



**BEUCITIZEN**  
BARRIERS TOWARDS EU CITIZENSHIP

## **CROSS-TASK ANALYSIS**

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## 1. INTRODUCTION

As noted in the official ‘Description of Work’ in the original proposal for establishing the bEUcitizen project, the objective of Work Package 7 is to study, from the perspective of European Union citizenship, specific problems individuals face in exercising their civil rights and liberties in areas which fall within, but also in areas that lie beyond the scope of EU law.

In the legal EU context, fundamental rights, including civil rights, have recently not only gained visibility, but also acquired an increasing significance. This is particularly so since the entry into force of the Treaty of Lisbon (2009), which turned the EU Charter of Fundamental Rights into a legally binding document. However, well before the Treaty of Lisbon, the civil rights of EU citizens, in particular those of free movement and non-discrimination, had already gained legal recognition in EU law through the case law of the European Court of Justice (ECJ).

The civil rights that have been studied in WP7 concern the set of rights necessary for the exercise of individual freedoms, whose exercise encounters significant legal, practical or policy difficulties. These include *inter alia* the right to free movement and the right to equal treatment (non-discrimination), the right to family life, the freedom of expression, the right to privacy, the freedom of religion, the right to property, the right to an effective judicial remedy and the protection against loss of citizenship. The right to gain access to travel documents, essential to the freedom of movement and of residence, was included as well. The foregoing were studied from the perspective of EU citizens, but also from that of third-country nationals, who enjoy certain rights on the basis of EU law (either derived rights as family member of EU citizens or under EU legislation concerning third-country nationals).

The scope of civil rights EU citizens enjoy on the basis of EU law is limited, as they can only be invoked against EU institutions and against Member States when implementing EU law (which should seemingly be understood as all situations that fall within the scope of EU law). A nagging uncertainty persists however as to when EU civil rights can be relied upon to challenge domestic restrictive measures or practices. Moreover, the scope of the residence rights that come with EU citizenship has traditionally been limited to transnational situations. The latter has produced unpalatable differences in the protection afforded by EU citizenship and the EU ‘Bill of Rights’ to mobile EU citizens who exercised their rights of free movement on the one hand, and to ‘sedentary’ EU citizens who have not on the other. Some case law of the ECJ suggests that there is a core body of citizenship rights which may be enjoyed without having to prove a transnational dimension, but the contours have remained unclear, and so far a further elaboration has not been forthcoming.

## 2. TRAJECTORY

WP7 started off with an identification and critical assessment of the nature and scope of the civil rights that citizens are entitled to not only as EU citizens per se, but also as citizens or residents in different EU Member States (Task 7.1). To this end, a thorough analysis was carried out of the relevant legal framework for civil rights protection at the international and the European level (EU Charter of Fundamental Rights, general principles of EU law, European Convention on Human Rights, International Covenant on Civil and Political Rights, among others), as well as in selected Member States’ constitutional and legal traditions. This led to a typology of civil rights to which EU law may give rise, and the limitations that appear to exist in this field, followed by a more detailed analysis of



the specific civil rights, exploring the various types of legal and practical obstacles which undermine their effective enjoyment. These included inter alia the right to freedom of movement (migration and residence rights) and equal treatment; the right to effective judicial protection; the freedom of speech/expression, the right to property and the freedom of contract; the right to family life; the protection against loss of nationality and the right to diplomatic and consular protection in third countries. The research extended to ten Member States: Czech Republic, The Netherlands, Belgium, Denmark, France, Spain, Hungary, Italy, United Kingdom, and Ireland). The outcome took the form of Deliverable 7.1, further reflected upon below.

Next, research was conducted into the different modes of transposition and the mechanisms available at EU level and national levels for granting and enforcing civil rights, with a view to identifying institutional, legal, procedural and practical barriers that EU citizens and third-country nationals face in gaining access to justice (Task 7.2). The inquiry was primarily directed towards the protection of civil rights within the scope of application of EU law, and, secondly, towards the protection of civil rights in matters which do not necessarily have an EU law connection, but nonetheless affect the way EU citizens (whether mobile or not) are able to exercise their civil rights. This encompassed e.g. the right to equal treatment, privacy and data protection, due process and freedom of expression and freedom of religion. The research extended to nine Member States: Belgium, Czech Republic, Denmark, France, The Netherlands, Spain, Hungary, Italy and the United Kingdom. The outcome took the form of Deliverable 7.2; below, its main findings will be discussed as well.

Hereafter, four in-depth case studies were undertaken with a view to exposing possible limitations and restrictions of different natures that undermine the effective exercise of these rights (Tasks 7.3 through 7.6). The first of these consisted of an exploration of the obstacles that citizens face in trying to enjoy their core citizenship rights (Task and Deliverable 7.3), focusing in particular on the acquisition, retaining and regaining of EU citizenship in the light of diverse national nationality/citizenship laws, and the obtaining of residency rights for family members who are third-country nationals in the light of national immigration rules and family laws (even when the EU citizen has not exercised his or her right to free movement – the *Ruiz Zambrano* case law of the ECJ and its fall-out at the domestic level). Six Member States were covered: Belgium, Denmark, The Netherlands, Spain, Hungary and Italy.

The second case study zoomed in on the right to freedom of expression in the context of the media (Task and Deliverable 7.4). In particular, it focused on tackling barriers in an area that is becoming of ever greater relevance for individual citizens' freedom of expression, referred to as 'citizens' journalism'. This choice was considered justifiable as it concerns a new field of practice and research, where conceptual clarifications are needed, and where new light could be shed on the application and evolution of existing legal and procedural frameworks, to keep up with the changing journalism landscape (blogs, social media, etc.). Four Member States were covered: Belgium, The Netherlands, Spain, and Italy.



The third case study involved an assessment of obstacles to the exercise of their civil rights that (mobile) EU citizens and their families face in dealing with life events, such as wedlock and childbirth (Task and Deliverable 7.5). Hindrances arising here could presumably be ascribed to specific, varying national administrative rules or family legislation. Singled out in particular were questions and issues concerning filiation, forenames/surnames, and marriage. This was accompanied by a final and transversal topic, relating to the circulation and recognition of civil status documents. Five Member States were covered: Belgium, Denmark, The Netherlands, Spain and Hungary.

The fourth and last case study involved an analysis of the obstacles faced by (mobile) EU citizens and their families in gaining access to travel documents (Task and Deliverable 7.6). This inquiry surveyed issues of acquisition, renewal and loss, reflecting on the situation for nationals resident in their own country, as well as considering the situation for EU citizens resident in a different Member State than their own. Predominant attention was paid to the actual or potential difficulties EU citizens may experience in gaining access to travel documents in a practical or technical sense, but also extended to the situation of third country national family members of EU citizens, who are either *de iure* or *de facto* likely to encounter similar obstacles in the Member State they seek to access, or happen to reside in. Five Member States were covered: Belgium, Denmark, Italy, The Netherlands, and Hungary.

### **3. MAIN FINDINGS**

The research carried out within the scope of Task 7.1 centred on the recognition and scope of civil rights of EU citizens and third-country nationals under national, European and international law. This resulted in Deliverable 7.1, a 'Research paper on the legal framework for civil rights protection in national and international context' (edited by Hanneke van Eijken and Sybe de Vries, UU). As underscored in this document, from the various national reports compiled as part of this Task it emerges that the main sources of civil rights in the different countries are in fact the national constitutions and specific national legislation, the European Convention of Human Rights and the EU Charter. Moreover, in substantial terms, the civil rights concerned (such as the freedom of expression and the right to a fair trial, freedom of association and assembly) turn out to be quite similar. Nevertheless, their scope and recognition depends on the domestic legal system, its openness towards the international and European legal planes, and the civil rights that can be found there. In most countries, the national legislation lacks references to the EU Charter or the ECHR. Yet, most European and international civil rights are recognised in national law, because these norms have been duly transposed or are treated as directly applicable. It also became clear that while in national case law the EU Charter is playing an increasing role, so far the ECHR remains the main source of reference for international civil rights by national courts. This suggests that the awareness of the civil rights in the EU Charter could be improved. A particular difficulty with the Charter remains however that it is only applicable within the scope of EU law, leading to a possible preference among national courts to refer to the more generally relevant ECHR. While this does not seem to erect barriers to the exercise of civil rights, as the civil rights included in the Charter are equally enshrined in the ECHR, of course it does not further the establishment of the Charter as an independent legal source.



Task 7.2 comprised an analysis of how specific civil rights are protected in selected Member States, with a focus on implementation and enforcement aspects. This led to Deliverable 7.2, a ‘Report on mechanisms transposing and enforcing civil rights aiming at identifying barriers that EU citizens and third-country nationals face in gaining (cross-border) access to justice in selected EU Member States’ (edited by Marie-Pierre Granger and Orsolya Salat, CEU). It makes clear that in general, civil rights standards in the EU are adequate and the available remedies sufficiently well developed. The narrow scope of protection afforded to certain rights in some Member States nevertheless does lead to inequality between citizens, which may be considered a barrier. In addition, situations were flagged in which legislative provisions or administrative practices condemned by judges are not repealed or adjusted, hindering citizens in the actual exercise of their rights. Attention is also drawn to political and institutional environments in some Member States where checks and balances do not operate properly and political expediency takes the upper hand. Limits in especially the availability of emergency/interim proceedings, legal aid or NGO support create serious hindrances in litigating for civil rights, or even impede citizens’ access to the appropriate legal remedies altogether. While correction mechanisms may be found at different levels, these do not appear adequate to compensate for the deficiencies in legal protection found.

The four case studies, Tasks 7.3 through 7.6, delivered a series of insights that are not entirely commensurate. Deliverable 7.3, the General Report ‘Exploring obstacles in exercising core EU citizenship rights’ (compiled by Hanneke van Eijken and Pauline Phoa, UU) underscores that the EU citizen can be defined as composite in nature, a subject of law at the crossroads of national and EU law. Sometimes (s)he enjoys direct protection by virtue of Union law (e.g. free movement or the principle of non-discrimination), sometimes by national law implementing Union law, and in yet other (s)he enjoys such protection by virtue of national legislation without any European dimension. The Report evinces that EU citizen can lay claim to a set of core rights based on EU law, but s(he) is for the substance of that right mostly dependent on the substantive national laws of the country of residence. This leads to disparities in e.g. the approach chosen with regard to the conferral and deprivation of nationality, or the minimum income thresholds for family reunification with Third Country Nationals. These emerge as well from the different interpretations adhered to by different national authorities of concepts such as “genuine, stable relationship”, “sufficient resources”, or “dependent family member”.

Deliverable 7.4 (compiled by Orsolya Salat and Marie-Pierre Granger) exposed the lack of clarity and uniformity in the EU as regards the position of ‘citizen journalists’ in relation to professional journalists. The standards were found to differ significantly between Member States, so that contrasting rules apply. The institutional setting also varies greatly, where some countries leave a great freedom for media and press to engage in self-regulation, whereas others have opted for a more stringent system of control. Divergent interpretations of the concept of publicity or publicness also entail that a greater freedom exists in countries where e.g. prohibitions on hate speech and rules against defamation cannot be invoked as easily against online conduct, whilst elsewhere, dissemination through digital media is considered an aggravating circumstance that may lead to the imposition of a higher penalty. This diversity can prove risky for those that engage in transnational activism. As yet though, there seems to be no legal possibility to fully harmonise the institutional context at the European level. A related matter that was identified concerns the Union’s ambiguity with regard to freedom of expression, in that it did decide to develop specific (soft) guidelines to apply in its external relations, but not for the domestic sphere.



Deliverable 7.5 (compiled by Pilar Jiménez Blanco and Ángel Espiniella Menéndez, under coordination of Javier González Vega, UNIOVI) exposed above all the disparities of national legislations, and the effects and (potential) impact of these disparities on EU citizenship and free movement in a number of life events. The domain of parentage and parent-child relationships is for instance one where Member States retain great autonomy, and opted for different solutions as regards the attribution of custody rights, adoption rules, etc. based on the existence (or absence) of a marital relationship between the parents. This however was believed to carry negative implications for the mobility of citizens and families between Member States. As regards the attribution and composition of forenames and surnames, the EU did not adopt common legal rules either, resulting in a sizeable diversity, only to a limited extent reined in by judgments of the ECJ (*Konstantinidis*, *Garcia Avello*, *Grunkin and Paul*, *Runevic-Vardyn*, *Sayn-Wittgenstein*). Similarly, disparities were visible owing to the absence of uniform rules on marriage (e.g. as regards gender, age, consent and form (religious or civil)), whereas an act facilitating legal residence in the EU or access to the nationality of a Member State (and consequently, Union citizenship) is at stake. Also, it was pointed out that, whilst there are EU rules requiring a registrar to control the legality of acts before recording them in the registry, this control is generally made according to the family law and (international) private law rules in force in the country concerned. This state of play, whilst on the one hand considered justified to counter e.g. ‘marriage tourism’, was on the other hand seen as hampering increased intra-EU mobility, as it renders it impossible for citizens to complete legal acts related to life events in the Member State of their own choice.

With regard to access to travel documents, the General Report that is Deliverable 7.6 (compiled by Henri de Waele and Teresa Solis Santos, UA) showcased that in none of the countries surveyed the acquisition costs prove too onerous. For EU citizens residing in a Member State different than their own, the procedure for obtaining these does appear rather cumbersome nowadays, especially since the introduction of biometric features, and even more pointedly when it concerns procuring the documents for a new-born child (e.g. with regard to procuring official translations of documents from the country of origin). Also, in some quarters, citizens experience difficulties in understanding the complexity of the framework for travel documents as a whole, rendering it desirable to improve the accessibility of the information. Translations provided by the authorities in charge in at least the main EU languages still need to become more broadly available. On the flip side, it was found that TCN family members are not confronted with actual or potential obstacles with regard to obtaining visas or the family residence card that fall foul of the rules to which they can be subjected.

#### **4. SOME COMMON DENOMINATORS**

The different studies undertaken as part of this work package primarily underline that the rights of EU citizens and their effectiveness are highly contingent on (implementation at) the national level – whether it be free movement and residence, recognition of life events, digital journalism activities or access to travel documents; and all that is conferred in top-down fashion is easily jeopardised by a less than smooth reception. Secondly, it would appear that, as regards the bottom-up engagement, national efforts can be greater – also in order to avoid the usual shifting of the blame to ‘Brussels’ for complicated rules that make the lives of citizens more cumbersome. The Commission could thus more overtly remind Member States of their own part to play in the eradication of barriers, referring thereby to the principle of subsidiarity. Third, in several respects it emerged that in the exercise of





civil rights, the EU Charter of Fundamental Rights currently still lacks the maturity of the ECHR, though its importance is visibly growing. Since the EU appears of late to have become very much Charter-centred, extra guidance on the interplay between both documents could benefit national and supranational actors alike. Lastly, to a considerable extent the obstacles to the exercise of civil rights result from social and cultural preferences in domains that lie close to the (perceived) national sovereign realm. A case in point, derived from the research undertaken, may be the particular difficulties encountered by TCN family members of EU citizens following or joining their family member in another Member State, seeking derived residency rights. Under EU law, only the spouse, direct and dependent children and dependent ascendant qualify automatically as family members. The status of registered partner depends on whether national law recognises for them a status equivalent to marriage. Consequently, the status of unregistered partners and other family members hinges very much on the legislation of the Member State concerned (or even the individual officer / judge engaged with the matter). In this regard, same-sex couples, especially when not married, are confronted with additional problems. Moreover, while TCN family members are required to demonstrate that the family relationship is genuine (not a marriage or adoption/filiation of convenience), and while some checks and presumptions are shared, no truly common approach is adhered to in the national verification practices, despite EU guidelines. Even in such sensitive dossiers, a stronger insistence on mutual recognition may well be warranted, instead of the deference exhibited today.

## **5. MOVING FORWARD**

The various deliverables presented diversities of outcomes and methodological approaches, which challenged the formulation of general cross-cutting themes. At the same time, the collected findings are believed to have prepared the ground for a comprehensive project that may appropriately conclude the activities undertaken within this Work Package. In line with a proposal from the WP leaders made in early 2016, the current Report therefore has set as its key objective to offer a stepping-stone for an edited volume, to be published in the bEUcitizen series with Palgrave Macmillan in the course of 2017/2018. Combining insights and expertise that was in part already acquired earlier, and in part developed during the lifespan of the project, this book means to offer an original 'horizontal' perspective on the role and place of civil rights in the EU at the present day and time. Also in light of the backgrounds of the affiliated researchers, the reflections included therein will in particular proceed from a legal vantage point, so as to complement the historical, political, economic etc. approaches undertaken in other WPs, and represented in other publications in the series. The possible contents are elaborated upon in the Annex, alongside a template for the possible structure. By and large, this Annex replicates ideas already formulated earlier by the WP leaders, slightly adjusted; the draft document was circulated shortly before the bEUcitizen conference in Oviedo that took place in June/July 2016, and served as a springboard for discussions at the meetings convened there. Comments made there, and others that followed in its wake, were subsequently incorporated. After a final round of fine-tuning, the proposal was definitely approved in August 2016 – at which time the work commenced on the preparation of the last Deliverable, to be finalised in April 2017.



## ANNEX – BOOK PROPOSAL

### (Working) title

‘Civil Rights and the Coming of Age of EU Citizenship – Challenges at the Crossroads of the European, the National and the Private Sphere’

### Editors

Marie-Pierre Granger, Orsolya Salat, Hanneke van Eijken/Sybe de Vries, Henri de Waele

### Background / general theme

Civil rights are highly important citizenship rights (derived from the Latin *ius civis*, rights of the citizen). They form the basis that supports the exercise of other rights, be they political, economic, or social rights. One cannot engage into an examination and appraisal of the concept and practice of EU citizenship, and of the barriers which undermine its development and exercise without a thorough investigation into the civil rights which underpin the concept of EU citizenship. The exercise is however complicated by the multilevel dimension of that concept, which relies on and complements Member States’ citizenship without replacing it. It can also be considered multi-layered, as it interacts and competes with national citizenship and other form of formal and informal community memberships across Europe. The new political and legal order constituted by the EU does not directly confer civil rights, beyond a limited right to move and reside in other Member States. Yet, it has significantly contributed to shaping access to and the exercise of a range of civil rights across the Member States as well. This contribution has entailed certain transformative effects on citizenship rules and practices across Europe.

The encounter between European integration and civil rights has often been portrayed as a collision site. The European Communities, which eventually became the European Union, with their panoply of common policies in areas such as agriculture, competition, commercial or transport matters; increased coordination and cooperation across a range of policy domains, including justice and home affairs; and their strong market-building project, regularly came into confrontation with nationally protected civil rights, such as the right to property, freedom of expression, freedom of assembly, the right to privacy and family life, the right to a fair trial, due process guarantees, and so on). However, the EU has also made a more positive, and clearly distinctive conceptual and practical contribution in the sphere of equality, with solid policies against discrimination based on nationality, gender, sexual orientation, race, disability, or age. Moreover, as the notion of EU citizenship extended the right to move and reside across the (ever enlarging) EU, from economically active citizens to other categories of nationals of the Member States, as well as certain categories of third-country nationals (e.g. long term resident, family members of EU citizens), it contributed to enhance individuals’ freedom of movement across Europe. Over the last two decades, the EU has also fleshed out the modern version of the right to privacy, in particular the right to protection of personal data. Finally, EU membership itself requires Member States to respect the civil rights of their citizens and residents. The case law of the ECJ recognising general principles of EU law for the protection of fundamental rights, codified and complemented in the EU Charter of Fundamental Rights, affords protection to a range of civil rights, which must be respected by EU institutions and Member States when they implement EU law. Moreover, EU membership is conditioned on respect for fundamental rights, and suggests that the Union institutions and Member States may verify whether civil rights of EU citizens are duly respected. EU citizenship thus poses challenges, but also offers opportunities for the protection of



civil rights, in areas which are subject to EU regulation, but also in matters which have largely remained within national competences.

The question of the exercise of civil rights by EU citizens has not been explored from the point of view of the distinctive contribution of EU citizenship, and the specific challenges posed by European integration. Constitutional scholars approach it from a comparative constitutional rights perspective, international human rights lawyers look at the role of international instruments, including the ECHR, and EU lawyers stress the EU contribution to the development of equality norms or the free movement of persons. In contrast, the volume proposed here offers a new and original perspective, aiming first of all at highlighting the relevance of EU citizenship for the protection of civil rights across the various levels and layers where it has made its presence felt. Also, it seeks to explore the manner in which the protection of civil rights in Europe contributes to redefining citizenship beyond the state. Lastly, the book helps to pinpoint (remaining) barriers to the exercise of those rights, especially at the Member State level, so that these might be lowered or eradicated shortly. The approach adheres to three main 'nodes', highlighting challenges originating from respectively the European, the national and the private sphere. Each chapter emphasises in alternation one or more of these nodes.

#### Lead questions

What is the impact of EU citizenship, and European integration more broadly, on the protection of civil rights in the EU? To what extent does European integration threaten core civil rights? Does EU citizenship, understood as membership of a particular legal and political community, make a significant contribution to the definition and effective realisation of civil rights in the EU? How marked is the difference in this regard between situations that fall under the scope of application of EU law and which do not? What specific obstacles do EU citizens encounter when they seek to exercise their civil rights? Are there specific legal barriers, such as differing/competing standards, confusion on the scope of application of EU civil right protection, or the shortage of effective remedies? Do EU citizens face serious administrative hurdles? Are they confronted with societal apathy, pressure, or hostility, which leads them to forfeit their rights? Do they encounter linguistic barriers? Does the EU (sufficiently) support its citizens who fight for their rights?

Judging from the preliminary research undertaken within Work Package 7 of the bEUcitizen project, obstacles to the effective exercise of civil rights by EU citizens are believed to flow from the definition of legal frameworks themselves, judicial and non-judicial mechanisms, the institutional contexts at EU and national levels, particular administrative structures, linguistic aspects, and societal pressures / inhibitions. These barriers will be canvassed in horizontal fashion and categorised along the national, European or private dimensions, while addressing the aforementioned questions.

#### Tentative structure

**Foreword** (Jo Shaw, Niamh Nic Shuibne or Sacha Prechal – tbc)

#### **Chapter 1: Introduction**

The idea of this chapter would be to provide a general introduction to, and overview of, how civil rights are protected in the EU, indicating the overlaps and tensions between the national, regional, supranational and international legal frameworks. It could build on Deliverables 7.1 and 7.2 where



possible, indicating the (potential for) cross-fertilisation but also the (risks of) further confusion and discrepancies, particularly in the light of the non-accession of the EU to the ECHR. Of course, it also offers a clarification of the setup, and a short overview of the contents of the book.

- Authors: Marie-Pierre Granger & Henri de Waele

## **PART I – FRAMEWORKS**

*[The red thread that runs through the first part of the book, to be elaborated upon in a short introduction at this stage: a focus on the enforcement of civil rights against, respectively, institutions, states, and private actors.]*

### **Chapter 2: The protection of civil rights by the EU institutions**

This chapter investigate and discuss to which extent EU institutions, in particular through the adoption of legislation at EU level, but also at more ‘operational’ level (e.g. FRONTEX and the FRA) seek to either improve, or at least preserve civil rights. In other words, does EU citizenship in particular, and EU membership in general, contribute to a better protection of civil rights across the EU for both mobile and sedentary citizens (or even TCN)? Hereby, it will point out that the EU judiciary has in some respects set even higher standards for the legislator. A key question is whether similar (high) standards apply for other civil rights, and whether they should. This may serve to illustrate potential clashes / rivalries between them (possibly building on insights from Deliverable 7.1, Deliverable 7.2, and the case studies).

- Author: Israel de Jesus Bútlar (tbc)

### **Chapter 3: Securing respect for civil rights by member states of the EU, within and beyond the scope of application of EU law**

Discussion of the national dimension, the application of EU requirements with regard to civil rights protection and (continual) compliance with the Copenhagen criteria; particular attention perhaps for the ‘pincers’ option, how divergent Member States can be cornered by EU and ECHR standards enforced in tandem; special attention also for the new ‘rule of law mechanism’ and its operation; maybe best for this chapter be based on some case studies, discussing the current experiences with Hungary (various defects) and Poland (constitutional court packing and media freedoms). Input may be derived from Deliverables 7.2, 7.3 and 7.4.

- Authors: Orsolya Salat & Marie-Pierre Granger

### **Chapter 4: Securing respect of civil rights by private actors: actual and potential horizontal effect of instruments for the protection of civil rights**

The increasingly strong role of non-state actors and companies in the regulatory domain makes the question of whether and to what extent private actors can be held accountable for civil rights violations, and, vice versa, to what extent they may play a role in defending civil rights more



pertinent. This chapter explores the potential for enforcing civil rights in a horizontal fashion in Member States, at the level of the ECHR and at the EU level, with a particular focus on the EU Charter of Fundamental Rights (horizontal barriers, linking in with Deliverable 7.1).

- Author: Sybe de Vries

### **Chapter 5 – Coping with cultural and linguistic diversity**

Study of the role played by cultural and linguistic diversity in the enforcement of EU civil rights. In particular, looking here at multilingualism as a challenge at the European, national and private levels (looking perhaps at the institutional problematic, but also difficulties with regard to litigation in a particular language, taking on board recent cases such as *Anton Las*, also already *Groener* etc.). Input could be derived from various Deliverables in WP7 as well as the Cross-Task Analysis of WP5.)

- Authors: Elisabetta Pulice & Paolo Guarda

## **PART II – RIGHTS**

*[Red thread of the second part, to be elaborated upon in the introduction to this part: a critical inquiry into the state of play with regard to prominent civil rights that accrue to EU citizens, flowing from current legislation (Directive 2004/38, air passengers' rights, data protection) and case law from national/supranational courts – with specific attention for the right to move and reside, the right to equal treatment, and the right to privacy.]*

### **Chapter 6: The right to have rights – nationality and access to EU citizenship**

This chapter obviously follows on Arendt's famous conceptualisation, zooming in on the question which individuals legally stand to 'benefit' from EU citizenship, and how they get to be in that position in the first place: discussion of the accessory or gradually more autonomous notion of EU citizenship, the role played by nationality, the battle over competences in this regard between the domestic and the supranational, the conditions for loss and the risks of deprivation (possibly with special regard for the ramifications of the UK's withdrawal from the EU). Deliverable 7.3 is likely to offer useful insights / points of departure here.

- Authors: Hanneke van Eijken and Pauline Phoa

### **Chapter 7: EU citizenship, mobility and civil rights**

Chapter linking in with the findings from Case Study 7.3, outlining the advances made in the sphere of free movement and residence from the European and the national perspective, but also indicating the erected barriers and attempts at circumvention by Member States, as well as the recent judicial retreat.

- Author: Marie-Pierre Granger



## **Chapter 8: EU citizenship and rights – the right to family life and the recognition of civil status across borders**

A critical inquiry focused on the very important right to family life, looking inter alia at the currently (divergent) national rules with regard to the recognition of civil status across borders, the barriers that flow from this, and reflections on how these could be overcome while respecting socio-cultural traditions, political preferences, and the right of national identity. Input to be derived from Deliverable 7.2, Deliverable 7.5 and Deliverable 7.6.

- Author: Pilar Jiménez Blanco & Ángel Espiniella Menéndez

## **Chapter 9: EU citizenship and rights – access to justice / right to an effective remedy**

Critical inspection of how the right to an effective remedy (Article 6 and 13 ECHR / Article 47 EU Charter) is currently finding protection at the national level, based on a quick-scan of Member State practices. Indication of possible bottlenecks and possibilities for their resolution. Deliverables 7.1 and 7.2 should offer suitable stepping stones.

- Author: Silvia Adamo

## **Chapter 10: EU citizenship and rights – freedom of expression for EU citizen-journalists**

This chapter links in with the previous one, being substantively based on Deliverable 7.4. It will however be more conceptual, reflecting on the regulation of citizen-journalism in the EU and its implications for the EU concept of citizenship (liberal v. republican).

- Author: Orsolya Salat

## **Chapter 11: Privacy and data protection**

Ongoing technological developments entail that the collection and sound processing of data is becoming increasingly important; and the cross-border flow of information, particularly through the use of the Internet, calls for a transnational approach on how to protect personal data. This chapter examines how citizen's privacy and data are being protected at national and EU levels. On the hand, we see a development in the case law of the ECJ towards stricter scrutiny of EU and national measures violating the rights to privacy and protection of personal data. On the other hand, there is increasing pressure on the lawmaker to protect the security of its citizens or control migration. Tensions or rivalries between conflicting civil rights will not only continue to exist but are expected to grow in the coming decades. In this chapter, we will focus on privacy and data protection, and examine how these civil rights could be enhanced against the backdrop of these developments, and examine interaction between national and EU legal dynamics in the protection of personal data.

- Authors: Marie-Pierre Granger, Sybe de Vries & Kristina Irion

## **Chapter 12: Conclusions / Challenges ahead / Towards a European civil rights moment?**



General conclusions and looking ahead.

- Author: Editors

*[This conclusion will also touch upon the protection at the national and the European level of civil rights that have been underaddressed in the literature so far: in particular freedom of religion, right to human dignity and the right to property. The state of play with regard to enforcement, in particular with regard to legal aid, pro bono work, awareness and training is also critically reviewed. Some tentative links will be forged with the (further development of) EU citizenship, and its possible reconceptualisation.]*

#### Tentative timeframe

**August 2016:** Finalisation of book proposal, agreement of all authors on (contents of) contributions

**September 2016 – December 2016:** Preparation of draft chapters (deadline: 31 December 2016)

**January 2017 – February 2017:** Peer review and revision of draft chapters

**March 2017 – April 2017:** Writing of introduction/conclusion, finalisation of manuscript (submission to publisher: 30 April 2017)

**Autumn/Winter 2017:** envisaged publication

#### Length of contributions:

Max. 7000-8000 words (including footnote text).

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