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## Between Alien and Citizen: Denizenship in the “Old” and “New” Europe

*Abstract:* Denizenship means that a state grants certain economic, social, and (sometimes) partial political rights to long-term residents who are settled within its borders but do not possess its citizenship. The main objective of this article is to explore the phenomenon of denizenship in the countries of the European Union to see if there are important differences between the 15 countries of the “old” Europe and the 10 countries of the “new” Europe in terms of the expansion of denizenship. The main principles, development, and theoretical frameworks of denizenship will be presented, along with considerations on the presence or absence of international regulations that might influence policy-makers’ decisions on implementing denizenship within the European Union. As the research shows, denizenship is becoming common in both parts of the continent, blurring in this respect the East/West divide and becoming a sign of a “united Europe.”

*Keywords:* denizenship, the European Union, the “old” Europe of 10, the “new” Europe of 15, long-term residents

### Introduction

Denizenship is a relatively new phenomenon, which has been gradually developing within Europe since the 1960s. It is a form of semi-citizenship and its development marks an important step in the current transformation of citizenship. Denizenship means that a state grants certain economic, social, and (in some cases) partial political rights to long-term residents who are settled within its borders but do not have citizenship. Therefore, non-nationals who benefit from such entitlements have a specific “in-between” status: between being an alien without civil rights and a citizen enjoying the full range of those rights.

Denizenship is not a legal term, and it does not exist in European or national legislation. It is an academic concept, advanced by scholars (Aleinikoff, Klusmeyer 2002; Bosniak 2006; Hammar 1990; Soysal 1994). The broad context for exploring the issue of denizenship is provided by discussions on globalization and the future of the nation state, debates on changes in the meaning of citizenship, and analyses of the relationships between immigrants and receiving states (Bauböck 1994, 2002, 2003, 2005; Bosniak 2000; Castles 2002; Faist 2000; Hammar 1990; Hansen 2009; Joppke 2003; Kymlicka 2001; Sassen 2002; Soysal 1994; Vertovec 2009, 2013).

Although the legal framework of the European Union has had a unifying effect in many areas, the issues of citizenship and the legislation connected with it still remain within the authority of a given state. In numerous aspects, discrepancies can be seen between the

countries of the East and of the West. For example, the existence of a so-called status law, granting special citizen-like entitlements to co-ethnics living abroad, is more common in Eastern Europe, whereas in Western Europe citizenship legislation is becoming more open to foreigners, as is reflected in the double *jus soli* (granting citizenship to second-generation migrants).

The main objective of this article is to explore the phenomenon of denizenship in the countries of the European Union, to see if there are important differences between the 15 countries of the “old” Europe and the 10 countries of the “new” Europe in terms of the expansion of denizenship.<sup>1</sup> In the two parts of Europe, which vary in terms of historical traditions, paths of development, and determinants of national identity, the rationale for implementing denizenship might be different. However, due to space limitations, this study does not consider specific conditions or the politics involved in the implementation of denizenship in particular countries but looks specifically at the current standing of denizenship legislation. In the article, the main principles, development, and theoretical frameworks of denizenship will be presented, along with considerations on the presence or absence of international regulations that might influence and shape policy-makers’ decisions on implementing denizenship within the European Union. As the research shows, denizenship, which is based on an inclusive, post-modern concept of democracy, is becoming common in both parts of the continent, blurring the East/West divide and becoming a sign of a “united Europe.”

### Citizenship legislation: East versus West?

Even though in many respects European integration has made much progress, the differences between the “old” Western part and the “new,” post-communist, Eastern parts of Europe are still observable, proving the persistence of the traditional East–West division.<sup>2</sup> Such a division, manifested empirically in, for example, different levels of social trust or different numbers of immigrants, is often interpreted as historically grounded, based on different paths of development, and rooted in separate determinants of national identity (Kymlicka 2007; Kymlicka 2015; Liebich 2010; Melegh 2006). Special importance is attributed here to distinct ideas of the nation in Western and Eastern Europe: an ethnic understanding of the nation is prevalent in the East, whereas a civic concept is characteristic of the West (Davis 2005; Gellner 1983; Greenfeld 1992; Smith 1991; Smith 1999: 82).<sup>3</sup>

<sup>1</sup> For the purpose of this article, the “old Europe of 15” is understood to mean those Western countries that are members of the European Union (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxemburg, Netherlands, Portugal, Spain, Sweden, and the United Kingdom; the issue of Brexit, planned for 2019 is omitted), and the “new Europe of 10” is understood to mean the countries that were part of the communist bloc until the systemic transformation started in 1989, and which joined the EU in 2004 or 2007 (Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, and Slovenia).

<sup>2</sup> The debate between the opponents and advocates of the existence of such a divide is presented in, for example, Bauböck, Liebich (2010). The discussion of the applicability of some Western models to Eastern Europe is presented in, for example, Kymlicka, Opalski (2001).

<sup>3</sup> Such a distinction, of a “civic nation” versus an “ethnic nation,” is popular in the literature (Brubaker 1992; Gellner 1983; Greenfeld 1992; Jaskułowski 2010: 293; Kohn 1944; Smith 1986; Smith 1991: 11). At the same time, it has attracted a lot of criticism (Brubaker 1996; Jaskułowski 2010; Kuzio 2002: 20; Lucka 2006; Nielsen 1996; Zubrzycki 2001: 629).

Numerous researchers claim that the dominant concept of a “nation” translates into legislation on citizenship; at the same time, such legislation consolidates and legitimizes the idea. Consequently, it may have been the ethnic/civic distinction that led to the creation of the two different legal frameworks in Eastern and Western Europe. Such an approach was introduced by Rogers Brubaker (1992, 1994). In analyzing the case of France and Germany, he made the link between a “distinctive and deeply rooted understandings of nationhood” (Brubaker 1992: x–xi), and the concepts of citizenship that were reflected in legislation. Following this approach, Zoltan Kantor emphasized that “While the laws are not meant explicitly to define the nation, they do so implicitly” (Kantor 2006: 46). Christin Hess (2011: 109) interpreted citizenship as the tool through which access to membership in the nation is decided. John D. Skrentny and his associates noted that “In deciding how to treat co-ethnic non-nationals, states are in effect defining the boundaries of the nation. The making of immigration and other policy regarding foreigners forces policymakers to consider billions of people and to decide whether all foreigners are essentially the same or whether their blood or ancestry matters” (Skrentny et al. 2007: 794). Therefore, policies on citizenship, including both immigration and emigration issues, might be considered a form of practicing nationhood (Brubaker 1994).

The two different legal frameworks connected to the dominant concepts of nation (civic or ethnic) are reflected in, for example, the presence or absence of a so-called status law (Fowler 2004; Ieda 2006; Kantor et al. 2004; Pogonyi, Kovács, Körtvélyesi 2010; Stewart 2009; Tóth 2005). Based on ethno-cultural affinity with the kin state, a status law grants special entitlements to co-ethnics residing in other countries. Such privileges do not embrace all citizenship rights but include social, economic, and cultural prerogatives, and constitute a form of semi-citizenship. Status laws exist in numerous countries in Eastern Europe (such as Bulgaria, Hungary, Poland, Romania, Slovakia, and Slovenia), but in Western Europe only Greece has introduced such legislation. A similar split between the East and the West can be seen in the different procedures for acquiring citizenship. In Eastern European states, citizenship is usually granted on the basis of blood ties, and *jus sanguinis* dominates the legislation on citizenship, while in Western European states there is a dominance of *jus soli*: citizenship is granted based on the place of birth. As Hess comments, “Ethno-cultural nations typically award citizenship to children born to a member of the ethnic community, whereas for civic nations the place of birth and an allegiance to political values determines the right to citizenship” (Hess 2011: 106). As a result, none of the ten new EU member states grants automatic citizenship to second-generation migrants (the so-called double *jus soli*). Consequently, these states “lack the automatic incorporation mechanism present in almost all West European countries” (Hansen 2009: 18). Indeed, introducing double *jus soli* is common for West European states: eight out of fifteen old-Europe countries grant citizenship to second-generation migrants (sometimes with certain limitations; Hansen 2009: 18, Iordachi 2010: 9).

However, making such a connection between the dominant concept of nation and citizenship legislation is sometimes interpreted as being too simplistic. Numerous authors see the relationship as not so stable, but, on the contrary, influenced by many additional factors, and therefore much more dynamic. They analyze the processes and phenomena influencing changes in the legal regimes of citizenship. Christian Joppke (2003) notes that such

changes—or the lack thereof—might depend on the political coalition in power (whether it is leftist or rightist), and the flows of people (immigration versus emigration). Jeannette Money (2009) argues that the changes happen when there is an imbalance between the rights and responsibilities of non-citizens and citizens. Marc Morjé Howard (2006) shows that the presence of strong far-right parties prevents the liberalization of citizenship legislation. Oxana Shevel (2009) analyzes a variety of possible factors influencing the specific forms of legislation on citizenship, such as: rising immigration, the spread of human rights values, and so forth. Such legislation might also be an “accidental” outcome of contested politics of identity (a result of political parties’ contestation over the concept of nation), and/or pragmatic interests.

Thus in such interpretations, the legal regime of citizenship is not always a reflection of the dominant concept of nation; the causal link between national identity and legislation on citizenship need not exist. Consequently, some researchers question the supposedly straightforward differences in the legal regimes of citizenship between the West and the East, undermining the connection with civic and ethnic concepts of nation. For example, Maria M. Kovács (2010) claims that ethnic preferentialism (manifested in legislation) is not a distinctive feature of the East, since it has been borrowed from the West. Skrentny et al. (2007) note that laws privileging kin minorities abroad are not present in Eastern Europe alone but also in some Western European countries (for example, Spain, Portugal, Greece, Italy, and Ireland). Constantin Iordachi (2010: 12) emphasizes that the *jus soli–jus sanguinis* distinction, which allegedly divides the West from the East, is in reality reflected in the divide between traditional countries of immigration (where *jus soli* predominates) and continental Europe (where *jus sanguinis* predominates).

Therefore, the connection between the dominant concept of the nation and the legal framework on citizenship is debatable. On this basis, some questions about denizenship arise. To what extent does it uphold the East/West divide, and to what extent does it cut across that divide? Does the common European legal framework influence it, or does it leave decisions on the implementation of denizenship fully to the authority of particular states?

## Denizenship

### *Historical Development: From Economic and Social Rights to Political Rights*

The status of denizen, which is being granted increasingly often to third-country nationals in Europe, has been formed as the result of long historical processes. In the 1950s and 1960s, many Western European states (such as Germany, the Netherlands, and Sweden) invited guest workers from other countries to work for their developing economies. Although this wave of work migration was initially treated as a temporary phenomenon, certain entitlements were gradually provided to these immigrants. “The first rights granted, early on, were trade union and collective bargaining rights, and some social benefits. Other economic and social rights followed, not long after guest workers had established themselves in the host countries” (Soysal 1994: 123). They included, for example, education in public

schools, health benefits, and social insurance schemes. Immigrants were also granted certain general civil entitlements, such as the right to be treated equally before the law, and the right to fair process and appeal.

When immigrants began to settle and bring in their families, this supposedly temporary migration started to take on a different appearance. Since the 1980s, guest workers have been turning into visible social groups, and their unequal status as long-term residents has become increasingly noticeable (Hammar 1990; Łodziński, Pudzianowska, Szaranowicz-Kusz 2014: 14). Although they enjoyed access to the labor market and social benefits, they were deprived of political rights. “While host democracies have offered resident aliens considerable economic and civil rights, they have provided them with only limited opportunities to participate in the politics of their places of residence” (Earnest 2006: 242). The creation and continuous existence of large social groups which could not play any role in the politics of the state had significant consequences. Tomas Hammar (1990) interpreted the post-war history of foreign workers’ revolts in Europe as being driven by feelings of political alienation and underrepresentation. Daniel Munro commented: “Where political grievances lack legitimate channels of expression, non-citizen residents turned, and may continue to turn, to illegitimate and often violent means to ensure that those grievances are heard. If such radical tactics succeed, non-citizen residents may internalise the lesson that radical action is more effective than democratic participation” (Munro 2008: 74).

As historical experience has shown, the alienated groups of non-citizen residents could be harmful to the democratic system. Immigrants’ participation in making political decisions was therefore more and more often perceived as important for the legitimation of democracy. To avoid radicalism and political cynicism among the newcomers (Munro 2008: 63), protection of their political interests via the right to vote seemed a better solution than merely leaving them to function on the margin of the political system. As a result, the debate on voting rights for long-term residents began in Western Europe in the 1980s. Since then, “the extension of political rights, especially that of voting in local and, in some cases, even national elections, has been on the agenda” (Soysal 1994: 123; see also Earnest 2006: 243).

Subsequent denizenship rights have therefore been a result of certain demographic, social, and political processes, and they have been evolving in response to the changing needs of European societies. As described above, the expansion of denizenship began with the social and economic protection of third-country residents, before going through the stage of civil-legal rights. Political entitlements are the last stage of the development of denizenship and the current subject of debate. This contrasts with the evolution of citizens’ rights (from civil-legal, through political, to social and economic rights), as described by Thomas Humphrey Marshall (1950). As David C. Earnest notes, “states have extended these rights to resident aliens in a reverse of the historical order in which citizens first acquired these rights” (Earnest 2006: 245). More and more countries have decided to enter the final stage in the development of denizenship and to grant long-term residents political entitlements. Worldwide, foreign citizens can vote (usually in local and regional elections) in more than 60 countries. 30 out of 44 European states grant some version of voting rights to foreigners. Such rights are also common in both American continents; they are less common in Africa, Asia, and Oceania (Immigrant Voting Project Website, Migrant Integration Policy Index).

Kess Groenendijk (2008: 11–12) and Daniel Munro (2008: 77) note that immigrants still have lower participation rates in local elections compared to the entire population,<sup>4</sup> but the voting ratio of denizens has been growing over the years.

## Theoretical Explanations

### *The Framework of Postmodernism*

In order to understand the notion of denizenship, a return to the classical concept of citizenship is necessary. Two ideas are involved: statehood and territoriality.

First, for a long time, being a citizen meant belonging to one political structure. This was the modern norm of statehood and has been typical for Western Europe since the 19<sup>th</sup> century (Bosniak 2000: 448). Citizenship was connected to the state and could be described as “a mechanism for allocating persons to states” (Brubaker 1992: 31). The state was a source and a guarantee of social, economic, and political rights only to its own citizens (Bosniak 2000: 465–466; Fowler 2004: 185). An individual usually enjoyed a single national identity and exclusive affiliation based on his or her citizenship. Second, the modern idea of citizenship was also connected with territoriality: the state had a relationship with its citizens within a particular territory, and only toward these citizens did it have certain obligations. Citizens would reside within the boundaries of the state—working, paying taxes, exercising rights, and so forth. Others—outside the state—were excluded from civil entitlements and duties (Castles 2005: 204). The concept of citizenship was therefore based on a classic dichotomy: citizens versus aliens; the inclusion of “our people” meant the exclusion of others.

However, as numerous authors note (Bauböck 2002; Bauböck 2003; Bosniak 2000; Castles 2002; Castles 2005; Sassen 2002; Soysal 1994; Vertovec 2009; Vertovec 2013), the contemporary processes of globalization and migration have influenced the classical notion of citizenship and the related ideas of single identity and exclusive affiliation, which are gradually being replaced by more flexible concepts (as has been analyzed within, for instance, the transnationalist approach; Bauböck 1994, Castles 2002; Faist 2000; Lucka 2017; Vertovec 1999; Vertovec 2009). Non-citizenship relationships between states and individuals, multiple identities, dual citizenship, and other such arrangements have become common in the post-modern world (Fowler 2004: 190–191; Gustafson 2005; Sejersen 2008; Vink, de Groot 2010a). The triad of citizen–state–territory is losing its applicability and is being undermined from different directions. On the one hand, the assumption that a state has rights and responsibilities only toward people within its territory is being questioned. The phenomena of external citizenship and external voting, for instance, show that the significance of the territorial aspect of citizenship is diminishing. On the other hand, numerous decisions about certain categories of people residing within a state’s borders (such as long-term residents, asylum seekers, etc.) are not always made within the singular political system. The sovereignty of individual states is increasingly often being limited by

<sup>4</sup> “The comparatively lower socioeconomic status of newcomers and the lack of official language mastery seem to stand in the way of effective participation by non-citizen residents” (Munro 2008: 77).

the development of international regimes of law, which constrain the juridical authority of states within their territories (or at least hamper that authority by exerting pressure).

The phenomenon of denizenship is also connected to such postmodern processes as the dissolution of the citizen–state–territory triad. It grants certain civil entitlements to individuals who are long-term residents of a particular state without being its citizens. This contrasts with the classical notion of citizenship, which assumes that the only way to receive rights within a state is to become a citizen. After fulfilling certain criteria, long-term residents acquire the status of semi-citizens, enjoying many social and economic rights, and some political rights, but without having formal citizen’s status and without formal participation in the political structure. Therefore, they have an “in-between” status: between alien and citizen. As Rainer Bauböck comments, “Denizenship has turned the bright line between citizens and aliens into a grey zone of transition” (Bauböck 2005: 683).

For Munro (2008), post-nationalism is the most important context for interpreting denizenship. He emphasizes that the current era of post-nationalism and multiculturalism requires new, post-national sources of legitimation and integration, and denizenship is one of these. Granting voting rights to non-nationals is of special importance: “The emergence of non-citizen voting (...) points away from notions of shared national or ethnic identity as requirements of membership and participation and toward new understandings of legitimation and integration that are rooted in residence, affected interests, and *democratic* participation and solidarity” (Munro 2008: 69).

#### *The Human Rights Framework*

Yasemin Nuhuğlu Soysal (1994) describes another context that matters in explaining denizenship. She places the phenomenon within the broad, post-war discourse on human rights and personhood. “To an increasing extent, rights and privileges once reserved for citizens of a nation are codified and expanded as personal rights, undermining the national order of citizenship” (Soysal 1994: 1). The international system of law, and especially the creation of the human rights system in the second half of the 20<sup>th</sup> century, has become the basis for granting certain entitlements (human rights) to individuals who do not formally belong to a given political structure. Soysal states that “The transformation of ‘national’ rights into more universalistic entitlements that include noncitizens undermines the categorical dichotomies patterned after the national citizenship model” (Soysal 1994: 135). Hansen summarizes the subject as follows: “Rights are no longer exclusively enjoyed by national citizens residing in the nation-state granting their citizenship, but by permanent residents. These rights are in turn not legitimised by the state (though they are implemented by it), but by a new discourse and praxis: a concept of universal personhood nested in a web of post-war international human rights and treaties” (Hansen 2009: 2).

#### *The Democracy Framework*

As Munro notes, “In a postnational or multicultural era, granting voting rights to non-citizen residents is both compatible with, and required by, democracy” (Munro 2008: 69). Denizenship is rooted in certain basic principles of the democratic system, such as equality

of membership and inclusiveness. Paradoxically then, although denizenship is disconnected from formal citizenship within the state, it serves democratic ideals.<sup>5</sup>

First, as Bauböck emphasizes, the principle of territorial inclusion “regards a democratic polity as a community of individuals who are subjected to the same political authority and its laws and who have therefore equal rights to representation and participation in the making of these laws. Every permanent resident in a territorial jurisdiction should therefore enjoy voting rights” (Bauböck 2005: 686). Increasing numbers of non-citizens falling under the political and territorial authority of a state (e.g., paying taxes and obeying the law), feel they have the moral and ideological right to demand access to policy-making processes. The assumption is that equal obligations should entail equal rights, and “what affects all shall be approved by all” (Bauböck 2005: 686).<sup>6</sup> Residence in a particular state—suggesting economic and cultural links to the place—should be decisive in the granting of certain entitlements, as opposed to the requirement for formal citizenship or ethno-cultural affinity. As Munro summarizes the situation, “Non-citizens who reside in democratic societies have interests that are affected by the laws and policies adopted by the democratic community and, as such, have a strong claim for inclusion in the political process” (Munro 2008: 66).

Second, denizenship rights have a positive effect on the participation and involvement of long-term residents in the democratic system and contribute to those residents identification with the host society. Fidele Mutwarasibo states that “Migrants’ participation in local elections helps to strengthen their trust and confidence in the political system of their country of residence” (Mutwarasibo 2012: 4). Daniel Munro (2008: 75) notes that denizens’ involvement in local voting enhances their chances for participation in other forms of political activity (such an effect is typical for the entire population), as well as for the emergence of political leaders from immigrant communities. Jeremy Ferwerda, Henning Finseraas, and Johannes Bergh (2018) emphasize the “spillover effect” for other aspects of political engagement from granting voting rights to foreigners. As their research shows, the sooner immigrants participate in voting (after their arrival), the higher their turnout in subsequent elections.<sup>7</sup> This may lead to the development of the habit of active voting. Participation in local elections also provides long-term residents with an incentive to learn more about the norms and practices of the host society, and therefore increases their level of civic education. “If one has the right to vote, (...) one is more likely to learn about and develop commitments to one’s adopted political community” (Munro 2008: 72). When there is more education and more commitment, the chances for acquiring citizenship might grow, too. “Local voting rights (...) are not a barrier, but rather function as an incentive to become

<sup>5</sup> A multi-sided discussion of the issue of denizenship, including a critical approach to non-citizens’ voting rights, is presented in, for example, Groenendijk 2008; Munro 2008; Mutwarasibo 2012. Hansen (2009) notes that there is a risk of devaluing citizenship as a result of separating rights from it: if people can receive the same entitlements on account of permanent residence alone, they may lose the incentive to become naturalized. In Hansen’s opinion, “A literature that celebrates denizenship, (...) that trivializes national citizenship, is a tribute to mass disenfranchisement” (Hansen 2009: 20).

<sup>6</sup> Apart from denizenship, another way to accomplish this is the automatic naturalization of everyone who has legally resided in the country for a given period of time.

<sup>7</sup> This effect was limited to foreigners from non-democratic countries: “Early access increases engagement for immigrants from non-democratic backgrounds, a group that typically integrates at a slower pace and faces substantial integration challenges” (Ferwerda, Finseraas, Bergh 2018: 4).

naturalised. Therefore, policymakers should see local voting rights and naturalisation as complementary measures” (Groenendijk 2008: 14).

Third, granting rights to foreigners is a way to promote inclusiveness and to integrate the foreigners into the wider society.<sup>8</sup> In analyzing this issue at the theoretical level,<sup>9</sup> Munro notes that “Perhaps integration is best achieved *through* participation” (Munro 2008: 72). Groenendijk emphasizes that “When a government grants voting rights to non-nationals, it makes a visible commitment to the public inclusion and equal treatment of immigrants” (Groenendijk 2008: 5). Enfranchising long-term residents develops into a message for the majority population: if they take part in elections, it means they are staying and they are not outsiders. Therefore, voting rights become an act of recognition and acceptance of foreigners, allowing the avoidance of “us-versus-them” divisions and discrimination.

In conclusion, Groenendijk emphasizes the relatively uncontroversial nature of enfranchising non-nationals:

Once governments grant local voting rights, these rights never appear as a source of serious conflict. Apparently, most politicians in the countries concerned find that the advantages outweigh any disadvantages. After all, extending voting rights is a low-cost measure. Sharing political power with an additional group may be symbolically painful, but in reality power-sharing only marginally reduces the political power of old voters (Groenendijk 2008: 8).

Similarly, Munro notes that “the lessons that the alternative arrangement seems to encourage may be more damaging to democratic integration than the few problems that could emerge when non-citizens are permitted to vote” (Munro 2008: 74).

### The Importance and Scope of Denizenship within the European Union

For the purpose of this article, the category of denizenship is analyzed with reference to long-term residents living in a European Union country. A long-term resident is a third-country national (a non-EU citizen)<sup>10</sup> who has been granted long-term residence status in accordance with the EU Directive 2003/109/WE of 2003. In order to be granted such

<sup>8</sup> For the traditional concept of integration and its contemporary transformations in the context of transnationalism, see, for example: Ager, Strang 2008; Castles et al. 2003; Grzymała-Kazłowska 2013; Grzymała-Kazłowska, Łodziński 2008; Jacoby 2004; Lucka 2010. Aleksandra Grzymała-Kazłowska defines integration as follows: “The concept of integration refers to immigrants’ participation in different areas of the host society’s social life, and the inclusion into the life in the new country assumes not only immigrants’ relations with the host society, but also an adequate level of their cultural competences, as well as the respect toward basic norms, values, and institutions of the host country” (Grzymała-Kazłowska 2013: 40).

<sup>9</sup> The empirical data on the issue of the integration of long-term residents are limited, even though “non-citizen voting has been permitted in some jurisdictions for two or more decades” (Munro 2008: 72).

<sup>10</sup> Because of limited space, the notion of denizenship is not applied here to citizens of EU states resident in another member state, although they enjoy certain rights. Such entitlements result from the 1993 Maastricht Treaty, which introduced citizenship of the European Union, granting voting rights in local and European Parliament elections (taking place in any of the EU states) to nationals of another EU member state (see also: the Citizens’ Rights Directive 2004/38/EC which defines the right of free movement and residence for the citizens of the European Economic Area). Even though the concept of denizenship was developed with reference to third-country nationals (as was shown above), EU citizenship could also be analyzed as a type of denizenship. Numerous current debates (for instance, about delegated workers and the uneven access of different categories of EU citizens across Europe to welfare and social rights) show that existing “between alien and citizen” sometimes happens to theoretically equal EU citizens, and therefore, the notion of denizenship might be relevant.

status, an individual must prove his or her legal and continuous residence for five years in an EU country (three years in some countries), be covered by health insurance, and have sufficient financial resources not to rely on the welfare system. Sometimes there are additional requirements, such as language proficiency. Long-term residents enjoy equal rights to reside within the EU as other EU nationals do; they have the right to reside in any of the EU countries, no matter where they were granted long-term resident status (OECD/EU 2015: 300).

The population of third-country nationals within the EU has been increasing. “In 2013, there were 20 million third-country nationals living in the European Union, with high numbers living in the EU 15 countries and relatively fewer in new member states. The share of third-country nationals is on the increase, climbing from 3.4% in 2005 to 4.1% in 2013 [of the Union’s total population—507 million people]” (OECD/EU 2015: 300). Within the population of third-country nationals, the proportion of those with long-term residence status has also been growing (from 7.7% in 2008 to 31.7% in 2013; OECD/EU 2015: 329). Referring to European Commission data, Groenendijk (2008: 3) emphasizes that third-country nationals outnumber EU nationals residing in another EU member state by almost three to one. With such increasing numbers, the phenomenon of denizenship is affecting more and more people in Europe, so its significance has also been growing. Within the EU, immigrants with long-term resident status are entitled to certain rights and protections from the state in which they reside. As denizens, they are not given the full range of citizenship entitlements, but they enjoy numerous economic and social rights, and (sometimes) partial political rights (Faist 2000: 203, 207). These prerogatives result from the settlement and socialization of immigrants in a given society and thus cannot be limited or called into question depending on the socio-economic situation in the country. Consequently, non-citizen residents are integrated into different aspects of the social and institutional order of the state in which they live. They take part in the educational system, labor market, and welfare system. They join and form trade unions, political parties, and NGOs (Soysal 1994).

As the Migrant Integration Policy Index (MIPEX) shows, “Permanent residents can work, study and live in the country with the same social and economic rights as nationals in 30 MIPEX countries” (Migrant Integration Policy Index), out of 38 on the index that were studied. In most European Union countries, the economic and social rights of denizens are currently seen as obvious and indisputable: all the states studied here (both within the “old” Europe of 15 and the “new” Europe of 10) grant these rights to third-country nationals (with small exceptions<sup>11</sup>). However, the political rights of non-nationals are still not fully recognized. Long-term residents within the EU cannot vote in national elections (with some exceptions for historically and culturally important nationalities in the United Kingdom, Ireland, and Portugal), and only in four EU countries (Denmark, Hungary, Slovakia, and Sweden) can they vote regionally (Global Citizenship Observatory). At the same time, non-citizen residents in Europe are more and more often entitled to take part in local elections. Such a trend was already present at the end of the 20<sup>th</sup> century (Soysal 1994: 23–128, 131–132), but, as contemporary research shows, it is “increasingly prevalent and enshrined

<sup>11</sup> These exceptions include closed job sectors in France and gaps in the social system in the Czech Republic and Slovenia (Migrant Integration Policy Index).

in the EU law” (Ferwerda, Finseraas, Bergh 2018: 14). Granting long-term residents the right to vote in local elections becomes, therefore, an indicator of the development level of denizenship.

As for the fifteen “old” Europe countries that are the subject of this article, seven states allow long-term residents to vote in local elections.<sup>12</sup> In three cases (Portugal, Spain, and the United Kingdom) the franchise is not universal, but limited to certain nationalities, based on special agreements with particular states that have historical, geographical, and cultural links to the given country. Since this might be interpreted as discriminatory toward other nationalities (Groenendijk 2008: 15), these countries are not counted here as states that have introduced voting rights for (all) third-country nationals.

Table 1

**Long-term Residents’ Right to Vote in Local Elections in Europe**

	Long-term residents granted the right to vote in local elections
<b>The “old” Europe of 15</b>	No
Austria	No
Belgium	<b>Yes</b>
Denmark	<b>Yes</b>
Finland	<b>Yes</b>
France	No
Germany	No
Great Britain	No
Greece	No
Holland	<b>Yes</b>
Ireland	<b>Yes</b>
Italy	No
Luxemburg	<b>Yes</b>
Portugal	No
Spain	No
Sweden	<b>Yes</b>
<b>The “new” Europe of 10</b>	
Bulgaria	No
Czech Republic	No
Estonia	<b>Yes</b>
Hungary	<b>Yes</b>
Latvia	No
Lithuania	<b>Yes</b>
Poland	No
Romania	No
Slovakia	<b>Yes</b>
Slovenia	<b>Yes</b>

Source: Global Citizenship Observatory.

<sup>12</sup> In many cases, constitutional provisions granting the right to vote only to “the people” (nationals) creates a serious obstacle to enfranchising long-term residents. Bauböck notes: “In several European countries (among them Austria, France, Germany, and Italy) local voting rights for all third country nationals have been adopted by parliamentary vote at national or regional levels but have been blocked or eventually struck down as incompatible with the Constitution” (Bauböck 2005: 685).

As for the ten “new” EU countries taken into account in this research, five enfranchise long-term residents, allowing them to vote in local elections. Therefore, the proportion of countries enfranchising and not enfranchising third-country nationals (with regard to local voting rights) is similar in both parts of Europe.

### **International Regulations on Denizenship in the EU**

The issue of migrants’ rights is expressed and regulated in numerous international legal documents, and is highly visible in international debates (Pudzianowska 2014: 98–99). At the most general level, regulations on the civil and political rights of migrant workers are included in the 1948 Universal Declaration on Human Rights, and in the 1990 International Convention on the Protection of All the Rights of Migrant Workers and Members of Their Families. Among the non-discrimination laws adopted by the European Union, there are some which are relevant for the integration of migrants into European societies, and provide them with certain rights. Directive 2000/43/EC on racial equality and Directive 2000/78/EC on equal employment are of special importance here (OECD/EU 2015: 300).

With regard to the more specific issue of the political participation of third-country nationals, the European Union (the European Parliament and the EU Commission), as well as the Council of Europe, support and promote the voting rights of long-term residents at the local level.<sup>13</sup> Such voting rights, together with the liberalization of the acquisition of citizenship, are perceived as useful instruments for the integration of long-term residents within their countries of residence. The most important document here is the Council of Europe’s Convention on the Participation of Foreigners in Public Life at the Local Level from 1992 (which went into force in 1997).<sup>14</sup> Its basic aim is to encourage the active participation of foreign residents in the life and matters of the local community. Chapter A focuses on the issues of freedom of speech, assembly, and association for foreigners, and it is the only chapter from which the signatory states cannot opt out. Chapter B encourages the signatory states to facilitate the establishment of consultative bodies for foreign citizens at the local level. Chapter C recommends granting foreign residents the right to vote and stand for election in local elections after five years of lawful and habitual residence in a given country (the scope of voting rights might be restricted, and shorter periods of residence might be given). However, the final decision on granting rights to foreigners is left up to the signatory states.

Some other significant issues are touched upon in Recommendation 1500, passed by the Parliamentary Assembly of the Council of Europe in 2001.<sup>15</sup> Article 5 of this document defines the problem as follows: “Non-European Union citizens living as foreigners

<sup>13</sup> Apart from the general promotion of third-country nationals’ voting rights at the level of the European Union, the decision as to whether such rights are introduced is left up to each member state. The EU’s official stand is that imposing them on the member states would be beyond the Community’s competences as defined in the European Treaties (Bauböck 2005: 685).

<sup>14</sup> Available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/144>, accessed August 24<sup>th</sup>, 2018.

<sup>15</sup> Available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16876&lang=en>, accessed August 24<sup>th</sup>, 2018.

in a European Union country are granted fewer rights than European Union citizens in the same situation.” While the Recommendation urges governments to grant political rights to migrants (Art. 11.4.a), it emphasizes the problematic nature of the issue: “Although the integration of immigrants and foreign residents has considerably increased in economic, social, cultural and educational terms, political participation has always given rise to controversy” (Art. 7).

The Justice and Home Affairs Council adopted the Common Basic Principles for Immigrant Integration Policy in the EU<sup>16</sup> in 2004 (they were reaffirmed in 2014). They are non-binding in nature but have become a guide by which EU member states can assess their own policies, set priorities, and further develop their activities. They create the basis for EU initiatives with regard to integration, and they serve to monitor the results of integration policies in four areas: employment, education, social inclusion, and active citizenship. The Common Basic Principles also provide the general European framework for cooperation on the issue of integration. In particular, with regard to foreigners’ political rights, Common Basic Principle 9 stresses the connection with integration processes: “The participation of immigrants in the democratic process and in the formulation of integration policies and measures, especially at the local level, supports their integration.”

To conclude, European institutions support and influence the development of denizens’ rights through soft measures, encouraging member states to take up certain solutions rather than imposing these measures on the member states. Although the practical influence of some of the above-mentioned documents has been limited,<sup>17</sup> the discourse which they all establish is significant. “These endorsements by international bodies demonstrate that the practice of extending voting rights to non-citizens can no longer be regarded as an irregularity at odds with the international community’s conception of citizenship” (Bauböck 2005: 685). The growing number of states that grant long-term residents the right to vote at the local level also confirms that this is the current trend in Europe.

## Conclusions

As a version of semi-citizenship, denizenship is manifested in economic, social, and partial political rights granted to long-term residents. Interpreted within the post-modern framework, denizenship reaches beyond the concept of the traditional nation state, and challenges the classical understanding of citizenship, blurring the line between alien and citizen. It refers to ideas of inclusiveness and equality: the cultural, economic, and linguistic connections of third-country nationals to their place of residence become the basis for entitlements, regardless of such nationals’ ethnicity or formal citizenship status. Within the context of the European Union, there are numerous international documents and standards influencing the development of denizenship and encouraging the implementation of local voting

<sup>16</sup> Available at: <https://ec.europa.eu/migrant-integration/librarydoc/common-basic-principles-for-immigrant-integration-policy-in-the-eu>, accessed August 24<sup>th</sup>, 2018.

<sup>17</sup> For example, as of July 2018, the Convention on the Participation of Foreigners in Public Life at the Local Level has been ratified by nine countries (Albania, Czech Republic, Denmark, Finland, Iceland, Italy, Netherlands, Slovenia, and Sweden), and signed (without ratification) by four (Cyprus, Lithuania, Norway, and the United Kingdom; [https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/144/signatures?p\\_auth=JQ5N9D1O](https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/144/signatures?p_auth=JQ5N9D1O)).

rights to non-citizens as its final stage. The framework for denizenship is developing at the EU level, and to some extent replacing national legislation. Although naturalization laws are still regulated by the member states, a hidden shift of powers from the national to the EU level is occurring in the sphere of naturalization.

As the research has shown, the phenomenon of denizenship has become increasingly common in both “old” and “new” European countries, developing into a general tendency within the European Union, and undermining legal and cultural divisions present in other areas. In this respect, the European continent is becoming ever more unified, regardless of the specificity of the “new” Europe of ten. In this part of Europe, the discussion on enfranchising non-citizens has begun, but there are certain other issues (such as national and ethnic minorities) that are more important and more visible in the public discourse. The issues of mass migration and denizenship are often seen as future problems since the share of foreigners within the total populations of these countries is still very low (Łodz-*ięski*, Pudzianowska, Szaranowicz-Kusz 2014: 13). However, even with such limitations, the granting of voting rights to long-term residents has been progressing in this part of Europe.

Numerous questions arise for further research. First, what are the practical consequences of implementing denizenship in European Union countries? How large is the population of long-term residents who take advantage of the entire range of denizenship rights? Second, what is the connection between denizenship and citizenship acquisition at the empirical level? Do denizenship entitlements strengthen the chances for acquiring citizenship (in this case, denizenship would only be “a stop” on the way to classical citizenship), or do they discourage foreign nationals from seeking citizenship as the alternative provides a sufficiently stable status (and therefore, significantly changing the meaning of citizenship from modern to post-modern)? Third, is the tendency to implement denizenship legislation politically dependent? What political forces are in power when denizenship is implemented in particular countries? What is the possible future of this kind of legislation, when taking into account the current political situation (the right-wing turn) in some countries of the European Union?

### Acknowledgement

The author would like to thank two anonymous reviewers for their careful reading of the manuscript and their insightful comments and suggestions.

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