

# Communicating What to Who: Learning from experience in New Europe

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## *Abstract*

*We might spend hours in designing new strategies of how to communicate European citizenship and it will not bring to us any satisfactory result, unless we look to the core of the issue, which is what has to be communicated and why. In this paper I would like to draw parallels between the content of national citizenship and that of the European: are they the same or different? The other question is why national citizenship does not need strategies to be communicated? By asking these questions I call to focus again on the content of European citizenship and to suggest rethinking what is being communicated and whether this meets the expectations of European citizens. I also suggest that by studying examples of communication of European citizenship in New Europe is possible to learn not just successful strategies, but also about what the European citizenship could mean for European citizens.*

**Keywords:** Citizenship, Communication, European Union, Member States, Accession, Free Movement of Persons, Non-discrimination, Europeanisation

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## 1. INTRODUCTION

The decreasing involvement of European citizens into the European politics, apparent from the rejection of the Constitutional Treaty in national referendums, the declining turnouts at European elections, and the growing dissatisfaction about brusselisation of national politics, raises questions about the communication of European citizenship. The European Union institutions attempted to address the issue by drafting various communication strategies. However, designing of new strategies of communicating European citizenship might be only of use if the core of the issue is well understood. Only then it is possible to answer why and what has to be communicated and how to meet the likely challenges.

This paper first of all seeks to raise a discussion on communicating of European citizenship. At the same time, the paper aims to briefly review up to date communication of European citizenship, which also includes the actual enforcement of the European citizenship institute. Finally, the paper provides insights on future development of the European citizenship institute acknowledging the fundamental tension that exists between the European legal regime, which establishes the principle of non-discrimination, and the national legal orders, which establish the positive discrimination to the members of the own political community on the basis of nationality.

The paper starts with sketching the origins of the citizenship institute and discusses the key differences between national and European citizenship. It is argued that, differently from national citizenship, European citizenship should not and cannot be linked to any particular political identity. Instead, it is the legal content – the status and the rights conferred – what fills the essence of the citizenship of the European Union. However, as surveys reveal, citizens of the Union, although are familiar with the term, do not know the content of European citizenship. The paper discusses a number of possible popular reasons explaining the low awareness of European citizens about their rights. The first discussion challenges a preposition about the importance of the low image of the European Union and the increasing distrust to the European institutions among European citizens for the popularity of European citizenship. The next section analyses examples of communication campaigns and questions their effectiveness while making a reference to the recent opinion polls. The last section examines the proposition, which interprets the actual enforcement of the European citizenship institute as communication of European citizenship. The concluding section summarises results of three discussions, develops the argument on what and to who needs to be communicated, indicates communication challenges, and, finally, suggests that there will be the europeanisation of national constitutional orders.

## II. THE DIFFERENCES

The institute of *citizenship* developed together with the *nation state*, and, therefore, it is closely linked to the concept of *nationality*. Through the institute of national citizenship a nation state establishes a positive discrimination of its members. However, in the twenty first century a political organisation in the form of state does not necessarily

represent only one particular nation. Also, a citizenship does not necessarily coincide with a nationality or a felt identity of a person. More importantly, the state is not the only authority anymore, which can establish a citizenship. The example of established European citizenship shows that also such forms of political organisation as the European Union might establish the citizenship.

However, it would be a mistake to interpret the European citizenship in terms of the national citizenship and to assume that there is a particular common European political identity. To date the European citizenship cannot be linked to any particular or a common European identity.<sup>1</sup> Moreover, there is no agreement on what such hypothetical European political identity could represent or contain.<sup>2</sup> Nevertheless, many scholars take the existence or the possibility of such European political identity for granted. Some intellectuals presume that there is a certain supranational identity, which competes with national identities. For instance, Rainer Bauböck argues that “most citizens *in* Europe are not eager to become citizens *of* Europe and regard with suspicion any demand to shift their political allegiance and identities from the national to the supranational level”<sup>3</sup>. Others think that such political identity of the European Union is possible and that the establishment of European citizenship will help to construct it. However, the fact is that there is no such identity, and it is thus a great misunderstanding to interpret the European citizenship as a certain supranational identity, which aims to replace national identities.

The European citizenship is not a supranational or a federal creation which aims to abolish national citizenships as it is sometimes tended to think. The text of the EU Treaties is quite clear in defining a relationship between the European and the national citizenships. Thus, in 1997 the Treaty of Amsterdam established that ‘citizenship of the Union shall *complement* and *not replace* national citizenship’ and that ‘the Union shall respect the national identities of its member states’. Consequently, from a legal point of view, the European citizenship does not replace national citizenships and, thus, does not compete with the national citizenships. On the contrary, the establishment of the European citizenship institute aims to create legal conditions that enable the person to maintain a national citizenship while working and residing in another EU member state. That is, theoretically, there should be no need for a citizen willing to work and to settle down in another member state to change his citizenship in order to receive the equal treatment with the citizens of that member state. Thus, it can be said that the European citizenship regime actually strengthens the institute of national citizenship by extending its legal powers beyond the nation state, although only within the European Union.

The European citizenship is not an independent institute as it may seem. It is derived from the institute of national citizenship and, therefore, the acquisition of the European citizenship is dependant on national citizenship laws of the EU member states. This means that only citizens of the EU member states are also automatically the citizens of the Union. It is thus in the competence of the EU member state to decide upon who might be granted a national citizenship and, by the same, might acquire the legal status

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<sup>1</sup> See: Cerutti F., Lucarelli S. (2008) “The Search for a European Identity: values, policies and legitimacy of the European Union”, Routledge/GARNET series: Europe in the World.

<sup>2</sup> See: Furio Cerutti (2008) *Why political identity and legitimacy matter in the European Union*. In Cerutti F., Lucarelli S. (eds.) “The Search for a European Identity: values, policies and legitimacy of the European Union”, Routledge/GARNET series: Europe in the World. P. 3-22.

<sup>3</sup> Rainer Bauböck (2006) “Who are the citizens of Europe?” *Eurozine*. 2006-12-23. First published in *Vanguardia Dossier* 22, January-March 2007.

of European citizen. Consequently, it is not possible to become the citizen of Union without being first the citizen of the EU member state. Moreover, loosing of a national citizenship causes an automatic loss of the European citizenship and all the rights attached to that legal status.<sup>4</sup>

What then was the reason of establishment the European citizenship if the institute created does not manifest any European political identity, because nobody can proof that such exists, and it is even less likely that the European citizenship can contribute to the creation of such identity in current circumstances (the clause on relationship with national citizenships of the EU member states)?

### III. THE LEGAL CONTENT OF EUROPEAN CITIZENSHIP

The main objective of establishment of European citizenship was strengthening the protection of the rights and interests of a citizen of EU member state, the objective on which all heads of governments of EU member states did agree in Maastricht. The European citizenship is linked to a set of specific rights, namely the right to move and reside freely within the European Union (Article 18 of the TEC)<sup>5</sup>; the right to vote and stand as a candidate at municipal and European Parliament elections in whichever member state an EU citizen resides (Article 19 of the TEC); the right to access to the diplomatic and consular protection of another member state outside the EU if her member state does not have representation there (Article 20 of the TEC); the right to petition the European Parliament and to complain the European Ombudsman (Article 21 of the TEC); the right not to be discriminated on the basis of nationality (Article 12 of the TEC). In addition to the rights explicitly linked to the EU citizenship institution, all other rights and obligations that stem from the EU Treaties, the case law of the Court of Justice of the European Communities (ECJ), the Council of Europe's convention on Human Rights, the Charter of Fundamental Rights of the European Union<sup>6</sup>, and the constitutional traditions of the EU member states. It should be noted that with an exception of electoral rights the substance of European citizenship achieved to a date is to a considerable extent simply a systematisation of existing rights, such as the freedom of movement, the right of residence and the right of petition, which have now been enshrined in primary law on the basis of a political idea.

### IV. THE PROBLEM: UNIFORMED CITIZENS

However, almost two decades after the establishment of this legal institute, Europeans seem to be still unacquainted about the content of European citizenship.

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<sup>4</sup> But see: *Rottmann v. Freistaat Bayern* (Case C-135/08).

<sup>5</sup> Subject to certain limitations introduced by Community law.

<sup>6</sup> The Charter of Fundamental Rights of the European Union was proclaimed in Nice in December 2000. By now, the Charter commits the European institutions and the Member States when applying the EU legislation. The Charter was then incorporated in the Treaty establishing a Constitution for Europe signed in October 2004, which failed to be ratified. Nevertheless, the Charter commits the European institutions and the EU member states when applying the EU legislation. For instance, the Court of First instance, in January 2002, referred to the Charter as the expression of the constitutional traditions common to the member states mentioned in Article 6 (Par. 2) of the TUE.

According to the Flash Eurobarometer 213 survey<sup>7</sup> from February 2008, although the majority (78 per cent) of European citizens claimed familiarity with the term “citizen of the European Union”, only every second (41 per cent) said he knows the meaning of the term. Furthermore, it appeared that less than one-third (31 per cent) of all respondents from the 27 EU member states considered themselves well informed about their rights as citizens of the European Union. Moreover, most of the respondents were unable to specify correctly the rights granted with the European citizenship.<sup>8</sup> What are the reasons that European citizens are unaware about their rights?

## V. DISCUSSION OF POSSIBLE EXPLANATIONS

### i. THE IMAGE OF THE EU

The popular explanation is that European citizens are uninformed about the content of European citizenship because of a lack of interest to the European Union politics and the bad image of the European Union. Indeed, there is a direct relationship between the image of the European Union and the involvement of European citizens into European politics. Dissatisfaction about the European Union politics, together with perceived limitedness of possibilities for ‘a citizen from the street’ to exert the influence on the policy process in the European Union and brusselization of national politics, results in growing ignorance and disregard, which is best notable from the problematic ratification of the Maastricht and Lisbon Treaties and low turnouts in European Parliamentary elections. Consequently, people do not wish to hear anything about the European Union, including the European citizenship.

Unfortunately, surveys seem to confirm that Europeans are losing their interest in the European Union politics, do not know even the key EU institutions, and do not understand the too complex decision making process in the Brussels. Indeed, only less than a majority (46 per cent) of European citizens have a positive image of the European Union, whereas 16 per cent have a negative image, and more than one European in three is neutral in this respect (36 per cent).<sup>9</sup>

Moreover, surveys also confirm an increasing distrust to the EU institutions. According to a Standard Eurobarometer 71 poll on “Public Opinion in the European Union” from year 2009, the European institutions suffered a big loss of trust among European citizens in comparison to the spring 2007. Thus, only about a half of respondents (47 per cent) tended to trust to the EU Institutions in September 2009. This is 10 per cent less than in the spring 2007.

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<sup>7</sup> European Commission (2008) Flash Eurobarometer 213. European Union citizenship. Analytical Report The survey’s fieldwork was carried out between 14 and 18 of November, 2007. Over 27,000 randomly selected citizens aged 15 years and above were interviewed in the twenty-seven Member States of the European Union.

<sup>8</sup> Respondents were most aware of the freedom of residence right, but were perplexed about their rights regarding municipal elections in another member state they might reside in.

<sup>9</sup> Eurobarometer 71. *Public Opinion in the European Union*. September 2009.

On the other hand, national institutions are distrusted also. A clear majority of Europeans showed distrust to their national Governments (59 per cent) and national Parliament (56 per cent). Consequently, the growing distrust to state and governing institutions is a general tendency in the modern democracies, which is not exceptionally linked to the European Union institutions. On the contrary, in most European countries the trust to national institutions, in comparison to European institutions, scored much lower. The trust to the EU institutions was particularly high scored in the new member states.<sup>10</sup> For instance, in Poland, a trust to the EU is 62 per cent, whereas national Government is trusted only by 17 per cent and national Parliament only by 10 per cent of respondents.<sup>11</sup> This means that contrary to the widespread perception the European Union are more trusted than distrusted.<sup>12</sup>

The higher score of distrust to the national institutions in comparison with the EU institutions does not, however, renounce the fact that Europeans are insufficiently informed about the content of the European citizenship. The question is thus isn't there something wrong with communicating European citizenship? What public campaigns, strategies, mechanisms are applied and how the issue is addressed by the EU institutions and the member states?

## ii. THE COMMUNICATION

A brief look at communication of European citizenship reveals the variety of strategies applied in order to inform citizens about their European status. This includes such activities as tours of info-buses, dissemination of info-folders in the secondary schools, setting up websites that are never afterwards updated, and providing the information on European citizenship foremost in English, notwithstanding the right linked to the institute of the European citizenship to get information in every official languages of the European Union. For instance, in 2005 the European Commission organized the information campaign in Lithuania, which foresaw tours of info-buses, during which students of law, political science and international relations "taught the inhabitants to use all opportunities provided for EU citizens". The goal of campaign, as reported in the media, was "to help Lithuanian citizens in understanding that Europe *is indeed their*

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<sup>10</sup> But see Estonia, in which trust to the EU is high (67 per cent) as it also is for the Estonian Government (62 per cent).

<sup>11</sup> Similarly, in Bulgaria, 58 per cent tended to trust the EU, whereas only 21 per cent trusted national Government and only 16 per cent trusted national Parliament. In Czech Republic, 58 per cent tended to trust the EU, whereas only 21 per cent trusted national Government and only 16 per cent trusted national Parliament. In Hungary, 60 per cent tended to trust the EU, whereas only 21 per cent trusted national Government and only 21 per cent trusted national Parliament. In Latvia, 50 per cent tended to trust the EU, whereas only 19 per cent trusted national Government and only 16 per cent trusted national Parliament. In Lithuania, 59 per cent tended to trust the EU, whereas only 24 per cent trusted national Government and only 13 per cent trusted national Parliament. In Romania, 68 per cent tended to trust the EU, whereas only 21 per cent trusted national Government and only 18 per cent trusted national Parliament. The smaller difference is in Slovakia, in which 58 per cent tended to trust the EU, whereas 40 per cent trusted national Government and 37 per cent trusted national Parliament, and Slovenia in which 58 per cent tended to trust the EU, whereas 32 per cent trusted national Government and 31 per cent trusted national Parliament.

<sup>12</sup> According to the poll, amongst the member states there were only four exceptions to this rule: the traditionally sceptical towards the European Union Britons, with 25 per cent of respondents trusting the EU institutions and 53 per cent respondents distrusting, Germany – accordingly 39 and 47 per cent, Sweden – 40 and 45 per cent, and Finland – 43 and 51 per cent.

house (!!!), and that EU citizenship – not only big words, but also rights”. During the event inhabitants could participate in survey-quiz about EU citizens’ rights and the most active were awarded with folders and souvenirs.

It is really doubtful whether such information campaign might be effective: dated in form and used already countless times for all possible occasions, including integration to the European Union, integration to NATO, campaigning for national referendums and elections to the European Parliament, that in result, people make jokes about what kind of bus will visit their village this time. Of course, the effectiveness of the information campaign could be best being judged by presenting the hard data, for instance, the results of the surveys. However, according to the Flash Eurobarometer 213 survey<sup>13</sup> from February 2008, Lithuanian citizens are among those who feel not well informed or not informed at all about their rights as citizens of the European Union (73 per cent), although 88 per cent of all respondents were familiar with the term ‘citizen of the European Union’. Indeed, these results are not surprising knowing what kind of communication strategies were applied in Lithuania.

### iii. THE ACTUAL ENFORCEMENT

Isn’t it that it is the actual enforcement and practice of the institute of European citizenship what really counts in communicating European citizenship and changes the perceptions of citizens? Indeed, communication of the European citizenship should not be seen as consisting only of traditional public relations campaigns, such as funky tours of info-buses. Also the politics around the citizenship of the Union are important for communication. The latter includes not only the political resonances to the ECJ legal practice in ‘correcting’ the behaviour of the EU member states towards the citizens of the Union, but also the more general politics of the EU member states and the European Union that are directly or indirectly linked to the institution of the European citizenship. However, the recent history of communicating European citizenship through citizenship politics presents more examples of failure than of success.

The greatest failure in protecting the rights of European citizens with the most damaging consequences for the meaning and prestige of the European citizenship institute was when the EU-15 member states restricted the free movement for citizens of the newly accessed member states from Central and Eastern Europe.

The Accession Treaty allowed for introduction of ‘transitional measures’ with a review in May 2006, and again in May 2009, whether EU-15 member states would open up their labour markets to workers from the EU-8 (Poland, Lithuania, Latvia, Estonia, the Czech Republic, Slovakia, Hungary and Slovenia) or keep restrictions in place until 30 April 2011.<sup>14</sup> The discriminatory ‘transitional measures’, as argued by advocates, were

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<sup>13</sup> European Commission (2008) Flash Eurobarometer 213. European Union citizenship. Analytical Report The survey’s fieldwork was carried out between 14 and 18 of November, 2007. Over 27,000 randomly selected citizens aged 15 years and above were interviewed in the twenty-seven Member States of the European Union.

<sup>14</sup> Currently, only Austria and Germany still keep their labour markets restricted. Only Ireland, the United Kingdom, and Sweden decided to immediately open their labour markets and not to impose transitional measures on EU citizens from the new member states in 2004. A similar ‘2+3+2’ scheme is in place with respect to workers from Romania and Bulgaria, which joined the European Union on 1 January 2007. However, in respect to Romania and Bulgaria, many old EU member states were more reluctant to

intended to avert unwanted economic and social consequences, which some expected in the case of opening the domestic labour markets. However, different reports conducted afterwards have shown that these measures were not necessary. Contrary to the fear-provoking predictions, the numbers of labour immigrants were very low. For instance, the European Commission Report, published in February 2006, said that very few citizens from the new member states were actually moving to the EU-15 countries. According to the Report, EU-10 citizens represented less than 1 per cent of the working age population in all old EU member states except Austria (1.4 per cent) and Ireland (3.8 per cent). Moreover, these transitional arrangements are now seen as economically contra productive.

However, apart from the uselessness from the economic and social point of view, the introduction of these transitional measures had a great damaging effect on the institute of European citizenship. First of all, by restricting the free movement of European citizens from the new members states the European Union formally legalized discrimination on basis of nationality for the period of seven years. Second, the Accession Treaty formally established the second sort citizenship. Therefore, it can be said that the EU member states factually undermined the institution of the EU citizenship, what no doubts had and will have the most damaging consequences for the meaning and prestige of the European citizenship institute. Indeed, what the value of the European citizenship is if it can be ignored or limited to comfort the interests of the EU member states. It is not surprising thus that critics claim the European citizenship is nothing more than a 'purely decorative and symbolic institution'<sup>15</sup>.

The other interesting observation is that citizens of these EU member states that did apply the most strict transitional measures restricting labour immigration from the newly accessed countries most often claimed never heard the term 'citizen of the European Union' in the Flash Eurobarometer 213 survey<sup>16</sup> from February 2008. Thus, 40 per cent of German<sup>17</sup> respondents, which the highest score in the European Union, said they never heard the term 'citizen of the European Union' and 40 per cent of those who are familiar with the term do not know what it means, which is, again, the highest score among the EU member states. A survey revealed similar results in Belgium (respectively 35 per cent and 32 per cent), the Netherlands (32 per cent and 33 per cent), Austria (29 per cent and 40 per cent), and Denmark (28 per cent and 40 per cent). Each of these member states applied or continues to apply strict restrictions. For instance, Belgium and Denmark did not open their labour markets to citizens of the eight East European countries of the 2004 enlargement until May 2009, whereas the Netherlands lifted the restrictions gradually between 2006 and 2009. All these countries still have a restricted access to workers from Bulgaria and Romania. Of course, a more thorough analysis is needed in order to check the established correlation.

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open their labour markets. All EU-15 countries, with the exception of Sweden and Finland, decided to restrict Bulgarians' and Romanians' access to their labour market.

<sup>15</sup> Carlos Closa (1992) 'The Concept of Union citizenship in the Treaty on European Union', *Common Market Law Review*, 29:6, pages 1137-1169.

<sup>16</sup> European Commission (2008) Flash Eurobarometer 213. European Union citizenship. Analytical Report The survey's fieldwork was carried out between 14 and 18 of November, 2007. Over 27,000 randomly selected citizens aged 15 years and above were interviewed in the twenty-seven Member States of the European Union.

<sup>17</sup> Germany still keeps restrictions in place until 30 April 2011.

In addition to purely political obstacles for the establishment of European citizenship, there are a number of administrative and regulatory constraints. Almost two decades after the establishment of the European citizenship citizens moving abroad to another member state still encounter administrative and legal hassles. The Report “The citizen and Community law”, presented by the French MEP Alain Lamassoure to the European Parliament in 2008, revealed a number of obstacles that European citizens face when it comes to asserting their rights in another EU country. The most common difficulties concerned notably the lack of information about the extent of their rights, lengthy administrative procedures in obtaining residence documents and the precise definition of the rights of family members. Lamassoure identified four types of problem experienced by European citizens: social security, portability of social rights (like pensions, unemployment and social assistance), equivalence of diplomas, and family issues (divorce, child custody, allowances, etc). In particular, the Report highlights problems posed by the portability of social rights, which in the end constrain the free movement. Also, the recognition of professional qualifications is dealt with by national administrations on a case-by-case basis, what leads to the lengthy administrative processes and in that way limits the possibilities for European citizens to work abroad. The Report concludes that the establishment of European citizenship is still lagging behind the progress achieved in other areas: “while the economic integration has gone so far as to achieve the merging of national currencies, the union of Europe's peoples and citizens is still in its infancy”.

The findings of the Report by Lamassoure reveal that the main constraints for the establishment of the effective institute of European citizenship are on part of the EU member states. In other words, these are the member states who fail to implement the principle of non-discrimination on basis of nationality. Consequently, foremost the EU member states and their governmental institutions and agencies have to be addressed while communicating European citizenship.

The importance of the role the EU member states play in establishment of European citizenship confirms the case law of the European Court of Justice on protection of the rights conferred with European citizenship. The Court has in a number of cases established that the rights of European citizens, especially, with regard to the principle of non-discrimination on the basis of nationality, were limited due to the failure of EU member states to eliminate bureaucratic constraints. However, the greatest value of the ECJ case law is a contribution to strengthening of the institute of European citizenship. In this regard remarkable are the ECJ decisions in the cases *Martinez Sala*<sup>18</sup> and *Grzelczyk*<sup>19</sup>. In these cases the Court reaffirmed that citizens of the Union have the rights granted by the Treaty and these rights can not be suppressed by national legal rules of EU member states. The Court confirmed that citizens of the Union can rely on their legal status and to have the rights linked to this status in all situations that come within the scope *rationae materiae* of Community law.<sup>20</sup> The effect of the ECJ decisions was that

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<sup>18</sup> *Maria Martinez Sala v. Freistaat Bayern* (Case C-85/96)[1998] ECR I-2691.

<sup>19</sup> *Rudy Grzelczyk v. Centre Public d'Aide Sociale d'Ottignes-Louvain-la-Neuve (CPAS)* (Case C-184/99) [2001] ECR I-6193.

<sup>20</sup> “(...) including the situations where that member State delays or refuses to grant to the claimant a benefit that is provided to all persons lawfully resident in the territory of that State on the ground that the claimant is not in possession of a document which nationals of that same State are not required to have and the issue of which may be delayed or refused by the authorities of that State”. *Maria Martinez Sala v. Freistaat Bayern* (Case C-85/96) [1998] ECR I-2691.

the EU member states changed their domestic administrative rules to the extent that legally residing citizens of the other member states would not be discriminated on the basis of nationality (Article 12 of the TEC).<sup>21</sup>

The recent decision of the ECJ in the case *Rottmann v. Freistaat Bayern*<sup>22</sup> shows that also a lack of coordination and cooperation between the EU member states might threaten the legal status enjoyed by the European citizen. In the case *Rottmann v. Freistaat Bayern*<sup>23</sup> the ECJ, having in mind ‘the importance which primary law attaches to the status of citizen of the Union’<sup>24</sup> warned the EU member states against a situation when the revoking of decision to grant national citizenship creates critical consequences for that person due to the loss of the European citizenship and all the rights attached to that legal status. This decision of the ECJ not only calls for a closer co-operation on citizenship matters among the EU member states, but also establishes limits to the freedom of decision making on national citizenship as far as it concerns the consequences arising from the loss of the legal status conferred by European citizenship. It can be said thus that the establishment of European citizenship created a special legal regime, which influences national legal orders in the area of constitutional and administrative law. As a result, the national rules of the EU member states, especially in the area of social and economic rights, which were formerly reserved only to the national citizens, do change or will have to change.

## V. CONCLUDING REMARKS

The brief review of communication and enforcement of the European citizenship reveals not only some shortcomings of applied communication campaigns, but also a more fundamental issue, which is the ongoing tension between the national legal orders and the European citizenship legal regime while enforcing the rights conferred with the legal status of the European citizen.

The public opinion surveys reveal the concern raising trend. Most of respondents in the EU member states, although are familiar with the term of ‘citizen of the European Union’, do not know the meaning of the concept. The suggestion that European citizenship popularity suffers because of low image of the European Union can be accepted only with a compromise, because there is even a greater distrust to national governmental institutions. Similarly, the absence of felt identity, to which the institute of European citizenship could be linked to, should not be considered as an important condition, because neither the political identity of the European exists, nor the European citizenship replaces or demises national citizenships and attached identities.

The main reason for decreasing popularity of European citizenship is, thus, communication, or, to be precise, the message that is communicated. Consequently, this

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<sup>21</sup> It should be underlined that the rights of European citizens are defended only within the scope of Community law. As the ECJ in the case *Land Nordrhein-Westfalen v. Uecker* established, the European citizenship was not intended to extend the scope *ratione materiae* of the Treaty to cover internal situations with no link with Community law. *Land Nordrhein-Westfalen v. Uecker* (Case C-64/96).

<sup>22</sup> *Rottmann v. Freistaat Bayern* (Case C-135/08).

<sup>23</sup> *Rottmann v. Freistaat Bayern* (Case C-135/08).

<sup>24</sup> Para. 56 of the judgment *Rottmann v. Freistaat Bayern* (Case C-135/08).

is not so much the problem of communication strategies, though, as the example of info-buses shows, these are neither always adequate, nor really effective, but the message, which is the actual enforcement of the institute of European citizenship. This message is communicated without any strategies and more effectively than any other attempts to communicate European citizenship. For instance, the application of restrictions for free movement of citizens of the new member states had clearly communicated the formal establishment of a second sort citizenship, what in result had the most damaging consequences for the meaning and prestige of the European citizenship institute. The effects of communication of this message can even be traced in the results of public opinion surveys on familiarity with the citizenship of the Union. The latter showed that respondents of member states that applied the strictest arrangements against the citizens from new member states were the worst in identifying familiarity with the term 'citizen of the European Union' and scored high in reporting that they do not know the meaning of the concept.

The Report "The citizen and Community law", presented by the French MEP Alain Lamassoure at the end of 2008, disclosures another example of effective 'communication', but on individual level. Thus, almost two decades after the establishment of the European citizenship institute the national administrative authorities of the member states unremittingly communicate the message to the citizens of the Union that their efforts to practically implement their right for free movement and settlement in another member state will be burdened by local administrative procedures and most probably will be discriminated on basis of nationality.

These observations of direct and indirect, but, unfortunately, effective, communication allow to suggest that that are the member states who have to be addressed in order to preserve the reputation and status of the European citizenship. However, addressing the member states might be a challenging endeavour, since there is a fundamental tension between the national legal orders, which establish the positive discrimination, and the European citizenship legal regime, which fights the discrimination on national basis, and thus, also the positive discrimination by individual member states. This tension between the two legal orders can be well traced from the history of establishment of European citizenship and the case law practice of the ECJ. Moreover, the tension seems to be programmed and unavoidable, since national citizenship regimes formalize the positive discrimination on basis of nationality, whereas European citizenship regime establishes the principle of non-discrimination on basis of nationality and by that limits the former.

Up till now it seems that the European Union was loosing 'the battle' with the member states for the establishment of European citizenship institute. The example of greatest failure is the application of restrictions for free movement against the European citizens from the new member states after the accession. However, the recent case law of the European Court of Justice gives some signs that the established legal regime of European citizenship will push EU member states to limit the scope of application of the positive discrimination principle and in that way will commence the europeanisation of national citizenship regimes.