Creating European Citizens: The Genesis of European Rights

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Abstract: This is part of my Ph.D. dissertation, entitled "Creating European Citizens," which explains the development and implications of European Union citizenship. Supranational rights in Europe originated in the European Coal and Steel Community free movement provisions. In a political compromise, these provisions were included at the insistence of the Italian delegation, although the other member states dawdled in implementing them. Examining the genesis of European rights recasts EU citizenship from a contemporary phenomenon that dates only from the Maastricht Treaty to a recent expression of the same tensions and compromises that have characterized the entire history of European integration. This paper addresses a significant lacuna in the literature by focusing on the political and economic origins of what today forms the core of EU citizenship.

Introduction[1]

Existing accounts do not adequately capture the genesis and growth of EU citizenship. A rights-based approach, breaking citizenship down into its constituent rights in order to examine their origins, offers a more compelling explanation that allows a focus on the politics surrounding the introduction and expansion of European rights. The political push for rights predates the Schuman Plan, but supranational rights in Europe originated in the European Coal and Steel Community treaty provisions for the free movement of coal and steel workers. In a political compromise, these provisions were included at the insistence of the Italian delegation, although the other member states dawdled in implementing them. The Treaty of Rome expanded mobility rights to much wider categories of workers and specified in much greater detail how these rights were to be realized. Various actors promoted European rights as a matter of individual choice rather than intergovernmental agreements. Since the core of contemporary EU citizenship is freedom of movement (Veil and Commission of the European Communities 1998), examining the origin of mobility rights allows us to view EU citizenship no longer as a contemporary phenomenon that dates only from the Maastricht Treaty but rather as a recent expression of the same tensions and political compromises that have characterized the entire history of European integration.

Most commentators view the 'birth of Europe' as heralded by Treaty establishing the European Economic Community, yet the earlier Treaty of Paris not only established the Community's basic institutional framework (Rittberger 2001) but also established the first legal provisions concerning free movement of labor. Although it significantly broadened the scope of free movement rights, the Treaty of Rome's announcement of the free movement of workers – one of the four freedoms that form the core of the internal market agenda – was transposed from the Treaty of Paris. Thus the Treaty of Rome can be viewed as simply an expansion of and elaboration upon an already established framework of legal provisions that grant individual rights. The rights that today form the core of EU citizenship date from the free movement provisions of the ECSC.

While free movement did not figure prominently in the ECSC treaty negotiations, the promise of these rights provided a key incentive for Italian participation in the ECSC. Their actual formulation, however, took years to negotiate and even longer to implement, ultimately being outpaced by the wider category of free movement rights contained in the Treaty of Rome. Nevertheless, the lessons learned in formulating a common work permit and attempting to achieve unanimous ratification and implementation laid the groundwork for future developments in free movement rights. The mobility rights specified in the Treaty of Rome were implemented between 1958 and 1968, coincident with the introduction (by the Court of Justice) of the doctrine of direct effect and with the first attempts (spearheaded by the Commission) to harmonize social security provisions for migrant workers. Thus the Court and the Commission were critical in expanding supranational rights once they had been introduced, but the actual genesis of European rights was purely political.

Citizenship, European Rights, and European Integration

The assertion that an EU citizen who goes to live and work in another member state is exercising a new personal right is incontrovertible (Commission of the European

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[1] This paper is currently being revised and resubmitted to the *Journal of Common Market Studies*. I thank Alan Milward and anonymous reviewers for their constructive criticism.

Communities 1982). Today it is conventional wisdom that freedom of movement had to be introduced in order to ensure a common market (Bolkestein 2000; Veil and Commission of the European Communities 1998). The logic is clear in the case of goods and capital. But even if it is conceded that individual mobility is a desirable goal in an economic community, it does not automatically follow that mobility provisions should be enshrined as individual rights. Because extending European rights to individuals to some degree constrains member states to respect those rights (Conant 2002), states should prefer bilateral or multilateral agreements to individual rights as means to achieve policy goals. The contention that domestic policy concerns result in supranational policies that have the same impact as European rights cannot explain why national governments should be willing to enshrine rights rather than simply working out intergovernmental bargains on an ad hoc basis.[2]

Extending rights to individuals is a qualitatively different enterprise from making changes to agricultural policy, competition policy, telecommunications policy, or any other policy area. Policies can be relatively easily modified, whereas rights cannot. If that were not the case, there would be frequent changes in rights just as there are changes in policy. Of course, certain areas of European policymaking – social policy, for example, or health or education policy – do impact individuals. But rights differ from these policy areas in that they are more basic and fundamental. Yet even something as fundamental as European rights has origins; how did European rights originate?

The existing literature on European rights can be broadly grouped into two categories. On the one hand there are legalistic narratives of the continuing development of treaties, directives, regulations, and court cases. This literature is typically divorced from any deep consideration of the political and economic context of the legal documents under consideration (Burrows 1987; Handoll 1995). A second type of literature is focused on the recent surge in interest devoted to citizenship. The citizenship literature has proliferated since the 'introduction' of European Union citizenship in the Maastricht Treaty of 1992. Existing works on EU citizenship focus on it as a recent phenomenon whose precursors date from the 1980s (d'Oliveira 1995; Marias 1994; Shaw 1997), or at the most from the mid-1970s (Bru 1994; Meehan 1993; Wiener 1998). By contrast, this paper shows that the origins of the rights of EU citizenship are to be found in the initial negotiations and treaties that established the foundations of European integration.

The virtue of a rights-based view of citizenship that is developmental in nature[3] is that it allows connecting the two literatures discussed above: the work of legal scholars tracing the evolution of treaties, directives, regulations, and court decisions can be connected with the work of contemporary scholars who focus on EU citizenship. This

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[2] Alan Milward argues that "when Italian governments selected emigration as a priority policy choice, an interdependent international order advanced such policies better than an integrationist one" (Milward 1992: 437) but this is a politically incomplete picture. The policy choice of emigration is much better served through supranational institutions than ad hoc bargains. In terms of the historical record, as will be shown below, Italian negotiators attempted very hard to achieve an 'integrationist' solution, and it is they who are primarily responsible for the inclusion of free movement rights in the treaties. I thank Alan Milward for clarifying his position.

[3] T.H. Marshall divides the development of citizenship into three distinct phases, each characterized by the acquisition, by individual members of a sovereign political community, of certain rights against that state. Tracing the historical development of individual rights in England since the eighteenth century, Marshall showed how *civil rights* (equality before the law, the right to own property and sign binding contracts, freedom of religion and of speech) led to *political* rights (the passive and active franchise), which in turn led to *social* rights (the right to a minimal level of social and economic welfare). Thus, Marshall posits a developmental view of rights, with civil rights preceding political rights, which in turn precede social rights (Marshall 1950), cf. (Esping-Andersen 1996)

approach is anticipated in the work of some perceptive legal scholars who argue that the Treaty of Rome's free movement provisions established an 'incipient' form of European citizenship (Plender 1976) or that Union citizenship is the effect rather than the cause of increased mobility rights (Dollat 1998). In other words, examining the origins of European free movement rights has important implications for our understanding of European Union citizenship; EU citizenship ceases to be a contemporary phenomenon that dates only from the Maastricht Treaty, becoming instead a recent expression of the same kinds of tensions and resolutions that have characterized the entire history of European integration.

The Schuman Plan

A rights-based view of citizenship allows us to break citizenship down into its constituent parts and thereby to examine the rise of citizenship from the very beginnings of European integration. Citizenship rights in most states generally evolved through a long process of political contestation between rulers and subjects. In the European Union, however, individual rights were simply introduced by treaties or regulations, and in some cases even fleshed out by Commission directives. They have also been subject to expansive interpretations by the Court. While it might be thought that this could be done only because there was a broad political consensus on the appropriateness of introducing, extending, and expanding individual rights at the European level, in fact this process has been uneven.

The origins of the political push for specific European-level rights predate the Schuman Plan. In Italy in 1943, the Movimento Federalista Europeo envisaged the creation of a European 'continental' citizenship alongside national citizenship, consisting of direct political and legal relationships with a European federation. The "Milan programme" – drawn up by Giovanni Gronchi, later President of the Italian Republic, Count Stefano Jacini, and labor union leader Achille Grandi – called among other things for the legal equality of the citizens of all states and the "option to take out European citizenship in addition to national citizenship" (Malvestiti 1959: 58). Similarly, the Dutch 'European Action' group also called for a supplementary European citizenship beside that of nationality, and the 1948 Hague Congress of the European Movement resolved that direct access for citizens to redress before a European court of any violation of their rights under a common charter was to be an essential ingredient of Union (Miller 1995: 371-2).

In this context, the first concrete steps to European integration were initiated with the announcement by French minister Robert Schuman of a plan for a European coal and steel community. Schuman's original proposal was made on 9 May 1950, the tenth anniversary of the German invasion of France, the Netherlands, Belgium, and Luxembourg. This symbolism was not accidental. Three wars between France and Germany over the preceding eighty years had exacted their toll. Western Europe in 1950 was rebuilding from the Second World War, the government of the Federal Republic of Germany was still under Allied tutelage, and the cold war (to mix a metaphor) was heating up. In the political and economic context of the time, the potential benefits of closer cooperation between the Western European states appeared clear. Insiders considered that the Schuman Plan would limit the scope for independent state action and possibly herald the eventual demise of state sovereignty (Spaak 1950: 95).

The Schuman Plan was announced unilaterally by the French minister and took some by surprise, but other European states rapidly began negotiating in earnest. Negotiators from France and Germany were joined by those from Italy and the Benelux

countries. While representatives from the United Kingdom observed the proceedings, they ultimately decided not to participate. Potential treaty provisions were mooted during the summer and fall and a draft treaty was ready by December. Following final negotiations, the Treaty establishing the European Coal and Steel Community (ECSC) was signed in Paris on 18 April 1951, entering into force on 25 July 1952.

Drafting the ECSC Treaty

Free movement of labor did not figure prominently in the bargaining between the potential member states, with the sole exception of Italy. The promise of free movement for workers was a key reason for Italian participation in the European Coal and Steel Community (Pella 1956). Although political support for the 'European idea' and the economic desire to acquire raw materials cheaply also figured, the primary incentive for Italian participation in the Schuman plan was "to permit export of its surplus labor" (Mason 1955: 5). Indeed, some claim that, for "at least fifteen years after the war, the primary interest of most Italians in a European federation was the hope of finding an outlet for the emigration of large numbers of their excess population" (Willis 1971: 150)

The issue of labor migration was broached by Taviani, the Italian negotiator, who pushed for a better deal on migration by raising the specter of giving the High Authority power to raise wages (Ranieri 1986: 22). The notion that the High Authority would have the power to set and enforce wage levels across the Community was of more importance to the other potential member states. Negotiations proceeded with "the Italians using the issue as a bargaining counter for a resolution on the migration question and the Dutch and Germans resolute in keeping HA powers to an absolute minimum" (Griffiths 1988: 42). Because the negotiators from the Netherlands and Germany were concerned that the High Authority would interfere in the delicate compromises that had been achieved at the national level, they were ready to capitulate to the Italian demand for a flexible resolution to the migration question. Taviani later wrote that mobility rights for workers constituted a fundamental principle of the Community; its realization was the key condition for Italian participation, and Taviani even envisioned creating a European ministry of labor (Taviani 1954: 176-180). Italy was thus the key early proponent of free movement of labor.

The only potential member states which had significant numbers of foreign coal workers were Belgium (70,594 in 1951) and France (56,535). In Belgium, two out of every five coal workers was non-Belgian, primarily Italian. In France, the proportion was half that of Belgium: foreigners accounted for one out of every five coal workers. Most of these were workers were Polish, and thus unaffected by any potential ECSC treaty provisions. Bolstered by strong public support for the Schuman plan, and intent on forging a deal, the French delegation under the leadership of Jean Monnet may have been more willing to grant concessions: as early as October 1950, French public opinion favored the Schuman plan by a margin of two to one, despite being rather ill-informed about its contents (Institut français de l'opinion publique 1951: 23; Monnet 1976; Racine 1954). The Belgian position was a pragmatic one, and one much more concerned with the fate of its ailing coal and steel industries than the prospect of even more immigration of workers (Dumoulin 1988; Milward 1988). Indeed, if coal mines were to close, it seemed more likely that foreign workers would return to their countries of origin. Like Italy, the Netherlands and Germany were labor exporting countries in the early 1950s, thus they too did not foresee any problems (Vignes 1956).

The Italian delegation was keen to promote the freedom of movement of its nationals elsewhere in Europe. In the earlier OEEC and Franco-Italian Customs Union

negotiations, Italy had presented migration requests for large numbers of unskilled workers and received limited offers for skilled workers. Since there were already between 70,000 and 80,000 Italian coal and steel workers in the other five prospective ECSC member states, the Italian negotiators argued that, failing labor mobility on a general scale, it should surely be possible to achieve a sectoral arrangement (Diebold 1959; Ranieri 1986: 22-23). The delegation received strong support from Italian parliamentarians such as Christian Democrat Deputy Bima and 'Grupo Misto' Senator Merzagora, who regarded the ultimate outcome of the negotiations as the achievement of something they had long desired. In the absence of opposition from other member states, the Italian delegation was successful in its effort to enshrine mobility rights in the draft treaty, and the first steps to free movement rights for workers in the area that would become the European Economic Community were enshrined in the ECSC treaty. Article 69 of the final treaty announces that "Member States undertake to remove any restriction based on nationality upon the employment in the coal and steel industries of workers who are nationals of Member States and have recognised qualifications in a coalmining or steelmaking occupation, subject to the limitations imposed by the basic requirements of health and public policy."

The Italian success at enshrining freedom of movement for labor is thus tempered: here in nascent form are the restrictions on freedom of movement for the purposes of 'health and public policy' that continue to provide member states with the power to limit mobility rights today. The point is not teleological; the current utility of these restrictions clearly cannot explain their inclusion at the beginning of the process. Instead, the point is one of basic continuity in the legal basis of free movement provisions: they have been subject to restrictions from their inception, although the legal and practical restraints upon freedom of movement have been gradually disappearing. Another potential source of restriction is contained within the decision about what constitutes 'recognized qualification'. Section 2 of Article 69 provides that "Member States shall draw up common definitions of skilled trades and qualifications therefor", which leaves significant room for more or less restrictive interpretation. Finally, a key institutional barrier exists in the fact that the role of the High Authority is limited to coordinating and advising: according to the treaty, it is the member states which are responsible for drafting and implementing the treaty's free movement provisions.

Ratification and Implementation

Mirroring its role in the negotiations – where only the Italian delegation placed much emphasis on labor mobility – free movement of workers did not play a large role during the debates on the ratification of the ECSC Treaty (Communauté Européenne du Charbon et de l'Acier 1958). On the other hand, some parliamentarians, such as Communist members of the French *Assemblée Nationale* Bonte and Patinaud, Communist member of the French *Conseil de la République* Primet, and Communist Belgian Senator Glineur, reproached the authors of the treaty for desiring to bring about a 'deportation' of labour. Communists were worried that workers would "become nothing more than simple merchandise." In fact, Communist parties in all the parliaments of the member states were opposed to the proposed treaty. The French Communists saw the treaty as a tool of American foreign policy; Americans "would again deport French workers with the aid of the Treaty's clauses guaranteeing free movement of labour. American capital and its tool, the Ruhr industrialists, would soon control the [High Authority]. A huge army of French unemployed would be created to provide slave labor for American bases in France, where atom bombs and bacteriological weapons would be stored" (Mason 1955: 30). Beyond

the rhetoric, the key concern was that the freedom of movement provisions would equate workers with goods and capital so that they would become 'nothing more than simple merchandise'.[4]

In contrast with the Italian eagerness and Communist reticence, Dutch Christian democrats such as Maenen (KVP) in the Second Chamber and Vixseboxse (CHU) in the First Chamber emphasized the fact that free movement of workers would not in fact resolve social problems but would indeed itself lead to serious problems of a moral character (Communauté Européenne du Charbon et de l'Acier 1958: 131). Finally, a German socialist member of the Bundestag pointed out that Article 69 was unclear about whether workers in the coal and steel industries who move to another member state would be authorized to search alternative employment in the host state if their employment were disrupted by strikes. Such worries, however, did not carry the day and the Treaty of Paris was duly ratified in all the member states.

Ratification of the Treaty of Paris did not automatically mean that coal and steel workers could freely move about the territory of the Coal and Steel Community. Article 69's commitments could be implemented only by agreement between the member states. Unlike goods, which were immediately subject to free movement by the Treaty, the workers mentioned in Article 69 would achieve free movement only when the detailed provisions were agreed to by the member states. The work to achieve this agreement began in March 1953 as the High Authority appointed a committee of experts to propose the best ways and means of implementing Article 69 (Diebold 1959). The committee reported in October, upon which the High Authority endorsed its findings and called an intergovernmental conference.

The High Authority's efforts to coordinate policies in the six member states with a view to facilitating worker mobility were spearheaded by the Social Affairs Commission. One of High Authority's four general commissions, the Social Affairs Commission was responsible for a panoply of policies intended to raise the standard of living, only one of which was freedom of movement. On the basis of the work of the committee of experts, the Social Affairs Commission took a first step towards coordination on article 69 by convening an intergovernmental conference of the labor ministers of the six member states in May 1954. Although the meeting reportedly took place in a "cordial atmosphere," its only outcome was "to raise certain imperfections in the Treaty and to partially make clear how article 69 should be revised," although the Commission heralded the meeting as "a first step towards a new and fruitful process of interinstitutional collaboration" (Communauté Européenne du Charbon et de l'Acier 1954: 9). Nevertheless, the draft agreement did provide the basis for further discussions over the summer and fall.

The Council of Ministers approved the revised draft agreement in December 1954, although its implementation would depend on Parliamentary ratification in each of the member states (Mason 1955: 101-2). Administrative details were finalized in the months that followed, and a final agreement reached in more than twice the time it had taken to negotiate the Treaty itself. The High Authority reassured anyone worried about potential mass migrations that "comparatively few workers will immediately avail

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[4] French Communists long remained opposed to European unification. A September 1957 public opinion survey found that 55% of French Communists thought that a union of France with the other five ECSC/EEC states was of little or no use (5% thought it was indispensable; 25% thought it was somewhat or very useful; 15% did not respond), compared to only 11% of Socialists (31% indispensable; 46% somewhat or very useful; 12% no response) and single digits of partisans of the other parties (Institut français de l'opinion publique 1957: 12-13).

themselves" of the labour cards. Rather, the High Authority estimated that any significant labour migration would have to be preceded by "reconversions and marked technical changes [to] area labour markets" (European Coal and Steel Community 1954). Italy, Belgium, France, and the Netherlands ratified the agreement by the end of 1955. However, the German Bundestag delayed ratification until May 1956 and Luxembourg stymied the entire process by postponing its ratification until June 1957.[5]

Although the High Authority and the Italian government strongly urged that the notion of qualifications be interpreted broadly, other governments succeeded in limiting the term to certain skilled workers: only approximately 300,000 of the Community's 1.4 million coal and steel workers qualified for the international work permits which would allow them to move freely. The international permit could be obtained by workers performing certain skilled jobs in the coal and steel industry who could seek employment in other member states without being held up by the red tape generally governing the immigration of labour. In addition, outside observers reported enthusiastically on efforts made to "enable these workers to enjoy all the social security benefits of the receiving country, thus preventing the discriminations that have frequently been practised against aliens in the past" and to "improve coordination between the various employment organizations in the member states so that workers in one country may know more easily whether jobs are available elsewhere" (Bok 1955: 56).

Despite such optimistic assessments immediately following the agreement on Article 69's provisions, full implementation of the agreement was delayed until after all the member states had ratified it. As a result of Luxembourg's delayed ratification in June 1957, the agreement on free movement of workers finally took effect in September 1957, four and a half years after work on it had begun. This delay proved a constant irritant to the Italians. Most of the relatively rare speeches by Italian members of the Common Assembly concerned themselves with the migration issue, in particular the delay in working out the provisions of Article 69 (Mason 1955: 100).

The reason for the interest of the Italian members of the Common Assembly in the issue of migration can be seen from the numbers: ECSC officials calculated in 1954 that "present labour migration across frontiers within the Community is confined to Italian agricultural laborers employed in Belgian coal mines. Some 40,000 of the 150,000 miners in Belgium are Italians. Most of the Italian workers in the Belgian mines, however, regard their employment as temporary. The other main group of migrants are some 12,000 workers who live near frontiers of the Community nations and now can cross at will for work without encountering obstacles" (European Coal and Steel Community 1954). Some Italian economists were trying to discourage the idea that "opening the frontiers could free a massive emigration of Italian workers and eliminate unemployment in a flash" (Confederazione Italiana Sindicati Lavoratori 1959: 70-71; Willis 1971) but the political interest shown during the ECSC negotiations persisted.

The delayed introduction of free movement raised such ire that it provoked the Common Assembly to include the issue in its constitutional proposals for rewriting the ECSC Treaty as a result of the negotiations taking place on the European Economic Community. The question of mobility rights came up in a document otherwise primarily

[5] Luxembourg's contemporary reticence on matters of migration has deep historical roots. For example, in 1953 the Luxembourg Christian Socialist deputy Margue feared "a rash and unreasonable migration which would do more harm than good to both the labour market and the standard of living of the workers." Meeting of the Common Assembly, 13 May 1953, p.83 cited in (Spierenburg and Poidevin 1994: 175)

concerned with the relationship between the High Authority and the new institutions that the proposed Treaty of Rome and the Euratom Treaty would introduce. Dissatisfied with the application of article 69, the Common Assembly concluded that the member states were acting too slowly to implement free movement rights for coal and steel workers. Therefore, it proposed that the High Authority should take over from the member states the responsibility to establish "common definitions of skilled trades and qualifications," propose immigration rules, and settle "any matters remaining to be dealt with in order to ensure that social security arrangements do not inhibit labour mobility." The Common Assembly further proposed to insert into the Treaty a new article giving the High Authority the power to propose measures to address possible disproportionalities between the supply of and demand for labour (Kreyssig 1958: 24, 25).

The Common Assembly's faith in the High Authority may have been somewhat misplaced, because encouraging greater free movement of labour did not appear to be a key priority for the High Authority. Instead, the High Authority's focus was on combating unemployment and on constructing adequate housing for coalminers and steelworkers. President of the High Authority Jean Monnet saw free movement of workers as only one of a number of means to achieve better living conditions for workers. For Monnet, free movement for workers represented one way among several of ameliorating and harmonizing living and working conditions across the six member states. Otherwise, the issue of mobility rights and the question of the implementation of Article 69 are notably absent from his public pronouncements (Monnet 1955). This was true despite earlier and more famous rhetoric about uniting Europeans and focusing not on states but on peoples. Nevertheless, the Social Affairs Commission's persistence in the face of member state intransigence and delay, efforts duly reported in the Common Assembly's updates (Assemblée Commune 1954), were favorably received.

From Paris (ECSC) to Rome (EEC)

Despite the slow progress on liberalizing restrictions on the movement of workers, mainstream political actors were united in supporting the European Coal and Steel Community's striving for "efficiency and distribution of labour" in order to achieve the goal of a "sound economy based on a rational distribution of labour in a free market" (Council of Europe 1953: 71). The rational distribution of labour in a free market was thus seen as a desirable objective, and one that could be expanded to other economic sectors. In 1954, the governments of the six member states began to consider a new economic initiative that would complement the European Coal and Steel Community. The Dutch were pressing for a general economic common market, against the view of the Belgian government – supported by French ministers, Jean Monnet and others – that further cooperation should occur by economic sector, extending the ECSC into transport and forms of energy other than coal and steel. On 20 May 1955, the Benelux governments presented a joint proposal combining the sectoral and common market approaches. This proposal was considered at the special meeting of the ECSC council of ministers at Messina on 2 and 3 June 1955. The ministers established an intergovernmental committee headed by Belgian Foreign Minister Paul-Henri Spaak to prepare a report on the feasibility of a common customs union and a common atomic energy agency. They further agreed to adopt the Benelux program, modified for more gradual implementation. For some governments, including that of the United States, establishing a common approach to atomic energy was more important than any other form of cooperation. Thus, according to Secretary of State John Foster Dulles, the United States did not attach to the common market proposals the same "immediate security and

political significance as [it did] to Euratom," although it also recognized that a common economic market might "contribute constructively to European integration," which was useful in tying Germany to western Europe (Stirk and Weigall 1999). The language of rights is notably absent from these strategic and geopolitical calculations.

As the ECSC free movement provisions continued to be stymied, proponents of greater European integration pushed instead for expanding rights to many more categories of workers in the upcoming Treaty establishing the European Economic Community. A large part of the impetus for this new focus on freedom of movement for workers can be found in the report submitted by the Spaak committee, which viewed undistorted competition as leading to monetary stability, economic expansion, social protection, the raising of the standard of living and quality of life, economic and social cohesion, and solidarity among the member states (Comité intergouvernemental créé par la Conférence de Messine 1956). This long laundry list of desired goals depended, in the view of the Spaak committee, on the undistorted competition of which freedom of movement for workers formed an integral part. In the Spaak committee's recommendations we find the genesis of the 'market citizen' (Everson 1995) who bears rights as an economic rather than political actor.

Whereas the ECSC Treaty had limited freedom of movement to workers with "recognised qualifications in a coalmining or steelmaking occupation," the Treaty of Rome expanded the scope of the free movement provisions to all workers, with the exception of those employed in the public service. In the language of the Treaty, freedom of movement for workers entails "the right ... to accept offers of employment actually made; to move freely within the territory of the Member States for this purpose; to stay in a Member State for the purpose of employment ... [and] to remain in the territory of a Member State after having been employed in that State" (Article 48 EEC). Although the EEC treaty leaves some room for backtracking in the development of implementing regulations and for member state governments to avoid having to implement mobility rights based on concerns on the grounds of public policy, health or security, these rights go well beyond any arrangements provided for in bilateral agreements. Although bilateral agreements were clearly more important in the early years (Romero 1991), the experience with the difficulty of enacting ECSC provisions provided a firm foundation for the EEC's free movement provisions.

Unlike the Treaty of Paris, the Treaty of Rome set a clear deadline for implementing free movement provisions. Article 49 of the Treaty of Rome provides that as "soon as this Treaty enters into force, the Council shall, acting on a proposal from the Commission and after consulting the Economic and Social Committee, issue directives or make regulations setting out the measures required to bring about, by progressive stages, freedom of movement for workers." The article therefore grants the Commission – rather than the member states, as was the case with the ECSC Treaty – the power and the responsibility to propose measures required to bring about freedom of movement for workers. Those in favor of increasing free movement rights had learned from the difficulties encountered in introducing and expanding the freedom of movement for workers using the ECSC treaty framework. The Treaty of Rome thus contained a new and improved version of the employment provisions originally announced in the Treaty of Paris half a dozen years previously, specifying that these employment provisions constituted a 'right'.

The new mobility rights – the right to move freely within the territory of the member states in order to accept employment, the right to stay in a member state for the purpose of employment, and the right to remain in the territory of a member state after

having been employed there – were implemented in three transition phases between 1958 and 1968. These transition phases coincided with the introduction of the doctrine of direct effect and with the first attempts to harmonize social security provisions for migrant workers. A citizen of one member state living and working in another member state could thenceforth indeed exercise a new freedom and a new personal right.

Conclusion

Breaking citizenship down into its constituent rights enables an examination of their genesis. The political push for European rights predate the Schuman Plan, but rights originated in the ECSC treaty provisions for the free movement of coal and steel workers. These provisions were agreed to at the insistence of the Italian delegation, although the other member states dawdled about introducing the appropriate implementation measures. The lessons learned in formulating a common work permit for coal and steel workers, and in attempting to negotiate, ratify, and implement the measures needed to give effect to the ECSC free movement provisions, prepared the drafters of the Treaty of Rome to be much more specific. With the experience of the ECSC's delay, the negotiators of the Treaty of Rome expanded free movement rights to much wider categories of employed nationals of EEC member states and specified in much greater detail how the rights to freedom of movement were to be realized. Struck by the difficulties of achieving unanimity on implementation measures, they also took care to empower the Commission to ensure the realization of mobility rights for individuals.

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