

The Citizenship in Today's Europe: An Interview with Rainer Bauböck

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From 1986 to 1999 Rainer Bauböck was assistant professor at the Institute for Advanced Studies, Vienna. He has frequently taught at the Universities of Vienna and Innsbruck and has been a recurrent visiting professor at the Nationalism Studies Program of the Central European University Budapest. He was also a visiting academic at the University of Warwick (1990-1991), at the Institute for Advanced Study, in Princeton, and at the Princeton University (1998-1999), at the University of Malmö (2000-2001), at the University of Bristol (2002), at the University Pompeu Fabra in Barcelona (2003), at the Yale University (2005) and at the Bellagio Rockefeller Foundation (2006). In 2003-2005, he was president of the Austrian Association of Political Science. In November 2006, he was awarded the Latsis Prize of the European Science Foundation for his work on immigration and social cohesion in modern societies. In April 2013 he was elected corresponding member abroad of the Austrian Academy of Sciences.

Among his most recent books: Transnationalism and Diaspora. Concepts, Theories and Methods (co-editor, 2010); Realignments of Citizenship (co-editor, 2009, «Citizenship Studies» special issue); Citizenship Policies in the New Europe (co-editor, 2007, 2009 updated and enlarged edition); Acquisition and Loss of Nationality. Policies and Trends in 15 European States (co-editor, 2006, 2 vols.); Migration and Citizenship. Legal Status, Rights and Political Participation (editor 2006); Europas Identitäten. Mythen, Konstrukte, Konflikte (co-editor, 2003); Wege zur Integration. Was man gegen Diskriminierung und Fremdenfeindlichkeit kann (with Patrik-Paul Volf, 2001).

I believe it is possible to assert that the foundations of modern citizenship consist in membership and rights. A similar conclusion is reached in Thomas H. Marshall's work as well as in Bryan S. Turner's definition. The first author emphasises the importance of status and the latter the role of practices. Hence, citizenship is an individual and egalitarian status belonging to all members of the same community, and takes shape in a set of practices identifying the action and subjectivity of each member. Sharing the experience of citizenship is therefore a fundamental social experience, both in an ethnic, and republican sense.

It is then possible to assert that its nature of individual and egalitarian status prevails over its nature of juridical relationship linking a physical person and a State. I mean that citizenship is not simply the sum of rights and duties protected within a given community, but rather the daily usage of these rights and duties. There the sociological take on citizenship steps in, as the citizenship status precedes the specific palette of individual rights and duties, producing practical consequences by itself. Evidently, the discussion around the concept of citizenship has its keystone in the interpretation that frames it. So, what is your definition of citizenship?

My shortest definition is that citizenship means membership in a self-governing political community. This is the core of the concept that contains all its necessary elements.

And now let me add some qualifications and explanations. First, we can of course use the term 'citizenship' also when speaking about other institutions, such as when we say that a professor is a good citizen of a university because she volunteers to serve on committees. When we say this, we do not mean that professors are actually citizens of universities, but that there are some analogies between universities and political communities, such as institutional self-administration and the idea that faculty members have equal status. But it is always citizenship in the political community that provides the model on which such analogies draw.

Second, the term 'membership' is deliberately vague. It can apply to a legal status, such as nationality in the international state system, or to the enjoyment of certain rights that distinguish members from non-members even where there is no corresponding legal status. A good illustration is the right to vote in local elections that is granted to all foreign residents (and not only to EU citizens) in 12 EU member states. In my view, this right turns foreign residents de facto into local citizens who participate in local self-government on equal terms with national citizens. Membership is not only related to status and rights, but has also an identity dimension. To be a citizen means also to be recognized by other citizens and to be aware of one's status and rights.

Third, the notion of self-government can be interpreted in a maximalist way that requires direct democratic participation of all citizens in government (as Aristotle and Rousseau thought) or in a minimalist way that accepts political freedoms and representative government as sufficient. I lean towards the

latter view. The point of insisting on self-government is to link citizenship to democracy and to draw the line with autocratic regimes that produce subjects but are not accountable to citizens.

Fourth, much of the sociological literature on citizenship regards it primarily as a practice rather than as membership in the sense of a status, a bundle of rights, or an identity. The practice dimension of citizenship is indeed an important aspect of citizenship. People *enact* their citizenship, as Engin Isin has called it, when they become politically active. And sustainable self-government also needs civic virtues of citizens, such as the willingness to contest arbitrary exercises of power. However, in my view, practices and virtues of citizenship cannot be regarded as necessary elements of a definition, since regarding them as such would support the exclusion of passive or less virtuous citizens from the political community. In other words, membership is enhanced by practice but does not depend on it.

The architecture of the EU involves a plurality of citizenship levels, does it mark a sort of stratification of citizenships?

EU citizenship as a legal status links only the national level with the supranational one: EU citizenship is derived from member state nationality. However, the political rights of EU citizenship include also the right to vote in local elections. There is thus a further link to the local level. We can certainly interpret this structure as one of stratification, and there is no doubt that the central level of national citizenship remains the most important one. However, it would be wrong to think of this stratification as a hierarchy between social categories. In Europe, all citizens of a member state are also EU citizens and local citizens. Certain social hierarchies – or inequalities of citizenship – emerge not between European, national, and local citizens, but between stable citizens, for whom European citizenship seems hardly relevant, mobile EU citizens who enjoy free movement and extensive non-discrimination rights, and third country nationals who are less protected and whose access to citizenship depends on the nationality laws of the member states.

How important is the residence factor in everyday citizenship?

Most rights that were historically reserved for citizens depend today on residence rather than nationality. However, there are two important exceptions: the right to vote at national level and the right of territorial residence and admission. Authors who claim that citizenship will become completely disconnected from nationality and connected to residence instead tend to ignore that access to residence itself remains conditional upon nationality. Only citizens have an unconditional right to enter and stay in a state territory. In the European Union, this core right has been extended to all the citizens

of the member states, but this means again that free movement across internal borders and residence rights in another member state remain conditional upon Union citizenship.

Residence is the most important condition for access to citizenship through naturalisation, but it is never sufficient and sometimes not even necessary. Long term residents are never naturalised automatically; they must apply to become citizens. Italy is among those states that have generously extended naturalisation to extraterritorial populations of national descent who do not have to take up residence first.

While residence is therefore never sufficient for citizenship at national and supranational levels, local citizenship can be completely disconnected from nationality. I have already mentioned above that 12 EU member states grant local voting rights to all residents rather than only to EU citizens. Residence-based political rights of local citizenship may still be exceptional, but internal freedom of movement is a human right for all those who lawfully reside in a national territory. Municipalities have therefore open borders and cannot impose naturalisation requirements. They have to treat all their local residents *de facto* as their citizens. Local democracy should therefore include all residents not only as *de facto* but also *de jure* citizens who can fully participate in democratic politics at the local level.

Multilevel citizenship in the EU could thus rely on a coherent combination of three distinct inclusion principles: local citizenship for all residents, national citizenship by birthright and naturalisation options for all long-term residents, and European citizenship derived from national citizenship. I believe that these distinctions are normatively defensible and correspond broadly to everyday experiences and views on membership. Immigrants often develop a strong sense of belonging to their city or neighbourhood and are accepted as members by local populations. By contrast, both migrant and native populations tend to expect that citizenship in nation-states is based on birthright and that a new one can be acquired only through naturalisation.

The European citizens are the citizens of the 28 EU member states. This means that there are many criteria and many ways to acquire the status of European citizen. Could you explain this configuration of citizenship/citizenships?

The European constellation is indeed somewhat paradoxical. The 28 nationality laws of the member states regulate access to a common European citizenship in very different ways. But those who have acquired the status enjoy free movement rights and can settle and work also in those states that wanted to keep them out through high hurdles for naturalisation. In the long run, this is not sustainable. We will either get pressures from member states to reintroduce restrictions of free movement – and this seems to be the current

trend – or some common standards for access to EU citizenship will have to be defined. There are also some indications for this second trend. The Court of Justice of the European Union, in its judgment in the *Rottmann* case, decided that member states have to apply a principle of proportionality and must take EU law into account when depriving an EU citizen of his nationality would result in a loss of EU citizenship. In 2014 the European Parliament and Commission intervened against a Maltese law that offered EU passports to investors without a residence requirement in the island state. Their argument was that no member state can be allowed to turn EU citizenship into a marketable commodity without the consent of all the other member states.

These trends towards European conditionality for loss or acquisition of EU citizenship are, however, still rather weak and exceptional. The European Treaties leave the power to determine their own nationals and thereby also EU citizens with the member states who regard this power as a hard core of their sovereignty. There are certain historical analogies for this constellation in 18th and 19th century confederations, such as Germany before unification or the US before consolidation of federal citizenship through the 14th constitutional amendment that was adopted after the Civil War. The most similar current case is Switzerland, where federal citizenship is still formally derived from cantonal citizenship rather than the other way round, as is the case in all other federal states. Yet even in Switzerland, a federal law determines who is a Swiss by birth and regulates the loss of citizenship as well as the minimum residence requirement for naturalisation. Cantons and municipalities only have the power to control naturalisation by adding further requirements. By contrast, the EU member states are essentially free to adopt their own rules for birthright, naturalisation and loss of citizenship, as long as their laws do not conflict with general European and international legal norms.

In the future, can we imagine becoming European citizens without passing through the prerequisite of national citizenship? I am thinking especially of stateless persons, refugees, and migrants who yearn for European citizenship...

We cannot exclude the historic possibility that the European Union (or a smaller ‘core Europe’) will become a federal state. Just as the EU emerged from the ashes of World War II, such a transformation is not likely to occur gradually through Treaty reforms, but could be the result of a catastrophic shock, such as a complete collapse of the common currency or a dramatic escalation of Russian aggression affecting Eastern European EU states. Short of such scenarios, the EU is going to stay what it is, a union of member states that have agreed to pool sovereign powers without creating a new independent layer of sovereignty at the European level. Citizenship in such a political and economic union of states must remain linked to and derivative of mem-

ber state citizenship. The alternative of an EU citizenship based on residence would disconnect the EU demos from the demoi of the member states and would risk to dramatically weaken the salience and sense of belonging to Europe among the vast majority of stable EU citizens.

Maintaining the link between national and European citizenship provides, by contrast, a strong argument for common European standards with regard to access to EU citizenship through the nationality laws of the member states. Stateless persons and refugees are the most obvious case. All EU member states are already bound under international conventions to prevent statelessness and to facilitate the access of refugees to their citizenship. The European Union could do more to promote inclusion of those who have lost the protection of their citizenship of origin. But the case can also be made that naturalisation after five years of residence and without onerous additional conditions, such as renunciation of a foreign nationality, should become an element of the EU's integration policy for third country nationals as well as of its promotion of political integration of mobile EU citizens in their member states of residence.

At the same time, the EU should discourage practices of member states that provide extraterritorial access to EU citizenship for third country nationals who can prove the right ancestry. Ethnic origin is not a fair criterion for admission of immigrants except where individuals suffer persecution on grounds of their ethnic identity. Many of those who get EU passports on these grounds use them to enter other states than the one that grants them citizenship. Restricting these practices of ethnic inclusion would thus reflect a common interest of all member states, just as much as restricting the sale of EU passports by Malta or Cyprus.

Are the economic and humanitarian crisis encouraging a retreat in the national level? From Fortress Europe to many national fortresses...

There is indeed a real danger that some member states (imitating the UK's strategy in preparation of the Brexit referendum) will try to get broader powers to restrict internal freedom of movement for EU citizens and that Schengen zone states will seek new powers to impose border controls. I am still optimistic that most member state governments realize that this would be the beginning of the end of European integration.

Although Europe is struggling to mobilize solidarity between member states in response to the current humanitarian refugee crisis, we just need to imagine how this crisis would play out in the absence of Fortress Europe. The death toll in the Mediterranean would be probably much higher.

Internal freedom of movement in the EU does require a harmonization of border controls and of conditions for admission of refugees. But such harmo-

nization does not have to end up in the current negative competition between states, which results exactly from the gaps in Europeanization of immigration and refugee policy. Europe is currently faced with a humanitarian crisis similar in scale to that triggered by the Nazi regime's persecution and military aggression. Europe's response so far has been shamefully inadequate. A full retreat into national fortresses would mean replicating the situation of the 1940s when one state after the other turned away ships with Jewish refugees pointing to others that should take them in. The current crisis is a moral test for the strength of European integration. If member states continue to block European solutions for the admission and distribution of refugees, more refugees will die and European integration itself will have suffered a severe blow.