
14. Citizenship, refugees and migration in the European Union

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INTRODUCTION

Europe has long fascinated scholars of citizenship and migration because of the substantial migrations from, into and within Europe, and the central role of Europe in developing the ideas of nationhood and citizenship that characterize the modern state system, including the emphasis on sovereignty and borders. Even as the modern state system was in its infancy, citizenship and migration helped to shape politics. During the sixteenth-century Dutch revolt, for example, cities in the northern Netherlands actively recruited refugees from the southern Netherlands (present-day Belgium, Luxembourg and parts of northern France) with incentives including reimbursing moving costs, extending capital to (re)start businesses, making available manufacturing space, and tax incentives, while the existing population sometimes complained that immigrants were ‘favored, advanced, and less taxed than residents’ (Maas 2013b: 394). By 1622, approximately 150 000 refugees from the south resided in the Dutch Republic, approximately one-tenth of the total population; but because most immigrants settled in the cities, the concentration there was higher: an estimated one-third of Amsterdam residents, two-thirds of Leiden and Middelburg residents, and similarly significant groups in smaller cities (*ibid.*). Today citizenship delineates membership in the political community, but the introduction of citizenship of the European Union (EU) over national citizenships transforms citizenship in Europe into a multilevel phenomenon (Maas 2013c, 2017b). Scholars today generally assume that national identities are relatively fixed, but as Max Weber long ago pointed out, differences in national sentiment are both significant and fluid: the ‘idea of the nation’ is empirically ‘entirely ambiguous’ and the intensity of national solidarity is variable (Weber 1946: 175). We can see this now in places such as Scotland and Northern Ireland (in light of the 2016 Brexit referendum), Catalonia (in light of several officially unrecognized referendums), across central and eastern Europe (whose post-Soviet political identities remain mutable), and elsewhere, even as successive EU-wide opinion surveys show increasing numbers of Europeans identifying with Europe, certainly far more than was imagined even a few years ago (Maas 2020a).

HISTORICAL DEVELOPMENT OF CITIZENSHIP AND MIGRATION IN EUROPE

The First World War and its aftermath caused the collapse of four large empires on the European continent: the Austro-Hungarian, German, Russian and Ottoman empires. Their dissolution was enabled by the rising idea of national self-determination as the basis for establishing states and borders. Out of the old Russian empire emerged the new or restored

states of Finland, Estonia, Latvia, Lithuania, Georgia, and parts of Poland, which also included territories formerly in the German empire and the Austro-Hungarian empire. Out of the Austro-Hungarian empire also emerged the new states of Austria, Hungary, Czechoslovakia, and parts of Yugoslavia and Romania, which also included territories from the former Ottoman empire. Out of former Ottoman territories emerged an enlarged Greece (which had been recognized as independent from the Ottoman empire by an 1830 agreement between France, Britain and Russia following various wars starting in 1821), Bulgaria (which had been created by a treaty between Russia and the Ottoman empire in 1878 and then gradually expanded), Albania (which had declared independence from the Ottoman empire in 1912), Turkey (officially established in 1923), and Armenia; not to mention all the new states and mandates in the Middle East.

The above is only a summary of the most significant developments on the European continent around the First World War. Most independence movements were accompanied by the widespread migration of people based on ethnic criteria. The Assyrian, Greek and Armenian genocides, for example, resulted in not only the death of hundreds of thousands of people (primarily Christians from the three groups; estimates of the number of deaths vary widely) but also massive emigration and the formation of significant diaspora communities. The Greco-Turkish War between 1919 and 1922 ultimately resulted in the 1923 population exchange between Greece and Turkey that involved the international movement of a further 1.6 million or more people. Simplifying significantly, the First World War and its aftermath resulted in the transition across much of Europe from multi-ethnic and multinational communities to nation-states organized along ethnic and national lines.

The idea of self-determination was key to this transition from multi-ethnic and multinational empires to more ethnically homogeneous national political communities. For example, United States President Woodrow Wilson's Fourteen Points of January 1918, which later formed the basis of the Versailles peace treaty, provided among other things that a 'readjustment of the frontiers of Italy should be effected along clearly recognizable lines of nationality', and that an 'independent Polish state should be erected which should include the territories inhabited by indisputably Polish populations'. The principle of self-determination subsequently became one of the fundamental principles of international law, though its precise meaning is elusive. The idea that states should correspond to the populations resident upon their territories found expression in the 1930 Hague Convention conclusion that it 'is for each State to determine under its own law who are its nationals'.

SECOND WORLD WAR AND AFTERMATH

The Second World War was accompanied by major migrations worldwide, including in Europe. Not only the obvious migrations such as the movement of soldiers, or the murder of millions of people in concentration camps, but also significant movements of refugees during and especially after the war. Indeed, the Universal Declaration of Human Rights (UDHR) and related conventions on refugees were a direct outgrowth of the war. The idea that everyone has the right to freedom of movement and residence within the borders of each state, and that everyone has the right to leave any country, including their own, and to return to their country (UDHR Article 13), establishes as human rights what had been denied so many people during the war. The Convention Relating to the Status of Refugees, signed in Geneva in July 1951,

built on UDHR Article 14's guarantee that everyone has the right to seek and to enjoy in other countries asylum from persecution. The Convention's scope included only European refugees whose movements happened prior to 1951, in other words as a result of the war and its aftermath. Only later, with the 1967 New York Protocol and subsequent instruments, was the temporal and geographic scope of refugee protections extended beyond refugees from Europe.

The Second World War also resulted in further border changes, beyond those associated with the First World War, most notably the Soviet Union annexing the eastern part of pre-war Poland and Poland annexing formerly German territories east of the Oder–Neisse line; the Soviet Union also annexed Kaliningrad from Germany and parts of pre-war Czechoslovakia, Romania and Finland, and also incorporated the Baltic republics. Italy ceded territory to Greece, France and the new Socialist Federal Republic of Yugoslavia. While each of these border changes involved some movement of people, the most significant was the movement of German citizens and ethnic Germans from central and eastern Europe, which most estimates place in the range of 12 to 14 million migrants, part of a general post-war confusion regarding borders and migration (Gatrell 2019).

Migration into Europe also occurred as a result of colonialism and decolonization. As territories formerly administered by British, French, Dutch, Spanish, Portuguese and Belgian governments gained independence, many colonial subjects and citizens moved to the respective metropolises. The political effects of these movements continued more than seven decades later, as demonstrated by the 2018 Windrush scandal, named after the ship that brought one of the first groups of West Indian migrants to the United Kingdom (UK) in 1948. The scandal arose because several groups of post-colonial migrants who had arrived in the UK before 1973, and had no legal documentation because movement within the British empire prior to then was unregulated, were treated as illegal migrants, threatened with deportation, and in several cases indeed deported.

Individual European countries all have their own immigration histories, and the former colonial states all have large populations of immigrants from the former colonies, and their descendants. Depending on the length and nature of colonization, these groups are characterized by ethnic and other forms of diversity. For example, the largest immigration ever to the Netherlands was the movement of over 400 000 people from the former Dutch East Indies following the independence of Indonesia and its subsequent annexation of Netherlands New Guinea between 1945 and 1968. Many of these immigrants were among the roughly 300 000 people who had moved there from the Netherlands between 1900 and 1940 (and thus were simply returning emigrants), but others were born in what became Indonesia, including some 12 500 Moluccan soldiers and their families. The Moluccans, largely Christian, Dutch-speaking and part of the colonial elite, had declared an independent republic in 1950 but were suppressed by Indonesian troops and took exile in the Netherlands (Maas forthcoming). The Indonesian-born group quickly became the largest group of foreign-born residents in the Netherlands and remained so until the 1990s, when the number of residents of the Netherlands born in Indonesia was surpassed by those born in Surinam and later Turkey and Morocco; due to ageing and new migration patterns, the number of Dutch residents born in Indonesia was further surpassed in the 2010s by those born in Germany and Poland.

These origins are typical of patterns elsewhere in Europe: post-colonial migration is superseded by labour migration and then intra-EU migration. For example, after Algeria became independent in 1962, some 800 000 so-called *pieds noirs* and Algerian Jews who were French citizens were evacuated to mainland France, joining an already existing diverse

Algerian-born population as well as post-colonial migrants from Vietnam (which had become independent in 1954) and French colonies in Africa; while as of 2020 the main source countries of immigrants to France after Algeria, Tunisia, Morocco and sub-Saharan Africa were Portugal, Italy and Spain. Germany had little post-colonial immigration (having lost its colonial possessions after the First World War), but did have significant labour migration starting in the 1950s, from countries such as Italy, Greece, Turkey, Morocco, Portugal, Tunisia and Yugoslavia (with which bilateral agreements were signed successively). The labour migrants were recruited as so-called *gastarbeiter*, meaning guest workers, with the understanding that they would return to their countries of origin after working. This did not happen. By 2020 the main source countries of immigrants to Germany (including ethnic Germans) were Russia, Poland, Turkey, Romania, Italy, Syria, Greece, Croatia, the Netherlands and Austria, demonstrating a mix of migrant origins and time periods.

POST-WAR ORIGINS OF EUROPEAN INTEGRATION

The aspiration to facilitate migration and shared citizenship has been central to the European project since free movement rights for coal and steel workers were introduced in the 1951 Treaty of Paris, and the right of European citizens to live and work anywhere in the common territory has developed as one of the EU's four fundamental freedoms, alongside the free movement of goods, services and capital (Maas 2020b). During the war and its aftermath, Italian federalists such as Altiero Spinelli promoted the legal equality of citizens of all European states under a European 'continental' citizenship, with individuals having direct political and legal relationships with a European federation, while the European Action group in the Netherlands promoted a European citizenship to supplement national citizenship (Maas 2005: 1012), and similar ideas were percolating elsewhere. Meanwhile, Winston Churchill advocated what he called 'a kind of United States of Europe', meaning 'a European group which could give a sense of enlarged patriotism and common citizenship to the distracted peoples of this turbulent and mighty continent' (cited in Maas 2014: 173). Presided over by Churchill and gathering some 750 dignitaries, the 1948 Hague Congress resolved that European union should grant citizens direct access to redress before a European court of any violation of their rights under a common charter, and proposed 'a European passport, to supersede national passports and to bear the title "European" for use by the owner when travelling to other continents' (Maas 2014: 173). This dream of a common European political community with a common European citizenship took many years to reach fruition. Even in 2021, the notion that European integration involves not only economic cooperation but also a political project of transcending borders and building a European community of people finds detractors.

In the negotiations that would lead to the 1951 Treaty of Paris, free movement for workers was a minor consideration for all states except for Italy. Millions of Italians had for decades been emigrating to find work elsewhere in Europe, and the promise of free movement motivated Italian participation in the European Coal and Steel Community (ECSC). Though political support for the European idea and the economic desire to acquire raw materials cheaply also figured, guaranteeing rights for Italian workers to emigrate was more important; indeed, for at least 15 years after the war, the primary interest of most Italians in European integration was the hope of finding an outlet for emigration (Maas 2007: 21). In the earlier Organisation for European Economic Cooperation (OEEC) negotiations, established in 1948 to distribute

Marshall Plan funds, and likewise in the Franco-Italian Customs Union negotiations, Italy had pushed to allow large numbers of unskilled workers to emigrate, but other states wanted only limited numbers of skilled workers. Since there were already between 70 000 and 80 000 Italian coal and steel workers in France, Belgium and the other prospective ECSC states by 1950, however, the Italian negotiators promoted a sectoral arrangement if general labour mobility was unattainable (Maas 2007: 22). This effort to extend free movement rights to coal and steel workers was successful, and the migration rights for workers in the future Community were enshrined in the Treaty of Paris: member states would ‘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’.

The most significant early intra-Community migrants were the thousands of Italian agricultural workers employed in the Belgian coal mines. Yet despite the treaty’s promise, free movement for coal and steel workers first required unanimous agreement among the member states and ratification by each of the national parliaments, a process that took almost five years and proved a constant irritant to the Italians between 1952 and 1957: most speeches by Italian members of the Common Assembly (the precursor of the European Parliament) lamented the delays on implementing free movement (Maas 2007: 23). Jean Monnet saw free movement of workers as ‘one of the ways in which will be accomplished the harmonization of standards of living and of work promised by the Treaty’; he earlier had famously claimed that Europe’s circumstances required ‘that we unite Europeans and that we do not keep them separated. We are not joining states, we are unifying men’ (quoted in Maas 2007: 24). Dissatisfied with the slow implementation of free movement, the Common Assembly proposed for what would become the 1957 Treaty of Rome that the future European Commission should take over from member states in establishing common definitions of worker qualifications, proposing immigration rules, addressing disparities between labour supply and demand, and ensuring that social security arrangements did not inhibit worker mobility (Maas 2007: 23, 24).

Except for common immigration rules, the Treaty of Rome enacted these proposals and extended the scope of free movement provisions to all workers (except those employed in the public service), strengthening the earlier provisions as individual rights rather than bilateral agreements between states: the Treaty of Rome gave workers the right to move freely within Community territory to accept employment, to reside in any member state to work, and to continue residing there after having been employed (Maas 2017a: 93). Enshrining free movement as a right made it more difficult than the previous bilateral agreements for member states to deny entry to nationals of other member states, despite exceptions allowed on the basis of public policy, health or security concerns. Economic growth favoured increasing immigration: unemployment in the Community decreased from 2.8 million to 1.5 million between 1958 and 1964 despite substantial immigration of workers from outside the six member states; this enabled full implementation of free movement for Community workers by 1968, ahead of schedule (Maas 2017a: 94). Within the Community, ‘the only important movement beyond the phenomenon of frontier workers was that of Italian labor’ (Spinelli 1966: 108), because most member states needed increasing numbers of foreign workers, leading to calls for faster implementation of free movement provisions so that Italian workers could move more easily. As a 1960 parliamentary report noted, since Italy was the only member state with ‘sufficient reserves of labour to satisfy both its domestic as well as foreign needs ... it is in the interest of

the Community as a whole to adopt measures that would facilitate the employment of Italian labour in the other Community members' (quoted in Maas 2017a: 94).

The Italian Commissioner Lionello Levi Sandri was confident that implementing the Treaty of Rome's free movement provisions would cause 'the final abandonment of the traditional concept of emigration based on the system of bilateral and multilateral agreements', because the 'new spirit of European solidarity ... presupposes the existence of a Community labour market ... in which full and absolute equality of treatment will lead to the rapid replacement of the notion of the "emigrant" by that of the "European worker"' (quoted in Maas 2017a: 94, 95), while Walter Hallstein, the first President of the European Commission, called the achievement of free movement for workers one of:

the most spectacular points in the programme which is to lead to the integration of Europe ... On the basis of this success alone, the Community could claim the right to call itself the 'European Economic and Social Community'. The consequences in terms of constitutional policy are incalculable. Do they point to the beginning of a common European 'citizenship'? (Maas 2017a: 96)

Altiero Spinelli later explained that achieving Community free movement rights had been possible because there was such high demand for workers 'in the other five countries and in northern Italy as soon to make the flow of Italian workers from the south insufficient and to induce the various countries to open their gates to the immigration of workers from the Iberian peninsula, from Greece, Turkey, and the Maghreb' (Spinelli 1966: 108, quoted in Maas 2017a: 96), and indeed the level of Italian emigration to the other member states actually fell following the implementation of free movement, never subsequently approaching anything like its 1965 level.

The erection of the Berlin Wall in 1961 had stopped the flow of East Germans to West Germany, though episodic waves of refugees continued to leave Eastern Europe, such as the roughly 27 000 who fled Czechoslovakia following Soviet suppression of the 1968 Prague Spring (Madokoro 2009). By the late 1960s, the rise of new jobs in the Community exceeded the supply of available workers even as women entered the labour force in greater numbers. The opportunity of finding good jobs helped to prompt increased emigration from countries such as Greece (which would join the Community in 1981), and Spain and Portugal (which would join in 1986), all of which were non-democratic: Greece was ruled by various military juntas between 1967 and 1974, the corporatist *Estado Novo* in Portugal lasted until the 1974 Carnation Revolution, while Francisco Franco ruled Spain until his death in 1975.

Labour recruitment agreements signed with these countries, and with others such as Morocco, Tunisia and Yugoslavia, resulted in circular migration as (mostly male) workers would work and then return home, until the 1973 oil crisis restricted circular migration. Following the Egyptian and Syrian attack on Israel in October 1973 (the Yom Kippur War), the Organization of the Petroleum Exporting Countries (OPEC) first raised the price of oil and later embargoed all exports to the United States and the Netherlands, followed by other Western European states and Japan and Canada. The resulting oil crisis, coupled with a stock market crash and high inflation, resulted in recession across Europe and rising unemployment (Maas forthcoming). Rather than returning home, most of the expatriate workers in the Community decided to stay. Meanwhile, the Community had enlarged for the first time in January 1973 with the accession of Denmark, Ireland and the United Kingdom.

THE RISE OF CITIZENSHIP OF THE EUROPEAN UNION

At the first joint summit of the government leaders of the original six member states alongside those of the three new member states, held in Paris in October 1972, the Belgian and Italian prime ministers suggested granting all Community citizens the right to vote and run for office in local elections, regardless of their nationality. The first point of the summit declaration, in a pointed differentiation from states on the other side of the Iron Curtain, reaffirmed the resolve of the member states ‘to base their Community’s development on democracy, freedom of opinion, free movement of men and ideas and participation by the people through their freely elected representatives’, thus explicitly linking free movement and democracy (quoted in Maas 2007: 30). German Chancellor Willy Brandt suggested putting ‘social policy into a European perspective’ so that ‘our citizens will find it easier to identify themselves with the Community’, while Belgian Prime Minister Gaston Eyskens called for ‘practical steps to encourage the movement of youngsters within the Community’ by recognizing their academic credentials throughout the Community, and Italian Prime Minister Giulio Andreotti advocated establishing ‘a European citizenship, which would be in addition to the citizenship which the inhabitants of our countries now possess’ (Maas 2007: 30, 31). Commission President Sicco Mansholt welcomed these proposals and urged member states to add ‘obvious content to the fact of belonging to the European Community’ and ‘now open the frontiers which still keep its citizens apart from one another’, adding that ‘checks at the Community’s internal frontiers should be done away with, and nationals of Member States progressively integrated into the social, administrative and political fabric of their host countries, with the aim of gradually conferring upon them “European civic rights”’ (Maas 2007: 31). Such pronouncements explicitly and implicitly imagined a future European general public unified by common civil values and a shared identity (Pukallus 2016, 2018).

The 1974 Paris summit resolved both to examine ways to give Community citizens ‘special rights as members of the Community’ and to consider ‘establishing a passport union’, meaning a ‘stage-by-stage harmonization of legislation affecting aliens’ and ‘abolition of passport control within the Community’, with the Italian delegation further asking ‘under what conditions and according to what timetable European citizenship could be granted to the citizens of the nine Member States’; Belgian Prime Minister Leo Tindemans was tasked to study these proposals (Maas 2007: 31). The Tindemans report suggested creating a European Union that included the gradual elimination of frontier controls on people moving between member countries (as a corollary of a European passport union), the simplification of procedures for refunding medical expenses incurred by Union citizens in another country of the Union, and a special role for the Union in protecting migrant workers (Tindemans 1976). The report promoted freedom, equality and social justice, and argued that it was necessary to strengthen common European rights because ‘Europe must be close to its citizens’, although the Tindemans report was more cautious than an earlier Commission report (‘Towards European Citizenship’) that suggested complete integration of European citizens into their host societies, the UK and France in particular feared losing their sovereignty and stifled the report (Maas 2007: 32). The political dynamics between European institutions and national ones is captured in the phenomenon of ‘reverse discrimination’, in which member states disadvantage citizens who do not use European rights; for example, ‘Europeans who use their free movement have a right to family reunification under EU law when citizens, living in the same place, may not have such a right, depending on national legislation’ (Staver 2013: 58). Thus, even though

European law provides certain rights within the scope of EU law, member states often restrict those rights for their own citizens in domestic law.

As Tindemans was working, the Commission proposed more policies for protecting migrant workers, and the Economic and Social Committee concluded that Europeans ‘aspire to the abolition of frontiers’ (quoted in Maas 2007: 33). Between 1976 and 1979, the ambassadors of the member states discussed the Tindemans report and a preliminary draft resolution on European rights but failed to reach agreement, partly because the UK was still divided on Community membership. The election in May 1979 of Margaret Thatcher as British Prime Minister stopped further progress. Yet changes in national citizenship laws were often accompanied by proposals to extend EU citizenship. When the UK revised its Citizenship Act in 1981, for example, the 250 000 British citizens living elsewhere in the Community were incensed by new measures to deprive their children of British citizenship, prompting ‘an indignation rarely seen among people who, imagining their citizenship was secure enough to pass to their children, [had] come to live and work on the continent’ (Palmer 1981, quoted in Maas 2007: 36).

In June 1985, the Commission’s White Paper on Completing the Internal Market devoted a section to free movement, subtitled ‘A New Initiative in Favour of Community Citizens’, arguing that it was ‘crucial that the obstacles which still exist within the Community to free movement for the self-employed and employees be removed by 1992’ and, citing the preliminary findings of the People’s Europe report, continued that ‘measures to ensure the free movement of individuals must not be restricted to the workforce only’ (European Commission 1985: 32, quoted in Maas 2007: 37). Coupled with the Court’s expansive interpretation of free movement, the White Paper later provided the basis for the Maastricht Treaty’s aim of ensuring free movement for all individuals, regardless of their position in the economy. On the same day that the White Paper appeared, representatives of Germany, France, Belgium, Luxembourg and the Netherlands signed an agreement to eliminate border controls; the signing ceremony occurred on a ship anchored on the Moselle river near the Luxembourg town of Schengen, at the point where the borders of Germany, France and Luxembourg meet. The Belgian Secretary of State for European Affairs said that the agreement’s ultimate goal was ‘to abolish completely the physical borders between our countries’, while Luxembourg’s Minister of Foreign Affairs called it ‘a major step forward on the road toward European unity’, directly benefiting signatory state citizens and ‘moving them a step closer to what is sometimes referred to as “European citizenship”’. Schengen exemplified the ‘two-speed Europe’ that the Tindemans report had proposed a decade earlier. Faced with resistance on the part of the newer member states – Denmark, the UK and Greece – five of the original six member states pushed ahead with plans to eliminate border controls. Italy was not invited to join, due to inadequate policing along its coastline, while Ireland preferred to stay in the Common Travel Area that it shared with the UK (Maas 2007).

The intervening years have witnessed the continual growth both of EU citizenship and of the Schengen system of borderless travel, with many of the ups and downs that are to be expected in a changing political system that has enlarged from ten member states in 1985, to 27 at the time of writing (after the United Kingdom’s exit, enacted on 31 January 2020 subject to a transition period which ended on 31 December 2020). One such tension relates to the recognition of professional qualifications: following the logic of the single market, professional qualifications are supposed to be accepted throughout Europe, but in practice the assessment of qualifications is subject to interference, and barriers to free movement remain (Van Riemsdijk

2013), even though such barriers are arguably lower in the EU than in federal states such as the United States and Canada (Maas 2013a).

The European Court of Justice established that ‘it is for each Member State, having due regard to Community law, to lay down the conditions for the acquisition and loss of nationality’,¹ which appeared to open up a role for EU institutions (to determine whether due regard had been given to Community law), but at the Edinburgh Summit following the Treaty of Maastricht, the member states declared that ‘the question whether an individual possesses the nationality of a Member State shall be settled solely by reference to the nationality law of the Member State concerned’ (Maas 2014: 415). Indeed, despite the promise of EU citizenship, limitations on the right of free movement and residence were put into sharp focus by the forced expulsion of Roma from France in the summer of 2010 (Gehring 2013), continuing a pattern of discrimination in which supposedly equal rights to free movement are subject to practices of exclusion. As one analysis based on Roma in Barcelona asserts, the ambiguity of a multilevel citizenship allows not only multifaceted forms of exclusion but also various forms of resistance, both within and beyond a juridical citizenship framework (Parker and López Catalán 2014).

Increased cross-border migration and family formation leads to functional needs (reflecting coordination difficulties inevitably generated by superimposing a new supranational political community over existing national ones) for basing access to citizenship rights on residence rather than nationality (Maas 2016: 538). Despite the rejection in the Maastricht and Amsterdam treaties of a greater EU role in determining citizenship, there is support for increasing the role of EU institutions in the governance of citizenship and a growing recognition that coordination is necessary, as illustrated by the examples of electoral rights, diplomatic and consular protection, naturalization and denaturalization (Maas 2016). Indeed, the increase in investor citizenship schemes by which wealthy individuals purchase citizenship or residency in a state is a particular challenge for the EU, because citizenship in one member state grants rights in all other EU member states (Džankić 2019), even if EU citizenship extends the scope of member state status only through the intra-EU mobility of citizens (Siklodi 2020). As recent scholarship demonstrates, EU citizenship has not yet uploaded Europe’s political and welfare communities to the supranational level, instead privileging private property and entrepreneurial freedom for the economically active over mutual commitments and a shared political identity (Olsen 2012; Menéndez and Olsen 2020).

CITIZENSHIP, ASYLUM, REFUGEES AND MIGRATION IN EUROPE TODAY

At the time of writing, the two most significant phenomena relating to citizenship and migration in the European Union are the continuing fallout from the so-called European migrant crisis that peaked in 2015, and the restrictions on free movement related to the SARS-CoV-2 (COVID-19) pandemic that hit Europe starting in 2020. Although refugees from Afghanistan, Iraq and other countries also figured, the European migrant crisis is sometimes referred to as primarily a Syrian refugee crisis. This is because the Syrian civil war which had started in 2011 worsened dramatically in 2014, leading to millions of internally displaced refugees within Syria and significant emigration of refugees to Lebanon, Turkey, Jordan and elsewhere. Faced with difficult or inaccessible procedures to claim refugee status from within their countries

of origin, refugees had long been entering EU territory by crossing the Mediterranean, but in 2015 over 1 million refugees entered Europe.²

Because of carrier sanctions and other technologies that make it virtually impossible for refugees to claim asylum through legal channels, many refugees break immigration laws in their attempt to reach safety (FitzGerald 2019). Yet crossing the Mediterranean is treacherous and often deadly, so most refugees attempt to cross in summer, and the vast majority in 2015 landed in Greece, with smaller numbers in Italy, Bulgaria and other border countries. Under the Dublin Regulation, dating from the 1990s and periodically updated, people who seek asylum in Europe should claim it in the country where they first arrive in Europe; but the refugees did not particularly want to stay in Greece or Italy (which in any case could not handle them), and many travelled onwards. In theory, EU institutions should have been at the forefront of the response, because there has been greater EU involvement in the area of irregular migration and in particular asylum (Caviedes 2016). On 25 August 2015, German Chancellor Merkel announced that Germany was suspending the Dublin Regulation, on 31 August 2015 declaring ‘wir schaffen das!’ (‘we can do this’), later saying, ‘We were quick to save the banks, we can act immediately to help communities save human beings’ (Mushaben 2017).

With the European Commission now empowered not only to monitor compliance but also to enforce it in tandem with the Court, observers at the time thought that ‘the question is how quickly it becomes more assertive’ and the answer would depend partly on ‘the impact of the 2015 refugee crisis, in which the Commission achieved an agreement on burden sharing that was reached over the objections of several countries’ (Caviedes 2016: 563). In the end, the migrant crisis demonstrated significant divisions within the European Union. On 2 September 2015, the image of the lifeless body of a three-year-old Syrian boy (Alan Kurdi) who had drowned while trying to reach Europe galvanized public opinion worldwide. The EU interior ministers agreed on a plan to distribute 120 000 refugees among the member states, but the governments of Hungary, the Czech Republic, Slovakia and Romania opposed the plan, and the question of how to deal with refugees split public opinion. On 12 November 2015, the EU offered Turkey €3 billion over two years to manage refugees from Syria. The next day, on 13 November 2015, there were a series of coordinated terrorist attacks including suicide bombers at Stade de France, mass shootings at the Bataclan theatre, and further shootings and bombings at cafés and restaurants; these followed the January 2015 attacks on a Jewish supermarket in Paris and the offices of the satirical paper *Charlie Hebdo*, the February 2015 stabbing of three soldiers guarding a Jewish community centre in Nice, an August attack in a train heading to Paris, and other attacks. Following the 13 March 2016 elections, the far-right party Alternative für Deutschland entered the state parliaments of Rhineland Palatinate, Baden-Württemberg and Saxony-Anhalt in Germany. One week later, on 20 March 2016, the EU–Turkey deal went into effect, and all irregular migrants arriving in Greece from Turkey would be sent back.³ In the lead-up to the 2016 Brexit referendum, United Kingdom Independence Party leader Nigel Farage unveiled a poster showing refugees crossing the Croatia–Slovenia border, with the heading ‘We must break free of the EU and take back control of our borders’; even though EU free movement rules are concerned mostly with intra-EU movement by EU citizens, and member states (including the UK) have been remarkably successful at using welfare policies to limit the mobility of poor or otherwise undesirable EU migrants (Maas 2020b).

With the Court of Justice of the European Communities increasingly assertive – as one observer notes, there ‘are no policy areas with which the Court has not in some way engaged’ (Guth 2016, 465) – it is not surprising that the Court ultimately ruled that Hungary, Poland and

the Czech Republic had failed to fulfil their obligations under a September 2015 agreement that allocated 120 000 refugees (later increased to 160 000) between member states.⁴ While Poland indicated that it could relocate 100 refugees, it did not do so; Hungary did not even indicate a number of people to take in; and the Czech Republic took in only 12 asylum seekers from Greece, though it had said it would accept 50. By contrast, Germany took in nearly 1 million asylum seekers, while other major European countries complied with the policy.⁵ By April 2020, the United Nations refugee agency estimated that there were 112 300 asylum seekers and refugees in Greece, including 36 219 asylum seekers in five reception centres designed for a total of 5400, the majority families and over one-third children, most below the age of 12.⁶ Perhaps the clearest analysis came from Claude Moraes, Chair of the European Parliament's Civil Liberties, Justice and Home Affairs Committee: 'The fact that collectively member states have relocated less than a quarter of the modest figure of 160 000 people from Italy and Greece draws attention to significant gaps in the EU's response to the biggest refugee crisis on the continent since World War II'.⁷

CONCLUSION

As the birthplace of the modern ideas of nationhood and citizenship that define the contemporary state system, Europe is also the locus of the political development of sovereignty and borders. The First World War and its aftermath caused the collapse of four large European empires, and the Second World War continued the transformation of the continent (and overseas colonies and territories in progressive waves of declarations of independence) from large multi-ethnic and multinational communities to smaller states organized along ethnic and national lines, with the principle of national self-determination emerging as a fundamental principle of international law. The Universal Declaration of Human Rights and related conventions on refugees were a direct outgrowth of the war, as was European integration first in Western Europe and since the end of the Cold War across the continent. Proponents of a shared European citizenship have worked since the 1950s to enhance common European rights and free movement, arguing that Europe must be close to its citizens. Yet the development of EU citizenship and free movement faces continuing challenges, both internal (such as continuing discrimination against EU citizens who are perceived as undesirable, such as Roma or even some migrant workers such as the infamous 'Polish plumber') and external (such as the refugee crisis caused by the escalation of the civil war in Syria and wars and environmental challenges elsewhere), as well as challenges that are both internal and external, such as Brexit, which has turned millions of British EU citizens into third-country nationals (Maas 2020b; Dagilyté 2020). The European continent remains the prime stage for transformations of state sovereignty through the development of common citizenship and rights, even if the implementation usually fails to fully match the rhetoric.

NOTES

1. Case C-369/90 *Micheletti* [1992] para 10.
2. <https://www.bbc.com/news/world-europe-35158769>.
3. <https://www.bbc.com/news/world-europe-35854413>.

4. Judgment of the Court (Third Chamber) of 2 April 2020 — *European Commission v Republic of Poland, Commission v Hungary, Commission v Czech Republic* (Joined Cases C-715/17, C-718/17 and C-719/17). In an earlier decision in 2017, the Court had dismissed Hungary's and Slovakia's complaints against the quotas (<https://www.theguardian.com/world/2017/sep/06/eu-court-dismisses-complaints-by-hungary-and-slovakia-over-refugees>).
5. <https://www.nytimes.com/2020/04/02/world/europe/european-court-refugees-hungary-poland-czech-republic.html>.
6. <https://www.nytimes.com/2020/04/02/world/europe/european-court-refugees-hungary-poland-czech-republic.html>.
7. Cited in <https://www.theparliamentmagazine.eu/news/article/refugee-crisis-ecj-rules-against-hungary-and-slovakia>.

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