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The Genesis of European Rights*

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Abstract

Supranational rights in Europe originated in the ECSC free movement provisions. In a political compromise, these provisions were included at the insistence of the Italian delegation, although the other Member States delayed in implementing them. Examining the genesis of European rights recasts EU citizenship from a contemporary phenomenon dating only from the Maastricht Treaty to the most recent expression of the same tensions and compromises that have characterized the entire history of European integration.

I. Citizenship, European Rights and European Integration

The genesis of European rights has not been adequately explained. Contrary to what many believe, arguments over European rights have been present since the start of European integration. This means that existing accounts of European Union citizenship do not adequately capture its origins and growth. European rights have political origins. A rights-based approach – breaking citizenship down into its constituent rights in order to examine their origins – explicates the politics surrounding the introduction and expansion of European rights.

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It thereby clarifies the nature of an important aspect of European integration, showing that European rights did not originate from the slow accretion of functional spill-overs, but rather resulted from agreements reached by government negotiators.

The existing literature on European rights can be divided into two general categories. On the one hand are legalistic narratives of the gradual development of treaties, directives, regulations and court cases. This literature is typically divorced from any deep consideration of the political and economic context of the legal documents under consideration (Burrows, 1987; Handoll, 1995). The second category of literature reflects the recent surge in interest in citizenship and has proliferated since the 'introduction' of European Union citizenship in the Maastricht Treaty of 1992. Existing work on EU citizenship presents it as a recent phenomenon whose precursors date from the 1980s (d'Oliveira, 1995; Marias, 1994; Shaw, 1997), or at the most from the mid-1970s (Bru, 1994; Meehan, 1993; Wiener, 1998). By contrast, this article elucidates the political genesis of the key rights of EU citizenship, those concerning free movement of workers, in the initial negotiations that established the foundations of European integration in the early 1950s.

The virtue of a rights-based analysis of citizenship is that it connects and extends the two literatures discussed above: the work of legal scholars who trace the evolution of treaties, directives, regulations, and court decisions, and the work of scholars who focus on contemporary EU citizenship.[1] The focus is on the origins of European rights of free movement, because freedom of movement represents the core of contemporary EU citizenship (Veil and Commission, 1998). The analysis has important implications for our understanding of European Union citizenship, which ceases to be a contemporary phenomenon that dates only from the Maastricht Treaty (Weiler, 1999), becoming instead a recent expression of the same kinds of political tensions and resolutions that have characterized the entire history of European integration.

The political push for rights predates the Schuman plan which led to the 1951 European Coal and Steel Community Treaty (ECSC; Treaty of Paris), but supranational rights in Europe originated in this Treaty's provisions for the free movement of coal and steel workers. In a political compromise, these provisions were included at the insistence of the Italian delegation, although other Member States delayed their implementation. The 1957 Treaty establishing the European Economic Community (EEC; Treaty of Rome) extended free movement rights to much wider categories of workers and specified in far greater detail how these rights would be realized.

[1] This article thus extends back the work of legal scholars who have perceptively argued that the Treaty of Rome's free movement provisions established an 'incipient' form of European citizenship (Plender, 1976) or that Union citizenship is the effect rather than the cause of increased mobility rights (Dollat, 1998).

Most commentators view the Treaty of Rome as the 'birth of Europe', yet the earlier Treaty of Paris not only established the Community's basic institutional framework (Rittberger, 2001), but also established the first legal provisions concerning free movement of labour. While free movement did not figure prominently in the ECSC Treaty negotiations, the promise of these rights provided the key incentive for Italian participation in the Community. Determining how these rights would be exercised took years to negotiate and even longer to implement, ultimately being outpaced by the wider category of free movement rights contained in the Treaty of Rome. Although it significantly broadened the scope of free movement rights, the Treaty of Rome's announcement of the free movement of workers – one of the four freedoms that comprise the internal market agenda – was reproduced from the Treaty of Paris. Thus the Treaty of Rome should be viewed as simply the expansion of an already established framework of politically negotiated provisions that granted free movement rights. The rights that today form the core of EU citizenship date from the free movement provisions of the European Coal and Steel Community.

II. From the Schuman Plan to the ECSC Treaty

A rights-based view of citizenship allows us to break citizenship down into its constituent parts and thereby to examine the rise of citizenship from the very beginnings of European integration. Today it is conventional wisdom that freedom of movement had to be introduced in order to ensure a common market (Bolkestein, 2000). The logic is clear for free movement of goods and capital. But even if it is conceded that individual mobility is a desirable goal in an economic community, it does not automatically follow that free movement provisions should be enshrined as individual rights. The assertion that an EU citizen who moves to live or work in another Member State is exercising a new transnational right is incontrovertible (Commission, 1982). Because extending European rights to individuals constrains Member States to respect those rights (Conant, 2002), states should prefer not individual rights but rather bilateral or multilateral agreements as a means of enhancing individual mobility. It is thus not easy to explain why national governments should be willing to grant rights to individuals rather than simply working out intergovernmental bargains on an ad hoc basis.[2]

[2] Alan Milward argues that 'when Italian governments selected emigration as a priority policy choice, an interdependent international order advanced such policies better than an integrationist one' (Milward, 1992, p. 437), but this is a politically incomplete picture. The policy choice of emigration is much better served through supranational institutions than ad hoc bargains. In terms of the historical record, as will be shown below, Italian negotiators pushed very hard to achieve an integrationist solution: they were primarily responsible for including free movement rights in the treaties.

The political push for specific European rights predates the Schuman plan. In Italy in 1943, the Movimento Federalista Europeo envisaged the creation of a European 'continental' citizenship alongside national citizenship, consisting of direct political and legal relationships with a European federation. The 'Milan programme' – drawn up by Giovanni Gronchi, later President of the Italian Republic, Count Stefano Jacini, and labour union leader Achille Grandi–called among other things for the legal equality of the citizens of all states and the 'option to take out European citizenship in addition to national citizenship' (Malvestiti, 1959, p. 58). Similarly, the Dutch 'European Action' group called for European citizenship to supplement national citizenship, and the 1948 Hague Congress of the European Movement resolved that an essential ingredient of union was direct access for citizens to redress before a European court of any violation of their rights under a common charter (Miller, 1995, pp. 371–2).

In this context, the first concrete steps to European integration were initiated with the announcement by French minister Robert Schuman on 9 May 1950 – the tenth anniversary of the German invasion of France, the Netherlands, Belgium and Luxembourg – of a plan for a European coal and steel community. Some believed that the Schuman plan would narrow the scope for independent state action and possibly herald the eventual demise of state sovereignty (Spaak, 1950, p. 95). Nevertheless, negotiators focused almost exclusively on economic issues. Free movement of labour played a minor role in the bargaining between the potential Member States in the summer and autumn of 1950. The sole exception was Italy, for whom the issue was of enormous importance: the promise of free movement for workers was a key reason for Italian participation in the ECSC (Pella, 1956; Serra, 1995, p. 132). Although political support for the 'European idea' and the economic desire to acquire raw materials cheaply also figured, the principal incentive for Italian participation in the Schuman plan was 'to permit export of its surplus labor' (Mason, 1955, p. 5). Indeed, for 'at least fifteen years after the war, the primary interest of most Italians in a European federation was the hope of finding an outlet for the emigration of large numbers of their excess population' (Willis, 1971, p. 150).

The issue of labour migration was broached by Taviani, the Italian negotiator, who later wrote that free movement rights for workers constituted a fundamental principle of the Community. Its realization was the key condition for Italian participation, and Taviani even envisioned creating a European ministry of labour (Taviani, 1954, pp. 176–80). During the negotiations, Taviani pushed for a better deal on migration by raising the spectre of a high authority (HA) with the power to set and enforce wage levels across the Community (Ranieri, 1986, p. 22). As this was an important issue for the other potential Member States, the negotiations proceeded with 'the Italians using the issue as a bargaining

counter for a resolution on the migration question and the Dutch and Germans resolute in keeping HA powers to an absolute minimum' (Griffiths, 1988, p. 42). Because Dutch and German negotiators were concerned that the high authority would overturn the delicate compromises that had been achieved domestically, they were ready to capitulate to the Italian demand for a flexible resolution to the migration question (Kersten, 1988, p. 296). Like Italy, the Netherlands and Germany were labour-exporting countries in the early 1950s, and thus did not foresee any problems (Vignes, 1956).

Opposition might have come from the only potential Member States which had significant numbers of foreign coal workers: Belgium (70,594 foreign workers in 1951) and France (56,535). In Belgium, more than two out of every five coal workers were non-Belgian, primarily Italian. In France, the proportion was half that of Belgium: foreigners accounted for one out of every five coal workers (Communauté Européenne du Charbon et de l'Acier, 1953, p. 54). Most of these workers were Polish, and thus unaffected by any potential ECSC Treaty provisions. Bolstered by strong public support for the Schuman plan, and intent on forging a deal, the French delegation under the leadership of Jean Monnet was willing to grant concessions.[3] The Belgian position was a pragmatic one, concerned more with the fate of its ailing coal and steel industries than the prospect of even more immigration of workers (Dumoulin, 1988; Milward, 1988). Indeed, if coal mines were to close, it seemed likely that foreign workers would return to their countries of origin.

The Italian delegation was keen to promote the freedom of movement of its nationals elsewhere in Europe. In the earlier Organization for European Economic Co-operation (OEEC) and Franco–Italian customs union negotiations, Italy had presented emigration requests for large numbers of unskilled workers, but received only limited offers for skilled workers. Since there were already between 70,000 and 80,000 Italian coal and steel workers in the other five prospective ECSC Member States, the Italian negotiators argued that, failing labour mobility on a general scale, it should surely be possible to achieve a sectoral arrangement (Diebold, 1959; Ranieri, 1986, pp. 22–3). The delegation received strong support from Italian parliamentarians such as Christian Democrat Deputy Bima and Grupo Misto Senator Merzagora, who regarded the ultimate outcome of the negotiations as the achievement of a political goal they had long desired (Communauté Européenne du Charbon et de l'Acier, 1958). The Italian delegation was successful in its effort to include free movement rights in the draft Treaty, and the first steps to free movement rights for workers in the area that would become the European Economic

[3] As early as October 1950, French public opinion favoured the Schuman plan by a margin of two to one, despite being rather ill-informed about its contents (Institut français de l'opinion publique, 1951, p. 23; Monnet, 1976; Racine, 1954).

Community were enshrined in the ECSC Treaty. Article 69 of the final Treaty announced that 'Member States undertake to remove any restriction based on nationality upon the employment in the coal and steel industries of workers who are nationals of Member States and have recognised qualifications in a coalmining or steelmaking occupation, subject to the limitations imposed by the basic requirements of health and public policy'.

Because of these limitations, the Italian success in including freedom of movement for labour was thus tempered. Here in nascent form were the restrictions on freedom of movement for the purposes of health and public policy that still today provide Member States with the power to limit free movement rights.[4] Rather than being forced to admit workers, Member States could invoke health issues or public policy in order to limit access to domestic labour markets. Another potential source of restriction was the ambiguous definition of 'recognised qualification'. Section 2 of Article 69 provided that 'Member States shall draw up common definitions of skilled trades and qualifications therefor,' which left significant room for restrictive interpretation. Finally, a key institutional barrier was the fact that the role of the high authority was limited to co-ordinating and advising: according to the Treaty, the Member States were responsible for drafting and implementing the Treaty's free movement provisions. One reason for this arrangement may have been the Italian preference for announcing principles in the treaties, while postponing the details about administration and implementation (della Cananea, 1992).

III. Ratification and Implementation

As was true during the negotiations – where only the Italian delegation placed much emphasis on labour mobility – the question of the free movement of workers remained a minor one during the various national debates on the ratification of the ECSC Treaty (Communauté Européenne du Charbon et de l'Acier, 1958). Still, some parliamentarians, such as Communist members of the French Assemblée Nationale Bonte and Patinaud, Communist member of the French Conseil de la République Primet, and Communist Belgian Senator Glineur, reproached the Treaty's authors for desiring to bring about a 'deportation' of labour. Communists were worried that workers would 'become nothing more than simple merchandise' (Communauté Européenne du Charbon et de

[4] Thus Articles 39 and 46 of the Treaty of Amsterdam (on free movement of workers and the right of establishment, respectively) specify that these rights continue to be 'subject to limitations justified on grounds of public policy, public security or public health'. The point is not teleological; the current utility of these restrictions clearly cannot explain their inclusion at the beginning of the process of integration. Rather, free movement provisions have been subject to restrictions from their inception, although the legal and practical restraints on freedom of movement have been gradually disappearing since these first attempts in the 1950s.

l'Acier, 1958, p. 131). Indeed, Communist parties in all the parliaments of the Member States were opposed to the proposed Treaty. For example, the French Communists saw the Treaty as a tool of American foreign policy.[5] Dutch Christian Democrats argued that free movement of workers would create moral problems as families were uprooted.[6] A German socialist member of the Bundestag pointed out that Article 69 was unclear about whether workers in the coal and steel industries who moved to another Member State would be authorized to seek alternative employment in the host state if their employment were disrupted by strikes.[7] In the end, though, none of these concerns prevented the Treaty of Paris from being ratified in all the Member States.

Ratification did not automatically mean that coal and steel workers could freely move within ECSC territory. Goods had been immediately subject to free movement. In contrast, Article 69's commitment to worker mobility could be implemented only by unanimous agreement between the Member States. Negotiations over its detailed provisions began in March 1953 as the high authority appointed a committee of experts to propose the best means of implementing Article 69. The committee reported in November, when the high authority endorsed its findings and called an intergovernmental conference (High Authority of the European Coal and Steel Community, 1954, p. 169). The HA's efforts to facilitate worker mobility among the six Member States were spearheaded by the social affairs commission. One of the high authority's four general commissions, the social affairs commission was responsible for a panoply of policies intended to raise the standard of living, only one of which was freedom of movement. On the basis of the work done by the committee of experts the previous autumn, the social affairs commission took a first step towards co-ordination on Article 69 by convening an intergovernmental conference of the labour ministers of the six Member States in May 1954. Although

[5] Americans 'would again deport French workers with the aid of the Treaty's clauses guaranteeing free movement of labour. American capital and its tool, the Ruhr industrialists, would soon control the [high authority]. A huge army of French unemployed would be created to provide slave labor for American bases in France, where atom bombs and bacteriological weapons would be stored' (Mason, 1955, p. 30). Beyond the rhetoric, the key concern was that the freedom of movement provisions would equate workers with goods and capital and make them ripe for exploitation. French communists long remained opposed to European unification. A September 1957 public opinion survey found that 55 per cent of French communists thought that a union of France with the other five ECSC/EEC states was of little or no use (5 per cent thought it was indispensable; 25 per cent thought it was somewhat or very useful; 15 per cent did not respond), compared to only 11 per cent of socialists (31 per cent indispensable; 46 per cent somewhat or very useful; 12 per cent no response) and single digits of partisans of the other parties (Institut français de l'opinion publique, 1957, pp. 12–13).

[6] Representatives Maenen (KVP) in the Second Chamber and Vixseboxse (CHU) in the First Chamber (Communauté Européenne du Charbon et de l'Acier, 1958, p. 131).

[7] The representative, Birkelbach, was concerned about workers' rights in the event of a strike (Communauté Européenne du Charbon et de l'Acier, 1958, p. 132). The focus of this kind of concern later shifted to the question of whether or not a worker originally admitted to work in the coal and steel industry could later change occupations (High Authority of the European Coal and Steel Community, 1954, p. 171).

the meeting reportedly took place in a 'cordial atmosphere, its only outcome was 'to raise certain imperfections in the Treaty and to partially make clear how Article 69 should be revised', although the Commission heralded the meeting as 'a first step towards a new and fruitful process of interinstitutional collaboration' (Communauté Européenne du Charbon et de l'Acier, 1954b, p. 9). Nevertheless, the draft agreement did provide the basis for further discussions over the summer and autumn.

These discussions ended in a relatively narrow interpretation of Article 69. The Italians had continued to push for wider interpretation while opposition grew elsewhere as industries in the other states, particularly France and Luxembourg, underwent technical conversions which reduced the demand for coal and steel workers (European Coal and Steel Community, 1954, p. 168). This caused the Italians to focus efforts on creating a more general market for labour that would not be restricted to coal and steel workers.[8] The HA's report at the conclusion of the negotiations lamented their prolonged nature but presented the agreement 'as a first step towards the creation of a "common market" for labour' (High Authority of the European Coal and Steel Community, 1955, pp. 157–8). The Council of Ministers approved the revised draft agreement on 8 December 1954, although its implementation would depend on parliamentary ratification in each of the Member States (Mason, 1955, pp. 101–2). Administrative details were finalized in the months that followed, and a final agreement on free movement was reached in more than twice the time it had taken to negotiate the Treaty itself. The high authority reassured anyone worried about potential mass migrations that 'comparatively few workers [would] immediately avail themselves' of the labour cards. Rather, it estimated that any significant labour migration would have to be preceded by 'reconversions and marked technical changes [to] area labour markets' (European Coal and Steel Community, 1954).

Although the HA and the Italian government had strongly urged that the definition of worker qualifications be interpreted broadly, other governments succeeded in limiting the application of the Treaty to certain skilled workers: only 300–400,000 of the Community's 1.4 million coal and steel workers qualified for the international work permits which would allow them to move freely. The international permit allowed these skilled workers to seek employment in other Member States without being held up by the red tape generally governing the immigration of labour. A contemporary American

[8] The HA co-operated with the International Labour Office to convene a meeting of experts in Geneva to study a draft European social security convention for migrant workers (High Authority of the European Coal and Steel Community, 1955, p. 159). And the Spaak subcommittee favourably assessed the various efforts of the Council of Europe, the European Political Community, and the OEEC to facilitate worker mobility, concluding that the establishment of a common European labour market should be introduced gradually (Comité intergouvernemental créé par la Conférence de Messine, 1955b).

observer reported enthusiastically on early efforts made to 'enable these workers to enjoy all the social security benefits of the receiving country, thus preventing the discriminations that have frequently been practised against aliens in the past' and to 'improve co-ordination between the various employment organizations in the Member States so that workers in one country may know more easily whether jobs are available elsewhere' (Bok, 1955, p. 56).

Despite such optimistic assessments immediately following the agreement on Article 69's provisions, full implementation of the agreement was delayed until after all the Member States had ratified it. Italy, Belgium, France and the Netherlands ratified the agreement by the end of 1955. However, the German Bundestag delayed ratification until May 1956 and Luxembourg stymied the entire process by postponing its ratification until June 1957.[9] As a result, the agreement on free movement of workers finally took effect in September 1957, four and a half years after work on it had begun. This delay proved a constant irritant to the Italians between 1952 and 1957. Most of the speeches by Italian members of the Common Assembly concerned the migration issue, in particular the delay in working out Article 69's provisions (Mason, 1955, p. 100).

The Italian preoccupation with migration may be explained by these numbers: ECSC officials calculated in 1954 that 'present labour migration across frontiers within the Community is confined to Italian agricultural labourers employed in Belgian coal mines. Some 40,000 of the 150,000 miners in Belgium are Italians. Most of the Italian workers in the Belgian mines, however, regard their employment as temporary. The other main group of migrants are some 12,000 workers who live near frontiers of the Community nations and now can cross at will for work without encountering obstacles' (European Coal and Steel Community, 1954). Though some Italian economists discouraged the idea that 'opening the frontiers could free a massive emigration of Italian workers and eliminate unemployment in a flash' (Confederazione Italiana Sindicati Lavoratori, 1959, pp. 70–1; Willis, 1971), the political interest shown during the ECSC negotiations persisted.

The delayed introduction of free movement raised such ire that the Common Assembly included the issue in its constitutional proposals for rewriting the ECSC Treaty as a result of the negotiations taking place on the European Economic Community. The question of free movement rights was the *only* policy issue in a document otherwise solely concerned with the relationship between the high authority and the new institutions that the proposed new treaties would introduce. Dissatisfied with the application of Article 69, the

[9] Luxembourg's contemporary resistance on matters of migration has deep historical roots. For example, in 1953 the Luxembourg Christian Socialist deputy Margue feared 'a rash and unreasonable migration which would do more harm than good to both the labour market and the standard of living of the workers' (Meeting of the Common Assembly, 13 May 1953, p. 83, cited in Spierenburg and Poidevin, 1994, p. 175).

Common Assembly concluded that the Member States were acting too slowly to implement free movement rights for coal and steel workers. Therefore, it proposed that the high authority should take over from the Member States the responsibility to establish 'common definitions of skilled trades and qualifications', propose immigration rules, and settle 'any matters remaining to be dealt with in order to ensure that social security arrangements do not inhibit labour mobility' (Kreyssig, 1958, pp. 24–5). The Common Assembly further proposed to insert into the Treaty a new article giving the high authority the power to propose measures to address possible disproportionalities between the supply of and demand for labour (Kreyssig, 1958, pp. 24–5).

The Common Assembly's faith in the high authority may have been somewhat misplaced. Encouraging greater free movement of labour did not appear to be a key priority for the high authority. Instead, the it focused on combating unemployment and constructing adequate housing for coalminers and steelworkers. President of the high authority Jean Monnet saw free movement of workers as only one of a number of ways to achieve better living and working conditions for workers across the six Member States (Monnet, 1955). This was true despite Monnet's earlier, well-known rhetoric about uniting Europeans by focusing not on states but on peoples. Nevertheless, the social affairs commission was persistent in the face of Member State intransigence and delay, its efforts duly reported in the Common Assembly's updates (Communauté Européenne du Charbon et de l'Acier, 1954a). These effects were favourably received. The social affairs commission noted with satisfaction that the EEC Treaty offered the chance to correct the restrictions which had been placed on free movement of workers on the basis of a restrictive interpretation (especially by the Council decision of 8 December 1954) of Article 69 of the ECSC Treaty (Assemblée parlementaire européenne, 1960, pp. 8–9; Communauté Européenne du Charbon et de l'Acier, 1957).

IV. From Paris (ECSC) to Rome (EEC)

Despite the slow progress on liberalizing restrictions on the movement of workers, mainstream political actors across Europe were united in supporting the ECSC's striving for 'efficiency and distribution of labour' in order to achieve the goal of a 'sound economy based on a rational distribution of labour in a free market' (Council of Europe, 1953, p. 71). This goal was seen as a desirable objective, and one that could be expanded to other economic sectors. In 1954, the governments of the six Member States began to consider a new economic initiative that would complement the ECSC. The Dutch were pressing for a general economic common market, against the view of the Belgian government – supported by French ministers, Jean Monnet and others – that

further co-operation should occur by economic sector, extending the ECSC into transport and forms of energy other than coal and steel. On 20 May 1955, the Benelux governments presented a joint proposal combining the sectoral and common market approaches. This proposal was considered at the special meeting of the ECSC Council of Ministers at Messina on 2 and 3 June 1955. At Messina, the ministers established an intergovernmental committee headed by Belgian Foreign Minister Paul-Henri Spaak to prepare a report on the feasibility of a common customs union and a common atomic energy agency. They further agreed to adopt the Benelux programme, modified for more gradual implementation.[10]

The Benelux itself represented a successful experiment in the free movement of workers. Even though a *de facto* common market in labour had been operational in the Benelux since the end of the Second World War, no Treaty had been signed to formalize this arrangement by the time the ECSC foreign ministers met in Messina. Furthermore, the number of workers making use of this common labour market remained relatively small. Nevertheless, a Benelux social affairs commission was working on a proposal which would formally eliminate the need for worker and employer permits, regulate labour shortages and surpluses, and introduce the principle of equal treatment for nationals of any Benelux country (Comité intergouvernemental créé par la Conférence de Messine, 1955a, p. 94). This proposal acquired legal force in 1957, thereby establishing the first co-ordinated system for the free movement of workers within the future EEC.

As the ECSC free movement provisions continued to be obstructed, proponents of greater European integration pushed instead for expanding rights to many more categories of workers in the approaching Treaty establishing the EEC. A large part of the impetus for the growing focus on workers' freedom of movement can be found in the report submitted by the Spaak committee. The report argued that undistorted competition would lead to monetary stability, economic expansion, social protection, a higher standard of living and quality of life, economic and social cohesion, and solidarity among the Member States (Comité intergouvernemental créé par la Conférence de Messine, 1956). In the Spaak committee's view, these goals depended on the undistorted competition of which freedom of movement for workers formed an integral part. Free movement of workers was required for the other objectives to be achieved, and the committee argued that '[w]e should not overestimate the scale of movements

[10] For some governments, including that of the United States, establishing a common approach to atomic energy was more important than any other form of co-operation. Thus, according to Secretary of State John Foster Dulles, the United States did not attach to the common market proposals the same 'immediate security and political significance as [it did] to Euratom', although it also recognized that a common economic market might 'contribute constructively to European integration', which was useful in tying Germany to western Europe (Stirk and Weigall, 1999).

of labour that would occur in a common market without any barriers' (Comité intergouvernemental créé par la Conférence de Messine, 1956, p. 88). The committee's recommendations contain the genesis of the 'market citizen' (Everson, 1995) who bears rights as an economic rather than political actor.

While the Treaty of Paris had limited freedom of movement to workers with 'recognised qualifications in a coalmining or steelmaking occupation', the final text of the Treaty of Rome expanded the scope of the free movement provisions to cover all workers, with the exception of those employed in the public service. Freedom of movement for workers now entailed 'the right … to accept offers of employment actually made; to move freely within the territory of the Member States for this purpose; to stay in a Member State for the purpose of employment … [and] to remain in the territory of a Member State after having been employed in that State' (Article 48 EEC). The Treaty of Rome did leave room for Member States to restrict these rights in implementing regulations: Member State governments could avoid implementing free movement rights based on public policy, health or security grounds. Still, the new rights went well beyond any arrangements provided for in bilateral agreements. Although bilateral agreements were clearly more important in the early years (Romero, 1991), the experience of negotiating the ECSC provisions laid the groundwork for the Treaty of Rome's free movement provisions. This is clear from the Treaty negotiating drafts referring extensively to ECSC Article 69, from the fact that many negotiators had participated in the ECSC negotiations, and from the Spaak committee's earlier work examining the ECSC provisions on freedom of movement.[11] Unlike the Treaty of Paris, the Treaty of Rome set a clear deadline for implementing free movement. Article 49 of the Treaty of Rome provided that as 'soon as this Treaty enters into force, the Council shall, acting on a proposal from the Commission and after consulting the Economic and Social Committee, issue directives or make regulations setting out the measures required to bring about, by progressive stages, freedom of movement for workers'. The article therefore granted the Commission – rather than the Member States, as was the case with the ECSC Treaty – the power

[11] Thus, for example, the 22 January 1957 negotiating draft discusses who should be covered under the term 'national worker' and suggests adopting the interpretation of ECSC Article 69 (Comité intergouvernemental pour le Marché Commun et l'Euratom, 1957) Chefs de Délégation document 257, replacing document 156 of 10 January 1957. Furthermore, the Italian delegation once again tied the issue of free movement of workers to another sensitive issue, this time by threatening to block agreement on the free movement of capital unless a safeguard clause proposed by the delegations from France and Luxembourg was removed (Chefs de Délégation meetings of 1, 8–9, and 17–18 February 1957). Several members of the Italian delegation had participated in the ECSC negotiations or the work of the OEEC (Willis, 1971, p. 56). Earlier, the Spaak committee had noted that the experience of the ECSC established that it was not necessary to eliminate economic distortions before lowering the barriers to the free movement of workers (Comité intergouvernemental créé par la Conférence de Messine, 1955a), 8 September 1955, Document 191. And a sub-committee of the Spaak committee extensively studied the ongoing ECSC experience (Comité intergouvernemental créé par la Conférence de Messine, 1955c) 23 September 1955, Document 277.

and the responsibility to propose measures required to bring about freedom of movement for workers. The Treaty of Rome thus contained an expanded version of the labour provisions originally announced in the Treaty of Paris six years previously.

Conclusion

European Union citizenship is often presented as a recent invention. By breaking citizenship down into its constituent rights, however, we can trace its genesis back to the earliest years of European integration. Although the political push for European rights predates the Schuman plan, the European Coal and Steel Community Treaty contained the foundation of what today forms the core of right of Union citizenship: freedom of movement. The political origins of European rights are evident from the ECSC Treaty negotiations and ratification and implementation debates. Article 69 of the Treaty provided that Member States would remove all restrictions based on nationality on the employment in the coal and steel industries of workers who were citizens of Member States and who had recognized qualifications in a coalmining or steelmaking occupation. The determination of what constituted a recognized qualification, however, was left to intergovernmental bargaining: Member States had to agree to common definitions and the resulting agreement then had to be ratified by each of the Member States before it would come into effect. In the final agreement reached in 1954, only 300,000 of the Community's 1.4 million coal and steel workers were deemed qualified to move freely, and the agreement was not ratified by all the Member States until 1957. The delay frustrated many participants, particularly the Italian negotiators, whose primary interest in European integration was facilitating the emigration of large numbers of Italian workers to the rest of Europe. The difficulties in reaching a common definition of who would qualify for freedom of movement, and the slow ratification of the intergovernmental agreement after it had finally been reached, may help explain the much stronger free movement provisions of the Treaty of Rome. This expanded the scope of the free movement provisions to all workers, with the exception of those employed in the public service, and granted the Commission – rather than the Member States, as was the case with the ECSC Treaty – the power and the responsibility to propose measures required to bring about freedom of movement for workers. Furthermore, the Treaty of Rome set a clear deadline for the implementation of the free movement of workers, who gained the right to move freely within the territory of the Member States to accept offers of employment, to stay in a Member State to work, and to remain there after having been employed in that state. The obligation placed on governments to eliminate distinctions based on nationality (Paris) thus became the right of

workers to free movement (Rome), which continues today to form the nucleus – subsequently expanded and transformed – of EU citizenship.

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