Francesca Strumia

Softening Divides through Legitimacy: The Case of E.U.
Citizenship

Softening Divides through Legitimacy: The Case of E.U. Citizenship

Francesca Strumia[*]

This paper[1] *is an excerpt from a larger project I am working on, in which I explore the socialization power of European citizenship through the lenses of literature on diffusion of norms in international relations and international law, borrowing from this literature the notions of cultural match, legitimacy and acculturation. In this work, I explore the possibility that while the community of the European citizens is one based on difference, the interaction of citizens at the European level as members of a community of law, and their exposure to the scripts of coexistence as citizens might lead in the long run to the internalization, on the part of the citizens, of a sense of "groupness" consistent with the norm of European citizenship. In this sense, I argue that elements of institutional design making supranational citizenship visible for its holders and highlighting the legitimacy of their participation as citizens at the European level might help a process of acculturation.*

Expectations attached institutionally to the legal construct of European citizenship interpret in part the felt European need to guard against the disintegrative potential of diversity: discourses about the notion of common citizenship often echo lofty goals such as "fostering a sense of ownership" of Europe on the part of the European people, [2] or providing an approximation model for the condition of third country nationals.[3] The naked European citizenship however, divested of all the surrounding majestic discourses, is a skinny legal construct, which operates by grafting logics of membership onto a limited set of economic and labor rights on the European market.[4]

I question along which lines supranational citizenship might contribute to develop a sense of "groupness" at the European level, potentially altering the citizens' perceptions of insider/outsider divides and easing the coexistence of diversity in the same civic, legal and political community. European citizenship may be seen as an international norm bringing about a normative discourse of membership, which might or might not resonate at the domestic level; in other words the norm of citizenship brings about a notion of "legal sameness": an expectation of "groupness" co-terminus with the boundaries of the group of citizens. Legal sameness might or might not coincide with the concrete perceptions of "groupness" (I refer to these as "societal sameness"), which people experience in dependence of societal factors of similarity and difference at the domestic level. If legal sameness somehow permeates at the domestic level, it might contribute to play down the perceptive role of national boundaries in the European Union, while fostering a sense of supranational belonging in civic terms. Figure 1 represents these possible relationships between legal and societal sameness.

---

[*] S.J.D., Harvard Law School, Attorney at Law, Kirkland & Ellis International LLP.

[1] Paper presented at *Racism, Immigration and Citizenship* Conference Johns Hopkins University, April 2009

[2] See European Commission, DG Culture and Youth, Citizenship at http://ec.europa.eu/citizenship/index_en.htm, last visited November 7th, 2008.

[3] See Conclusions of the 1999 European Council in Tampere at http://www.europarl.europa.eu/summits/tam_en.htm

[4] The rights connected to European citizenship are currently listed in art. 18 to 21 of the EC Treaty; citizens have the right to move and reside in any other member state; if residing in member states other than their own, they have active and passive electoral rights for the European Parliament and in municipal elections; they have rights to diplomatic protection in third countries, rights to petition the European Parliament, to apply to the Ombudsman and to write to the institutions.

Figure 1: Legal and Societal Factors of Sameness

Legal norm of citizenship (legal criteria for the grant of citizenship)		Societal factors of sameness
⬇		⬇
Legal sameness (expectation of sense of "groupness" consistent with the boundaries of group of citizens as drawn by criteria above)	⬆	Societal sameness (actual sense of "groupness" held by people)

On these premises, I explore the question of the capacity of European citizenship to foster bonding and "groupness" among the people of Europe in terms of the capacity of the norm of citizenship to socialize its recipients to its content. In the course of this investigation, I borrow three concepts from literature in international law and international relations on the effectiveness of international norms at the domestic level: cultural match, acculturation and legitimacy. First, I observe how the extension of European citizenship is premised on the consolidation of a community of difference: a widening mismatch can be found in the E.U. between legal notions of "groupness", implied in the norm of European citizenship and perceptions of "groupness" suggested by societal factors of similarity and difference. I consider how this mismatch may affect the socialization power of the supranational norm of citizenship in light of Jeffrey Checkel's notion of cultural match;1 second, I consider whether there is a chance that European citizens might gradually get acculturated to the scripts of belonging in their surrounding environment through repeated encounters at the European level; finally I consider how bolstering the sense of legitimacy of the European citizens, in part through relevant elements of institutional design, might be conducive to this process of acculturation.

Dynamics of European Citizenship and the Evolution of Legal Sameness

In the European Union the extension of supranational citizenship goes hand in hand with increasing societal diversity of the European population: in this sense, European citizenship brings about a widening mismatch between legal and societal sameness.

European citizenship depends on nationality of one of the member states: everybody who is national of an E.U. member state is also a European citizen. In light of this link of derivation, the concrete ways in which European citizenship is conferred present two features, which may be relevant for the analysis of the pull for "groupness" of European

citizenship: first, conferral of European citizenship is fairly arbitrary; second, it tends to occur in an oil-stain wise; as an oil stain spreads uniformly on a surface notwithstanding the possible irregularities and features of that surface, so European citizenship spreads in conjunction with political episodes of enlargement of the Union, notwithstanding the characters of the society on which it extends its veil of legal sameness.[5]

The extension of European citizenship may be seen as arbitrary, if one considers the access to European citizenship of immigrants. From an immigration perspective, European citizen is whomever any member state of the Union decides to naturalize, by picking from its own pool of resident foreigners, and according to its own cultural and civic criteria. Chapter one has evidenced how different and peculiar those criteria are; in addition also the pools of immigrants from which each member state can potentially pick some new European citizens by first of all turning them into nationals varies widely.

Table 1: The Pool of Candidates for European Citizenship1

Resident Foreigners-6 largest groups of non-EU nationals resident foreigners in each E.U. member state by citizenship (Source Eurostat data for 2007)	
Belgium	314,911 foreigners from non-EU countries; no more specific data available
Bulgaria	21,800 foreigners from non-EU countries; no more specific data available
Czech Republic	193,352 foreigners from non-EU countries 6 largest groups: Ukraine 86,739 Vietnam 38,454 Russian Federation 17,216 Republic of Moldova 4,658 China (incl. Hong Kong) 3,703 Serbia and Montenegro 3,616
Denmark	199,132 foreigners from non-EU countries 6 largest groups: Turkey 28,752 Iraq 18,133 Norway 14,170 Bosnia and Herzegovina 12,229 Afghanistan 9,432 Somalia 9,012
Germany	4,909,190 foreigners from non-EU countries 6 largest groups: Turkey 1,856,892 Croatia 242,123 Russian Federation 202,350 Bosnia and Herzegovina 167,884

---

[5] It should be noted in a comparative perspective that also in the system of conferral of U.S. citizenship there is a measure of automation, as according to the words of the XIV amendment, the people born or naturalized on the territory of the United States and subject to the jurisdiction thereof are citizens of the United States and of the state wherein they reside. State citizenship thus follows automatically from federal citizenship. The measure of legal sameness that this automation generates finds however concrete support in the status of residence which is at its basis and which makes sameness immediately tangible.

	Ukraine, 141,014 United States 109,447
Estonia	About 229,700 foreigners from non-EU countries; no more specific data available
Ireland	160,212 foreigners from non-EU countries Only available data: U.S. 9,672
Greece	799,600 foreigners from non-EU countries; no more specific data available
Spain	3,521,276 foreigners from non-EU countries 6 largest groups: Morocco 592,274 Ecuador 433,032 Colombia 265,878 Bolivia, 204,264 Argentina, 143,573 China (incl. Hong Kong) 107,899
France	2,409,900 foreigners from non-EU countries; no more specific data available
Italy	2,694,858 foreigners from non-EU countries 6 largest groups: Albania 375,947 Morocco 343,228 China 144,885 Ukraine, 120,070 Philippines 101,337 Ecuador 68,880
Cyprus	52,200 foreigners from non-EU countries; no more specific data available
Latvia	Total number of foreigners from non-EU countries non clear 6 largest groups: Russian Federation 27,008 Ukraine 2,546 Belarus 1,755 United States 515 Israel 300 Armenia 243
Lithuania	37,461 foreigners from non-EU countries 6 largest groups: Russian Federation 12,507 Belarus 3,409 Ukraine 2,219 United States 350 Israel 336 Armenia 277
Luxembourg	27,227 foreigners from non-EU countries; no more specific data available

Hungary	134,901 foreigners from non-EU countries 6 largest groups: Ukraine 15,866 Serbia and Montenegro 12,706 China 8,988 Vietnam 3,095 United States 1,931 Israel 1,063
Malta	4,577 foreigners from non-EU countries; no more specific data available
Netherlands	442,441 foreigners from non-EU countries 6 largest groups: Turkey 96,779 Morocco 80,168 China 15,266 United States 14,641 Indonesia 11,389 Suriname 7,561
Austria	580,087 foreigners from non-EU countries 6 largest groups: Serbia and Montenegro 137,527 Turkey 108,808 Bosnia and Herzegovina 86,427 Croatia 57,103 Russian Federation 18,897 Republic of Macedonia 16,322
Poland	32,206 foreigners from non-EU countries 6 largest groups: Ukraine 5182 Russian Federation 3,291 Vietnam 1,906 Belarus 1,535 United States 1,025 Armenia 755
Portugal	354,783 foreigners from non-EU countries 6 largest groups: Brazil 73,393 Cape Verde 68,143 Ukraine 41,872 Angola 33,703 Guinea Bissau 24,805 Republic of Moldova 15,524
Romania	20,281 foreigners from non-EU countries 6 largest groups: Republic of Moldova 5,466 Turkey 2,194

	China, 1,898 Syrian Arab Republic 1,231 Ukraine 780 Iraq 768
Slovenia	50,833 foreigners from non-EU countries 6 largest groups: Bosnia and Herzegovina 24,441 Croatia 6,829 Former Yugoslav Republic of Macedonia 5,936 Ukraine 880 China (incl. Hong Kong) 443 Russian Federation 382
Slovakia	14,159 foreigners from non-EU countries 6 largest groups: Ukraine 3,925 Russian Federation 1,311 Vietnam 1,060 Republic of Macedonia 580 China (incl. Hong Kong) 887 South Korea 836
Finland	80,366 foreigners from non-EU countries 6 largest groups: Russian Federation 25,326 Somalia 4,623 Serbia and Montenegro 3,340 Iraq 3,045 Thailand 2,994 Turkey 2,886
Sweden	269,589 foreigners from non-EU countries 6 largest groups: Norway 35,498 Iraq 30,257 Thailand 12,495 Somalia 11,595 Iran 10,526 Turkey 10,221
United Kingdom	2,231,200 foreigners from non-EU countries; no more specific data available

Table 1 lists the 6 most populous groups of resident foreigners by citizenship in each member country of the European Union. Taken together, all those groups of foreign nationals represent the largest part of the Europe-wide pool of candidates for European citizenship. Data reveal that the resident foreign population in the E.U. differs by citizenship quite extensively within the internal borders of each member state.[6] There are

---

[6] These data of course disregard the numbers of illegal immigrants, present in EU countries. For purposes of the immigrant stock by nationality in each EU country it is likely that the largest groups of illegal immigrants will be from the same countries as the regularly

several different explanations for the presence of different groups of foreign nationals in each member state, coming from several diverse corners of the globe. Some of it has to do with the colonial history of EU member states: this might explain for instance the presence of large numbers of Brazilians in Portugal and of Ecuadoreans and Colombians in Spain; former political belonging of the relevant EU country also has a determinant weight: so of course, one could expect to find large numbers of Russians, Ukrainians and Belarussians in the former Soviet republics of Latvia and Lithuania, or to find abundance of Bosnians, Croatians and Macedonians in Slovenia; geographical closeness, coupled with historical links in some cases, is also an explanation for the presence of Moroccans in Spain and Italy, of Albanians in Italy, Norwegians in Sweden and Serbians in Austria. Unexpected presences may also be accounted for with the foreign policy of a certain country and its asylum policy (Iraqis in Sweden) and with older immigration histories for others (Turks in Germany). From the point of view of national societies, these numbers and groupings confirm once again individual national histories and the determinant role of their past political links and of their geographical location.

If looked at from the point of view of a hypothetical European society, these data tell a quite different story, which tends to highlight that the grouping effect of European citizenship is quite random: if we assume nationality as an indicator of diversity, we can conclude that the immigration-dependent pool of candidates for European citizenship differs widely throughout Europe in terms of their origin, language, cultures, religions and alternative collective identities; in other words there is no identikit of the potential European citizen. What is more, those different groups of national candidates will not assume a common European profile in the course of their becoming citizens; they will become national, and thus European citizens, only by going through widely diverging procedures, all of them flavored of nationalism. 68,000 Cape Verdeans for instance might become European citizens by speaking their own language, which is also the one of Portugal; 12,000 Thais might become European citizens by having led a respectable life in Sweden; 5,000 Moldovans might become European citizens by proving attachment to the Romanian state and people, and knowledge of the Romanian constitution. But other than complying with the naturalization requirements of a member state what is it that makes their experience common? If there is an EU Europeaness, what is it that makes them Europeans of that sort in their own eyes and in the eyes of the other Europeans? The answer is hardly anything.

The second peculiarity with respect to the extension of European citizenship is that it is tied to intergovernmental logics of expansion and to political events of enlargement: European citizenship expands as an oil stain each time that a new member state is admitted into the European club. The European Union has geographically grown quite a bit since the original signing of the Treaty of Rome among six founding members in 1957.[7]

A general set of criteria for accession into the European Union can be found in the provisions of the Treaty on European Union: any geographically European State can apply for accession if it respects liberty, democracy, human rights and fundamental freedoms,

---

resident ones; this is in part because these data find explanations in geographical and historical links with sending countries; in part because some of these groups of resident foreigners have achieved themselves legal status through so called amnesty decisions throughout the years.

[7] In 1973, Denmark, Ireland and the UK acceded to the E.U.; in 1981, Greece; in 1986, Portugal and Spain; in 1995, Austria, Sweden and Finland; in 2004 Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia; in 2007 Bulgaria and Romania.

the rule of law, and national identities.[8] The European Council specified in Copenhagen in 1993 what it really takes to become members of the European club, by making explicit those that have become commonly known as Copenhagen criteria: stability of institutions, a functioning market economy, and ability to assume the obligations of membership and to adopt the *acquis communautaire*. European countries, which meet these requirements can thus apply for membership, and if their application is accepted a tortuous, multi-phase process of negotiation opens up: the institutions of the European Union interact closely with the governments of the prospective members in the course of this process to build a roadmap for membership, to negotiate the conditions of accession and to verify that all the requirements are met.[9] The long negotiation, if successful, eventually leads to the signing of accession treaties, which have to be ratified by all member states according to their constitutional requirements.

Every time this process gets to its completion and a new member state enters the Community, the nationals of the new entrant become automatically European citizens with little ceremony: it has so happened for the 1995 enlargement and more recently for the 2004 and 2007 ones.[10]

The oil-stain extension of citizenship depersonalizes the process of acquisition of legal sameness. In some sense, this reminds of the way citizenship was extended in the Roman Empire to new groups of colonized people, or of the way the extension of citizenship may be tied to fundamental political transformations in an entity, such as federation or secession. Conferral of citizenship has in all these instances the same collective character: yet in the case of imperial citizenship, of federation or of secession, the extension of citizenship is closely tied to some unique political episode in the story of a people, which makes the *incipit* of legal belonging clearly marked in both collective and individual memories. Ingress into the European Union is primarily an intergovernmental business, of which the people at large at most here echoes and around which they form some vague expectation about the impact this might have on their economic future.[11] The entity they enter, while arguably important to their individual life does not have the immediacy and the charisma, in its relationship with the citizens that an imperial or national political entity has. European citizenship thus slips unnoticed into its place at each subsequent enlargement of the European Union, as a marginal accident of a more complex phenomenon of integration, and with reduced impact on the collective psyche of the citizens.

---

[8] See Treaty on European Union, articles 6 and 49.

[9] Once a country's application for accession has been accepted, the Commission has to prepare an opinion regarding the suitability of the proposed applicant, and will do so by inquiring with national governments and with international organizations. This phase will often include the preparation of a Stabilization and Association agreement, which represents a roadmap for membership. Then the Commission submits an opinion to the European Council. If the opinion is favorable, the European Council may decide unanimously that the applicant should be considered a candidate for accession. Recognition of candidate status means acknowledgment of a closer relationship between the country and the EU and also it activates supportive measures such as financial instruments to help preparation for accession. Also, once an applicant has become a candidate the negotiations for accession begin: the Council of Ministers adopts a negotiating framework, which represents the opening step for the formal intergovernmental conference, within which negotiations for accession will be conducted. Negotiations are then conducted between ministers or members of COREPER for the EU and a chief negotiator and an expert team for the applicant country. Once the negotiations are concluded, what has been established passes in the Accession Treaty. See Ian Barnes and Pamela Barnes, Enlargement in Michelle Cini, European Union Politics (2007) at 422-440.

[10] The formal concept of European citizenship has been introduced by the 1992 Treaty of Maastricht, so no formal expansion of legal sameness occurred in the course of the enlargements in the '70s and '80s; at that time, on the other hand, Europe was primarily an economic community, while its political meaning has found concrete and formalized expression only beginning in the 90s: this has revolutionized the prospects of a European citizenship.

[11] It should be noted however that direct popular consultations were held in all of the 2004 entrant states, with the exception of Cyprus; the "yes" votes represented a solid majority in all of this *referenda*, with the exception of Malta, where there was a majority of "yes" voters but a quite narrow one (53.6%)

A measure of arbitrariness and oil-stain character denote thus the expansion of European citizenship and of the corresponding norm of legal sameness: arbitrariness if one looks at the immigration-sourced pool of candidates for EU citizenship; oil-stain character if one looks at Europeanization by enlargement of the Union itself. When the two hypothesis of legal sameness expansion get combined, the disillusioning effect on the natives is at its apex. This can be observed by considering the case of those pockets of nationals of a state, which is newly entering the E.U., who reside already, as foreigners, in a long-time member country of the European Union. Becoming European citizens, in conjunction with the European accession of their country of nationality, while residing abroad, means for these groups of emigrants yet EU residents becoming, from one day to the next, a bit less legally other in their host country. As newly made European citizens, they can now vote in local and European elections in their host state and they gain a number of non discriminatory protections with respect to local nationals, for purposes for instance of access to the labor market and to social benefits. Focusing on the local community of the host nation state, this alters existing balances both in the immigrant community and in the national one. In the immigrant community, the oil-stain of European legal sameness cuts across immigration histories, shortening and easing the course to integration for some favored components of the immigrant pool: the new European citizens all of a sudden surpass in status other parts of the immigrant community, regardless of how long they have been resident in the host state and regardless of their employment and family history. In this case, a collective transformation displaces and alters individual histories.

As a result of both naturalization of immigrants and enlargement of the E.U. to new member countries, European legal sameness gets super-imposed on an increasingly diverse range of individual and collective identities; the roughly 476 million European citizens speak more than 23 different languages, they profess different religions, they have different ethnic origins; they are differently used to live in diverse societies, as some of them come from homogeneous national states, some from states that have been part of multi-ethnic empires; their collective memories differ and sometimes may possibly be articulated around different sides of the same episode;[12] their political selves are likely to be different as well as some of them have lived in deeply rooted democratic systems, while others have experienced harsh totalitarian regimes.

This is not meant to suggest that European legal sameness should be for a narrower group of more culturally homogeneous individuals. On the contrary, diversity is a societal and organizational quality that cannot be renounced if integrated Europe is to avoid falling back into the faults of nationalism. Rather, this evaluation of the dynamics of expansion of European citizenship and legal sameness at the European level is aimed at emphasizing a peculiarity of the regime of supranational citizenship that the E.U. has introduced: while as an institution European citizenship calls for a sense of European "groupness", it actually groups in its practice an increasing amount of diversity, without providing, at present, any evident filter to distinguish, within that widespread diversity, some authentic sameness.

---

[12] For instance, when Luxembourg people pride themselves on their independence from the Netherlands in 1839, they refer to an event that in the historical consciousness of the Dutch people represents a loss; the same applies to the independence history of Malta and Cyprus from the UK: what is a national achievement on one side, is a colonial loss on the other one.

The European Mismatch

The issue is one of lack of resonance between the legal scenario depicted by the norm of citizenship and the socio-cultural environment in which the norm should produce an effect: the boundaries of the group of sameness suggested by societal factors do not coincide with those drawn in the legal norm.

For a situation of this kind, studies in international relations suggest that the pull of the legal norm will lose in effectiveness.

Relevant hints can be found in accounts, which focus on the role of norm-takers, domestic actors in other words, on which the international norm has to act. Jeffrey Checkel predicts that the more the norm resonates with the values and beliefs of those actors, the easier its reception and internalization will be.[13] He focuses on the culture of the receiving society, described by the focus of relevant domestic norms.[14] Checkel's prediction in this respect is that "cultural match" will contribute to determine the degree of domestic resonance of an international norm:[15] the more distant the international norm will be from the domestic one, the slower and harder will be the diffusion process.[16]

Checkel defines cultural match as the "situation where the prescriptions embodied in an international norm are convergent with domestic norms as reflected in discourse, the legal system (constitutions, judicial codes, laws) and bureaucratic agencies (organizational ethos and administrative procedure)".[17] His cultural match is a variable, which can be organized on a spectrum, going from complete congruence between domestic and international norms to absence of any congruence: the prediction is that the level of constitutive effect that an international norm will have on domestic actors' preferences is directly related to the level of congruence between domestic and international norm.[18]

Checkel's mismatch is one thought in terms of values and beliefs. The international norm resonates, if it is a vehicle of values and ideas congruent with those expressed in relevant domestic norms. The mismatch between legal criteria of membership and societal factors of sameness is rather one in identitarian terms: it is what the legal norm says it is appropriate to perceive as same, and what societal scripts suggest to perceive as same, which diverge. The dynamics of effectiveness are in any case similar; the international norms in Checkel's account will only achieve their end result by leading to a change of the corresponding domestic norms. This might happen through a variety of intermediate mechanisms, which might involve elites and society at large to different extents, depending, in Checkel's view on the kind of society at hand. In the case of legal and societal sameness, the norm of citizenship will only achieve its end result, if the legal norm of sameness it entails will succeed in functioning as a vehicle for societal perceptions, reducing the perceptive impact of societal factors of difference and increasing the impact of legal and civic notions of sameness. The intermediate mechanisms will be different from the ones detailed by Checkel. The theoretical premise however is the same:

---

[13] J. T. Checkel, *Norms, Institutions and National Identity* in: Contemporary Europe, 43 Int'l Stud. Q. 83 (1999) p 87.

[14] Checkel takes domestic norms as proxies for culture: he explores the degree of cultural match by assessing resonance of international norms with domestic ones. The latter ones are spelled out by interviewing people to see what their beliefs about those norms are, by considering public debate on the norms at issue as represented in the media, by looking at legal instruments, which codify them, and by considering institutions in which they are embedded. Id. p. 92

[15] Id at. 87 Cultural match is defined as the "situation where the prescriptions embodied in an international norm are convergent with domestic norms as reflected in discourse, the legal system (constitutions, judicial codes, laws) and bureaucratic agencies (organizational ethos and administrative procedure)"
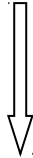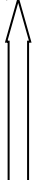
[16] Id. p. 87

[17] Id. p. 87.

[18] Id. p. 87

the more distant the two extremes will be, diffusing international norm and recipient domestic one, diffusing supranational notion of sameness and domestic recipient range of perceptions, the harder will be the task. This will be the case both if that distance finds expression in terms of values and beliefs, as in Checkel's account, and if it finds expression in terms of identitarian components, as in my example. Other studies have documented how resonance between a norm and its recipients in identity terms is also key for effectiveness: for instance it has been found in a study on the Europeanization of political elites in the member states of the European Union that new visions of political order were likely to be actively adopted by the elites if they resonated with pre-existing collective identities as represented in institutions, political discourse and cultures.[19]

The hypothesis can be built thus that the effects that Checkel refers to the lack of cultural match in the context of diffusion of norms, will appear also in the context of the legal norm of sameness diffusing to the societal level: in the absence of resonance, diffusion will tend to slow down and will face obstacles. It is predictable that indifference or outright hostility will meet the definition of sameness that the legal norm brings about: the more rights and opportunities are reconnected to the legal definition of sameness, the more it will meet with hostile or diffident reactions in the general public; the people of Europe will not be amenable to the idea that they share rights, benefits, duties, voice with a group of other people, which a Treaty provision calls same as them, but that in their societal eyes are largely others, speaking different languages, attached to other nations, and belonging to different groups.

In other words, the mismatch in the horizontal relation in Figure 1: Legal and Societal Factors of Sameness tends indeed to weaken the left hand vertical relation, reducing the pull of the norm of citizenship for a corresponding sense of sameness at the societal level; contextually it leaves the right hand vertical relation less exposed to the effects of the left hand one; lack of resonance between legal criteria and societal factors increases indeed the distance between the two vertical relations.

---

[19] See M. Marcussen (et al.) *Constructing Europe? The Evolution of Nation-State Identities*, in: The Social Construction of Europe (Thomas Christiansen, Knud Erik Jorgensen and Antje Wiener eds 2001) p. 101-102, predicting that during critical junctures political elites select according to an instrumental logic from the available visions of political order which resonate; the new collective identities, once they become consensual are internalized and institutionalized and as a result they become resistant to change.

Figure 2

Legal norm of citizenship as marker of community (legal criteria for the grant of citizenship)		Societal factors of sameness
⇓		⇓
Legal sameness (expectation of sense of "groupness" consistent with the boundaries of group of citizens as drawn by criteria above)	⇑	Societal sameness (de facto sense of groupness)

Discomfort with the "other"

One of the potential symptoms of weakness of the notion of legal sameness tied to European citizenship might be found in manifestations of discomfort with diversity throughout Europe. The possible relationship between perceptions of sameness tied to citizenship and comfort with diversity at the societal level is not an easy one to spell. The underlying theory could be that if norms of citizenship are effective, a sense of sameness in civic terms would ripen at the societal level, and this would contribute to gradually mitigating the sense of discomfort towards "others", identified as such in nationalist/cultural-ethnic/religious and linguistic terms. In this sense, discomfort would diminish both towards nationals of other E.U. member states and towards third country nationals.

Of course, even in national societies, where notions of belonging as citizens more straightforward than the European one exist, ethnic and religious boundaries persist; the presence of overarching conceptions of civic belonging, echoing in legislative choices and judicial decisions, helps however to contain the potential fragmenting role that those boundaries have at the societal level.

Whether Europeans feel comfortable or not with diversity is a matter open to question; existing data yield ambivalent answers.[20] On the one hand, the international media tend to suggest that anti-immigrants feelings, nationalism, even xenophobia are on the rise in the European Union.[21] On the other one, surveys conducted in the last eight years register

---

[20] Also see: Francesca Strumia, *European Social Citizenship: Solidarity in the Realm of Faltering Identity* in: European Journal of Social Law (2011) p. 122-131..

[21] See: Noah Feldman, *The New Parias*, in: the New York Times Magazine, (2008) June p. 22,
http://www.nytimes.com/2008/06/22/magazine/22wwln-ledet.html?_r=1&scp=1&sq=noah+feldman&st=nyt&oref=slogin

contrasting results. A 2001 survey on the attitudes of the Europeans towards minorities did not show many signs of openness, only 39% of the citizens of the then E.U. 15 countries answered when questioned that they would have accepted people from other E.U. countries settling in their own; and only 20% of them answered that they would have accepted workers coming from Eastern Europe in their own countries without restrictions.[22] An analysis of the data of the 2003 European Social Survey, commissioned by the European Monitoring Centre on Racism and Xenophobia reveals in addition that about one half of the general European public shows resistance to immigrants and to diversity.[23] Yet a study on perceived discriminations conducted in 2008 offers a more promising scenario; it turns out that Europeans declare to be comfortable having a neighbor of a different ethnic origin or of a different religious belief: their average declared level of comfort on a scale from 1 to 10 is 8.5 in respect of people of different ethnic origin and 8.1 in respect of people of different religious beliefs.[24] On the other hand, the level of comfort goes down to 6.4 in respect of the possibility of having a person ethnically different from the majority of the population exercising the highest political office in the country.[25]

No claim is being made here that citizenship and the related notion of belonging in civic terms have a cause-effect relationship with the perceptions of comfort/discomfort with diversity registered in the surveys I look at: to know exactly which is the impact of citizenship as a legal norm and as a societal experience, on comfort with diversity in a society, one would have to regress a number of factors on citizens perceptions, factors ranging from age, to occupational category, to political orientation, to religious affiliations.[26] That might be an interesting analysis to conduct, but one that exceeds the purpose for looking at societal variables in this paper; in a more limited perspective here, a conclusion that one can perhaps legitimately draw out of this qualitative glance at the data is that national, cultural and ethnic differences, exactly those differences that European citizenship is bringing under a common umbrella of sameness, still matter throughout the European Union, at least in terms of societal perceptions. The socialization power of European citizenship, in other words, seems to be quite weak.

Legitimacy and Acculturation: Reconciling Legal and Societal Sameness

The previous section has explored how widening gaps between legal and societal factors of sameness in the E.U. relate to the sense of discomfort with the "other" and with diversity of the Europeans. This section considers whether and how despite the mismatch

---

[22] See: *Attitudes towards Minorities in the European Union*, a special analysis of the Eurobarometer 2000 survey on behalf of the European Monitoring Centre on Racism and Xenophobia, March 2001, available at
http://ec.europa.eu/public_opinion/archives/ebs/ebs_138_tech.pdf at 31-34

[23] See: *Majorities' attitudes towards minorities in Western and Eastern European Societies: Results from the European Social Survey 2002-2003*, Report 4 for the European Monitoring Centre on Racism and Xenophobia available at
http://raxen.fra.europa.eu/1/webmill.php?id=32835&doc_id=49413 p. 4. Resistance to diversity is defined in the report as the expressed preference for a monocultural society.

[24] See: *Discrimination in the European Union, Perceptions, Experiences and Attitudes*, Special Eurobarometer 296, July 2008; available at http://ec.europa.eu/public_opinion/archives/ebs/ebs_296_en.pdf, at 10

[25] Id. p. 11.

[26] See: *Majorities' attitudes towards minorities in Western and Eastern European Societies: Results from the European Social Survey 2002-2003*, Report 4 for the European Monitoring Centre supra at note 23 at V-VI, suggesting that these factors among others are found in their analysis to particularly affect the taking of exclusionist stances in the population.

between the legal criteria and the societal factors, the legal norm of sameness might still exercise a pull on societal perceptions of sameness and according to which mechanisms.

The hard core of theories of acculturation lies in the idea that actors embedded in a certain environment face pressures to adopt the scripts of the surrounding environment.[27]

Despite the original primarily intergovernmental framework,[28] the European Union has gradually become a thickly institutionalized environment, and the center of an autonomous normative order,[29] whose touchstones not only concern economic rights, but have expanded to include discourses of fundamental rights,[30] non discrimination,[31] citizens' solidarity,[32] and belonging.[33] These discourses translate into certain scripts of belonging as citizens in the European Union; citizens-actors embedded in the European institutional and normative environment, might be exposed, in the context of their interactions at the European level, to pressures to shape their beliefs in a sense consistent with these scripts, thereby strengthening their sense of belonging to Europe.

The idea that exposure to Europe generates Europeaness is not new. Different studies have suggested that European identity is positively related to the level of European experience of a person:[34] acting on the European scene indeed makes Europe "real" in the perception of the agent.[35] In particular Neil Fligstein has underlined how European integration has dramatically increased the level of interaction at the European level:[36] European social, cultural and political fields have emerged; he considers in particular patterns of European migration, Europe-wide civic associations, education programs and popular culture.[37] People who act in those fields, who interact frequently on a European level, who travel and speak other languages are likely to come to see themselves as Europeans; encounters indeed highlight the commonly held meanings and values on which group identities are premised.[38]

It might be worth exploring further then the dynamics according to which interaction might generate identification in Europe.

Each time citizens encounter each other as Europeans in the increasingly institutionalized European context, they have an opportunity to perceive each other as

---

[27] See Ryan Goodman, Derek Jinks, *How to Influence States* Ryan Goodman, Derek Jinks, *How to Influence States: Socialization and International Human Rights Law*, 54 DUKE L.J. 621 (2005) at 626.

[28] For an intergovernmentalist reading of the process of integration, see: Andrew Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (1998)

[29] See Case 26/62, NV Algemene Transport- en Expeditie Onderneming van Gend & Loos v Netherlands Inland Revenue Administration, of 5 February 1963, 1963 ECR 1, where the Court in pronouncing the doctrine of direct effect of European law, suggested that the European Communities represent a new legal order of international law. Also see Grainne de Burca, Europe Judicial Resolution and the UN Security Council, paper presented at the Harvard Faculty Workshop, October 2008, commenting the recent Kadi decision (Case 405/05 and Case 415/05, Kadi and Al Barakaat, judgment of 3 September 2008) of the European Court of Justice, and underscoring how European judges sent a strong message through this judgment about the autonomy of the European legal order and the priority, which it gives to its internally determined values. P. 45.

[30] See Case 405/05 and Case 415/05, Kadi and Al Barakaat, judgment of 3 September 2008.

[31] See: Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

[32] See Case C-184/99, Rudy Grzelczyk v. Centre Public d'Aide Sociale d'Ottignies-Louvain-La-Neuve, 2001 E.C.R. 6193, in the sense that there is a « minimum degree of financial solidarity », binding European citizens.

[33] According to the Court in Grzelczyk (above) and in Baumbast, Case C-413/99, Baumbast and R v. Secretary of State for the Home Department, 2002 E.C.R. 7091, "European citizenship is destined to be the fundamental status of the nationals of the member states".

[34] See: Michael Bruter, *Civic and Cultural Components of a European Identity: A Pilot Model of Measurement of Citizens' Levels of European Identity*, in: Transnational Identities-Becoming European in the EU Richard K. Herrmann, Thomas Risse, Marilynn B. Brewer eds (2004) p. 208, whose findings suggesting that support for integration, civic European identity and cultural European identity tend to be positively correlated to the level of European experience of their holders.

[35] Thomas Risse, *European Institutions and Identity Change: What Have we Learned?* In: Transnational Identities-Becoming European in the EU Richard K. Herrmann, Thomas Risse, Marilynn B. Brewer eds (2004) p. 261.

[36] Neil Fligstein, *Euroclash, the EU, European Identity and the Future of Europe* (2008)

[37] Id. p. 165-207.

[38] Id. p. 126: "group identities are based on commonly held meanings and values and they require face to face interaction with other members of the group in order to come into existence and persist".

same and as members of a coterminous group. European citizens encounter each other in the European Union according to two distinct modes of interaction. In a first sense, they interact as citizens based on their being members of a common group. In the context of business, education and leisure experiences that the doctrines of free movement have made easier in the E.U. they come in contact with one another, and they get exposed to the scripts of coexistence as citizens in the E.U.: non discrimination on the basis of nationality,[39] European belonging,[40] and solidarity.[41] They also encounter one another through the increasing discourse of Europe in the media. Encounters in these fields expose European citizens to their status of shared belonging and might tickle their sense of being members of a same group despite their differences: their sense of sameness might ripen in other words.

On the other hand, however, as it has been examined in previous sections, European citizens form a group of difference, and one whose internal cohesion tends to dilute while the groups extends to include new members. Outside of the fields of encounter described above, then, European citizens transition back to a mode of interaction based on difference: one, where the story is that Bulgarian workers want into the United Kingdom and Romanians want into Italy; one where each national group draws the boundaries of its sense of sameness along the same perimeter as the national boundaries, and one where the interests, stereotypes, prejudices and cultural frictions of different national groups are cast against each other. This is the mode of interaction, where societal factors of difference become more vocal than legal factors of sameness. This time, Europeans national of other member states return to be seen as outsiders, who by entering the labour force of other member states, potentially steal the jobs of local unskilled workers, who, by claiming social entitlements in other member states impose undesirable obligations of assistance on the local welfare institutions, who, when exercising political voice in another member state, do so as intruders.[42]

Two different modes of interaction characterize thus the environment of embedding of European citizens: interaction as national citizens in the context of each national group, and interaction as European citizens, across borders and in the context of institutionalized Europe. Perceptions and beliefs with respect to the other Europeans proper to each of the two modes of interaction tend to be opposed: based on difference in the former case, based on sameness in the latter one.

Now, citizens, who interact on the European level and perceive other Europeans as members to some extent of a same group, might experience at some point something akin to cognitive dissonance, when they then in other social and personal interactions find themselves regarding those other Europeans as different and other from them. The inconsistency between the two cognitions might provide discomfort and thus motivation

---

[39] See: E.C. Treaty art. 12.

[40] According to the Court in Case C-184/99, Rudy Grzelczyk v. Centre Public d'Aide Sociale d'Ottignies-Louvain-La-Neuve, 2001 E.C.R. 6193and in Baumbast, Case C-413/99, Baumbast and R v. Secretary of State for the Home Department, 2002 E.C.R. 7091, "European citizenship is destined to be the fundamental status of the nationals of the member states".

[41] See: Case C-184/99, Rudy Grzelczyk v. Centre Public d'Aide Sociale d'Ottignies-Louvain-La-Neuve, 2001 E.C.R. 6193, in the sense that there is a « minimum degree of financial solidarity », binding European citizens.

[42] See Maurizio Ferrera, *The Boundaries of Welfare* (2005) ap. 42 for the claim that with European integration the territorial boundaries of citizenship are being altered and those rights are made available also to previous outsiders. As for the sense that intra-Community migrants might represent cheap labor stealing the jobs of local workers in other member states, the story of the Polish plumber, born in the context of the French campaign against ratification of the European Constitution, has become a symbol of that fear; for a recount of that story see http://www.nytimes.com/2005/06/26/international/europe/26poland.html?pagewanted=all. Only in the last few days, and in the wake of the global recession, workers in several British cities have walked out to protest the hiring of foreign workers from other E.U. countries; see "UK Government seeks to end protests on foreign labor", International Herald Tribune, 31 January 2009, at http://www.iht.com/articles/ap/2009/01/31/europe/EU-Britain-Labor-Protests.php

for them to gradually alter and adapt their beliefs:[43] in the long run, citizens might begin to discount information inconsistent with one of their modes of interaction, and eventually they might abandon perceptions that their social reality does not support.[44]

Given the dualism between national and supranational mode of interaction for the citizens of Europe, this alteration in beliefs might happen in one of two directions: the mode based on difference might have the strongest influence and lead to more and more resistance to the European other on the part of the citizens; or the mode based on sameness might prevail, and in this case citizens might be led to discount their sense of otherness, effectively internalizing the scripts of coexistence as citizens in the E.U. and gradually getting socialized to the norm of European sameness.

I do not have the basis to predict, which one of these two hypothesis is more likely to find realization; I argue however that in this contest between difference and sameness, elements of institutional design with respect to the institution of European citizenship might help the balance to tilt in one direction rather than the other, easing, rather than hampering a process of acculturation into norms of coexistence. The notion of legitimacy, in particular, might provide some guidance in designing European citizenship.

Triggering Acculturation through Legitimacy

One of the elements that different accounts of acculturation and socialization have in common is the emphasis on the role of legitimacy as a source of pressures to conform: mechanisms of acculturation work on actors, who are generally acknowledged as the legitimate participants in a certain environment; in turn those actors are led to internalize the norms of the environment around them, in order to maintain their status and bolster their legitimacy: in other words actors' desire to preserve a legitimate status fuels pressures to conform.[45]

Goodman-Jinks underline for instance how states are highly legitimate actors in the world order to whose scripts they are expected to conform;[46] many of the pressures that states face in their process of adopting or rejecting international norms are sourced in their desire to receive social approval and thereby maintain their legitimate status among the members of the international community.[47]

Do logics of legitimacy operate in comparable ways in the context of citizen actors in a polity? The analogy is a delicate one, but I argue that as the European Union is a hybrid between an organization and a state entity, European citizens are actors in the European environment in a way comparable to states in the international world order.

---

[43] See: Leon Festinger, *A Theory of Cognitive Dissonance* (1957) p. 2-3; also see: Ryan Goodman, Derek Jinks, *How to Influence States* Ryan Goodman, Derek Jinks, *How to Influence States: Socialization and International Human Rights Law*, p. 54 Duke L.J. 621 (2005), p. 640-641.

[44] Leon Festinger, *A Theory of Cognitive Dissonance* (1957) p. 24; also see: E. Tory Higgins and John A. Bargh, *Social Cognition and Social Perception*, 38 Ann. Rev. Psychol. 369 (1987) in the sense that it has been shown that once actors have formed certain beliefs, they will tend to discount information inconsistent with those beliefs, and will also tend to re-elaborate memories in a way consistent with the beliefs.

[45] Id. p. 641, in the sense that "actors hoard social legitimacy and social status, and they minimize social disapproval". Also see: John W. Meyer and Bryan Rowan, *Institutionalized Organizations: Formal Structure as Myth and Ceremony*, 83 Am. J. Soc. 340 (1977) p. 349, for the claim that adhering to formal structures supported in the surrounding environment lends legitimacy to an organization and helps its survival.

[46] See: Ryan Goodman, Derek Jinks, *How to Influence States* Ryan Goodman, Derek Jinks, *How to Influence States: Socialization and International Human Rights Law*, 54 DUKE L.J. 621 (2005) at 647-648.

[47] Id. p. 641.

As suggested earlier,[48] a relevant difference between the experience of citizenship within national boundaries and the experience of citizenship in the European context is in modes of participation. National citizens participate in the common political life by voting for elective institutions and being elected to public offices; in the frame of the welfare state, they owe each other a measure of solidarity, they pay taxes to honor that commitment and in return they claim entitlements in front of governmental institutions. On the other hand, while participation is often represented as the Achilles' heel of European citizenship,[49] also being citizens in the European Union entails some important options for involvement; for European citizens, membership in the E.U. finds expression in their being economic actors on the market, providers of viewpoints in the context of political union, and holders of rights in the legal European community. As holders of those roles, European citizens challenge national decisions and legislative acts in front of the European courts, they constitute interest groups to lobby the Commission for legislative proposals, and they negotiate with each other as economic actors on an integrated, cross-border market.[50] Negotiation and bargaining, typical of the intergovernmental interaction among states, become a constituent part of their behavior as citizens.[51] In this way, also the relationship between citizens and their national governments changes and loses in paternalism: citizens do not simply turn to government to claim protection and rights, to protest abuses of power and to exact accountability through Parliamentary dynamics; they rather try to bully their national governments by bringing and threatening to bring them to respond in front of European institutions, and they hold them liable in front of national judges if they are slow or ineffective in delivering their European rights.[52] On European terrain, citizen-members confront state-members with toolsets resembling in part those that governments use in-between themselves in the international order. It is the hybrid

---

[48] See above page 161-162.

[49] See: Dominique Schnapper, *The European Debate on Citizenship* (1997) 126 Daedalus 199 p. 204-08; also see: Raymond Aron, *Multinational Citizenship?* In: 41/4 Social Research 638 (1974) p. 648-53.

[50] European citizens have access to the European courts in at least two important ways; in front of national judges they can push for reference of an issue involving European law to the European Court of Justice (art. 234 EC Treaty); also every natural or legal person in the EU has standing to challenge the acts of European institutions or to challenge institutions in front of the ECJ for their failure to act (art. 230 and 232 EC Treaty); interest groups may solicit legislative proposals from the European Commission; in addition, in advance of submitting legislative proposals, the European Commission consults civil society in different phases (by adopting Green Papers for instance, the Commission puts the problems on the table and solicits submissions and comments from governmental and private actors). The partnership principle and the search for the involvement of private parties are also an important element in the context of the Lisbon agenda and of the open method of coordination, which is now the leading mode of action in some non traditional sectors of Community decision-making. The open method of coordination has been considered an example of "new governance" models; at the core of it there is indeed the intent to engage in "mutual problem solving among stakeholders from government and the private sector". See J. Scott and D. Trubek, "Mind the Gap: Law and New Approaches to Governance in the European Union", 8 ELJ 1, 5-6 (2002). Also see Stephen Weatherill, Cases and Materials on EU Law (8th edition 2007) at 651-658. In terms of confronting each other as economic actors on an integrated market, the Viking case (Case C-438/05, The International Transport Workers Federation and the Finnish Seamen's Union v Viking Line ABP, 2008 OJ C 51) provides a good example of how different sets of citizens' economic rights are often cast against each other in the context of the European common market. The case was about a Finnish company operating a ferry service, which was trying to re-flag its vessel in Estonia, thereby exercising a right to establishment under European law, in order to avoid Finnish labor legislation; the unions to which the Finnish crew belonged reacted by planning a number of strikes and by seeking support of Estonian unions to halt the re-flagging plan; collective action on the part of the trade unions was ultimately considered an undue interference with the company's right to establishment; the case illustrates effectively the modes of interaction among European citizens, as the rights it concerns, right to establishment and right to collective action are ultimately fundamental rights of the European economic citizen: those two rights confronted each other in this case and were the subject of a judicial balancing process.

[51] For an account of bargaining democracy in the European Union, see: A. Héritier, *Elements of Democratic Legitimation in Europe: an Alternative Perspective*, Journal of European Public Policy 6, p. 275. European citizenship certainly involves also more traditional modes of participation and expressing one's own membership in the Community, such as for instance voting in the European Parliament. The argument is however here that those traditional forms are rather weak and do not represent the expression of a strong form of membership in the European Community.

[52] The doctrines of state liability in the European Union was first introduced with the Francovich case, Cases C-6 and 9/90, Francovich and Bonifaci v. Italy, 1991 ECR I-5537; under this doctrine, when certain requirements are met, national governments may be held liable in national courts for the damages that their non compliance with requirements of European law has caused to private parties.

nature of the E.U., which by injecting seeds of statehood and federation into the genes of an international organization produces this metamorphosis in the DNA of the citizen: not simply a subject, a represented member, and the end ring in a chain of accountability, but an actor also in the intergovernmental sense of the term. Treaty language in the wake of the Lisbon treaty indeed addresses both member states and European citizens as legitimate participants on an even plan in the ongoing project of integration.[53]

In light of this transformation, pressures sourced in the desire to maintain and bolster one's own status of legitimacy as citizen might become central to the process of bonding for citizens beyond the nation. National narratives created "groupness" by speaking the language of homogeneity and unity, in either ethnic or civic terms; that way, they recast citizens' differences in tales of national unity, and thereby propelled, with varied success, their bonding. Citizens on the European scene are rather linked by the ropes of legitimacy: through the language of the Treaties, the positions of European judges and the engagement of European politicians, citizens are acknowledged and courted as legitimate participants in the European Union, notwithstanding their cultural, linguistic, religious, ideological differences. [54] The emphasis is on what they are entitled to do, in their condition as European citizens, condition which does not supersede but enriches and complements their national citizenship;[55] this condition translates into a status of legitimate membership in the European community of law; the bond of legitimate membership, despite societal differences, might turn out to be key in reinforcing the citizens sense of common belonging beyond national boundaries, and in soliciting their internalization of the scripts they get exposed to when they interact as a group on the European scene.

Awareness on the citizens' end of their status as legitimate participants on the European scene might trigger pressures to maintain that status of legitimacy, by rejecting behaviors and beliefs, which are inconsistent with the scripts of belonging as citizens in the European institutionalized order; the draw to preserve legitimacy might work in other words as a socializing agent for the European citizens.

The course of acculturation might be long, tortuous and inconstant: dynamics of bonding through sameness and dynamics of bonding through legitimacy are being grafted on to each other in the E.U., and they will have to find a mutually respectful speed: it is likely that diversities, societal and cultural, which thwart the process of bonding through sameness, will exercise initially a strong inertia pull. There's no certainty of course that logics of legitimacy may ever win that *inertia*; the argument here is however that if something can ever overcome the disaggregating role of diversity on perceptions of "groupness", this something might well be a bonding dynamic that passes through legitimacy, made salient through the notion of European citizenship.

For this to happen, in any case, the sense of legitimacy of actual and prospective citizens probably needs to be bolstered.

---

[53] See Lisbon Treaty, article 1 modifying article 9 of the EC treaty, to precise that the European institutional framework should be apt to serve the interests of its citizens and of its member states; the Treaty thereby evidences two categories of subjects to which European institutions are called to be responsive on an even plan. Also see art.1, introducing a new article 8a in the EC Treaty, and suggesting the existence of a double line of representation in the E.U.: citizens are represented in the European Parliament, member states in the European Council and in the Council of Ministers.

[54] Consider for instance the European Commission roadshow on European citizenship, a traveling information campaign which has targeted in October 2008, Germany and Romania; http://eucitizenship.eu/index_en.htm

[55] As Advocate General Jacobs famously noted in his opinion in the Konstantinidis case, a Community national who goes to another member state for purposes of his work or trade is not only entitled to pursue his trade or profession there, but he is entitled to say ""civis europaeus sum" and to invoke that status in order to oppose any violation of his fundamental rights". See Case C-168-91, Christos Konstantinidis v Stadt Altensteig, opinion of AG Jacobs delivered on 9 December 1992, 1993 ECR I-01191 at par. 46.

An effort to bolster a sense of reciprocal legitimacy among the citizens of Europe might pass through elements of institutional design, which, even if European citizenship remains dependent on nationality of one of the member states, make the passage of European insider/outsider divides more meaningful for citizens, immigrants, and nationals of acceding member states: this might entail highlighting the moment they obtain European citizenship as a moment of belonging to Europe, which changes their opportunities, their status of membership and their life options. It might also require a continued effort to foster a minimum level of sharing among European citizens, by actively recalling the shared elements of their cultural heritage. Belonging moments, and cultural policy may contribute to consolidate a sense of legitimacy in a latent way. Interaction in the densely institutionalized European environment might turn that latent notion of legitimacy from passive into active, triggering that way a process of acculturation of the citizens to the scripts of the surrounding environment: one of the fundamental scripts in the European institutionalized order is that nationals of the member states, through the bond of legitimacy that European citizenship brings about, have become active members in a group of sameness.

Europe without Sameness?

What would happen on the other hand, if none of this took place and any potential acculturation to scripts of coexistence as citizens failed, in spite of potential reforms of the norms and institutions surrounding European citizenship?

Current *indicia*, to begin with the demonstrations against foreign E.U. workers in the U.K. in the wake of a global economic and financial crisis, and to continue with all the lingering discourses of protectionism to which we are witnesses in these days, seem to suggest that an outcome of this kind is not as remote.

Lack of acculturation would not necessarily mean a failure of the process of integration, even if it might represent a defeat for European citizenship. European citizenship for sure, and probably also the process of integration might have to be reconsidered in light of this. The European one can only be a union in diversity; if citizenship fails as a possible filter for diversity, this does not mean necessarily that union will collapse, but it might mean that this union will have to revise and possibly resize its goals: projects of increased political cohesion, of institutional reinforcement and of enlargement have to take into account the challenges of diversity, and if no sense of civic sameness could ripen in the E.U. those challenges would only become more urgent.

The ultimate question that would remain open would be if a community of law, committed to the rule of law, engaged in shared law making, and in shared enforcement, and caressing common political goals and common values can survive without a measure of sharing at the basis, at the level of the people and citizens, who live on its territory, who are affected by those laws and by those goals, and to whom ultimately the shared institutions are accountable.

That question does not necessarily need to be answered through the frame of citizenship, but citizenship seems to offer an important frame to address it and to re-think the scope and the pathways of belonging in the European Union.