action plan focuses on the implementation of a regional system of free movement as well as on the equalization of the condition of nationals of the MERCOSUR member states in respect to civic, social, cultural and economic rights, access to work, education and social services.⁸⁴

Applying the three-pronged definition of supranational citizenship developed in section 1, and reinforced in section 2, it appears that the three considered groups are at different stages in the realization of supranational citizenship. Projects in the first group do not go as far as conceiving a form of belonging across national borders, and hence fail the third prong of the definition of supranational citizenship proposed in Section 1. Projects in the second and third group meet all the three prongs of that definition: they are non-hegemonic, articulated within a supranational entity with a collective purpose and they do, albeit to different extents, reconfigure national citizenships through a system of mutual recognition. However they differ in the extent to which the free movement systems they entail express the aspiration as well as fulfil the function of supranational citizenship. Projects in the second group portray weaknesses on the functional or aspirational side. In the case of ECOWAS, despite an aspiration to common citizenship, limitations and implementation shortfalls functionally betray a fulsome supranational citizenship; in the Andean Community, free movement rights remain functional to economic cooperation and citizenship aspirations are underdeveloped. Projects in the third group are the most advanced along the path of supranational citizenship. While at different stages of realization, these projects effectively couple the aspiration and discourse of common citizenship with concrete sets of rights tailored to its realization.

4 The Prospects of Supranational Citizenship

Regardless of realization stages, most of the supranational citizenship projects considered so far share in that they challenge the nation state's role as referent and provider of citizenship. Through the rules on mutual recognition that they promote, these projects compel states to cater to both present strangers and distant nationals, thereby problematizing the monopolies of both territory and nationality that had long enabled states to discharge their functions.

This challenge to the role of the state enlarges the perspective from the concrete instances to the theoretical prospects of supranational citizenship. The concept, in this respect, faces both a hurdle and an opportunity. It faces a hurdle because the second decade of the 21st century has seen momentum for political narratives pushing for rebounding, rather than opening, the nation state.⁸⁵ It faces an opportunity precisely because these political sensitivities bring the perspective of the citizens at the forefront of agendas on international trade, globalization and democracy. Supranational citizenship has an ideal conceptual toolset to deploy in redefining the place for citizenship in the context of relevant agendas. With this in mind, some research questions emerge as central in charting the future of supranational citizenship; these focus on the types of

⁸⁴ Decision of the Council of MERCOSUR, 'Estatuto de la Ciudadanía del Mercosur. Plan de Acción', n. 64/10, December 2010, art. 2.

⁸⁵ Witness to these is the result of the UK EU Referendum in June 2016.

social contracts between citizens and states, as well as on the types of transnational compacts among states that support authentic supranationalization of citizenship.

With regard to social contracts between citizens and states, the problem is understanding what kinds of citizenship bonds and duties are capable of supranationalization. The notion of supranational citizenship based on mutual recognition elaborated so entails a suggestion: the task is reinterpreting the bonds at the basis of national citizenship, in light of their becoming, in a supranational perspective, fungible and transferable. What types of bonds to a community of origin, in other words, are capable of being preserved at a distance, lived through as external citizens, or transferred in part to a host community? Supranational citizenship, which encourages its holders to wear their national citizenships with a certain casualness, has to rely, it seems, upon bonds of this latter type.

And what duties are owed then by the casual citizens that supranationalization of national citizenship yields? Dimitry Kochenov, in reference to the European context, has argued that citizenship does not entail duties, feeding, in the disconcerted eyes of some interlocutors, the de-dutification trend that accompanies the cosmopolitan evolution of citizenship.⁸⁶ Even Kochenov however recognizes that the rights of citizenship mirror into some societal obligations.⁸⁷ Other scholars rather articulate these as proper 'duties' or 'obligations of justice', aimed at enabling the state to discharge its functions and eventually at supporting a just scheme of rights.⁸⁸ With regard to these obligations, a supranational citizenship based on mutual recognition focuses the attention on the balance between duties owed to a home state (of nationality) and duties owed to a host state. The fact that supranational citizenship gravitates on national citizenship suggests that obligations of citizenship remain addressed to the home state. Each state participating in a supranational union extends rights to nationals of other participating member states as it recognizes their belonging and contributing to a comparable system of organized justice.⁸⁹ How far, however, do obligations owed to a home state justify rights in a host state? And what obligations do recognized citizens immediately owe in a host state?

These questions implicate the complex notion of transnational solidarity. Transnational solidarity demands not only obligations among citizens, and between state and citizen, but also presupposes duties among states.⁹⁰ This drives in turn the question of the types of supranational

⁸⁶ Dimitry Kochenov, 'EU Citizenship without Duties', *European Law Journal*, 20, no. 4, (2014): p. 482.

Richard Bellamy, 'A Duty-Free Europe? What's Wrong with Kochenov's Account of EU Citizenship Rights', *European Law Journal*, 21, no. 4, (2015): p. 558.

⁸⁷ Kochenov, 'EU Citizenship without Duties' (n 86), p. 493.

⁸⁸ Bellamy (n 86), p. 561; Andrea Sangiovanni, 'Solidarity in the European Union', *Oxford Journal of Legal Studies* 33, no. 2, (2013): p. 213, 222; Floris De Witte, *Justice in the EU – The Emergence of Transnational Solidarity* (2015): p. 2-3.

⁸⁹ In this sense, Daniel Thym, 'The Elusive Limits of Solidarity: Residence Rights of and Social Benefits for Economically Inactive Union Citizens', *Common Market Law Review* 52 (2015): p. 17; Sangiovanni (n 88), p. 232-241.

⁹⁰ Sangiovanni (n 88), p. 217.

compact among nation states justifying this bounded enhancement and reconfiguration of national citizenship, as well as the peculiar state obligations that it calls for. The question is old, at least in the context of Europe,⁹¹ but the perspective, from citizenship, and from recognition, is new.

The mutual recognition lens suggests that, together with a perceived commitment to a minimum shared idea of common good,⁹² a notion of trust must be central to the supranational compact. The nation states' recognition of each other's interests, policies, laws and, ultimately, citizenries requires a measure of reciprocal trust in one another's constitutional values, institutions and processes.⁹³ While trust does not demand sameness, it does demand a measure of resonance in the participating states' conceptions of justice, commitment to their realization and concrete ability to realize these.

The challenge for supranational citizenship projects, in this sense, is exploring institutional mechanisms and conceptual tools that may level the opportunities available to national citizens throughout a supranational entity, so that their becoming interchangeable does not raise asymmetries and related resistances;⁹⁴ whilst preserving the diverse identities, languages, heritages that characterize national citizenship, as it is from the latter that supranational citizenship ultimately derives its substance and legitimacy. The agenda is a complex one that requires hard thoughts on the transnational capability of citizenship in several spheres, social inclusion, political participation, labor market participation, governance mechanisms. It also requires considering the proper balance between the judicial advancement of supranational citizenship rights and the appropriation of supranational citizenship status in political and public opinion narratives: supranational citizenship requires trust and recognition not only among states but also among citizens.

In this latter sense, the concept navigates at present, at least in Europe, in troubled waters. Yet it remains rife with useful clues for an age of heightened instability in both transnational interactions and democratic iterations. Through its focus on mutual recognition, supranational citizenship indeed embodies a normative commitment to both preservation of national interests and bonds, and internalization of the interests of others and of an enlarged, transnational, conception of common good. For these reasons, it also offers important, and sorely needed,

⁹¹ See e.g. from different perspectives, Weiler, 'In the Face of Crisis' (n 53); Jürgen Habermas, 'The Crisis of the European Union in the Light of a Constitutionalization of International Law', *European Journal of International Law*, 23, no. 2 (2012): p. 335; Gareth Davies, 'Democracy and Legitimacy in the Shadow of Purposive Competence', *European Law Journal*, 21, no. 1, (2015): p. 2.

⁹² For a disenchanted suggestion, see Somek (n 52), p. 161.

⁹³ On trust, see Nicolaidis, 'Trusting the Poles' (n 46), p. 683.

⁹⁴ On cohesion policy as a possible starting point in the EU's frame, see Francesca Strumia, 'Remedying the Inequalities of Economic Citizenship in Europe: Cohesion Policy and the Negative Right to Move', *European Law Journal*, 17, no 6, (2011): p. 725.

discerning tools to distinguish the worthwhile role of nationhood from the illusory promises of exalted nationalism.

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