

# CITIZENSHIP AND THE LISBON TREATY: CAN THE BRITISH EVER BE EUROPEAN CITIZENS?

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## CONFERENCE REPORT

The Director of the Federal Trust, Mr Brendan Donnelly, opened the conference by thanking the Representation of the European Commission in London for co-funding this conference. The symposium forms part of a series, co-organised by the Global Policy Institute, which examines the new British Liberal Democrat-Conservative coalition government's positions and policies towards Europe.

The first speaker, **Georgia Georgiadou**, policy officer from the Citizenship Unit of the Directorate General Justice at the EC (European Commission), gave a legal analysis of how the EC views EU (European Union) citizenship and the actions that the EC is taking to make the notion of EU citizenship more meaningful to the daily lives of EU citizens.

Ms Georgiadou began by highlighting the innovative and transformative potential of EU citizenship, which first emerged with the 1991 Maastricht Treaty. The notion of EU citizenship has empowered Europeans by circumscribing member states' unfettered competences and inducing institutional change at national level at the urging of the ECJ (European Court of Justice).

The Treaty of Lisbon, in force since December 2009, has enhanced the legal status of EU citizenship. This status is tied into other sections of the EU treaties on democratic

principles (Articles 9, 10, 11) and non-discrimination measures (Articles 18, 19). The Treaty of Lisbon also introduces a citizenship initiative, which enhances EU citizens' capacity to petition EU institutions. Finally, the Charter of Fundamental Rights legally reinforces EU citizens' rights.

Looking at the future development of EU citizenship, Ms Georgiadou outlined the ways in which the EC plans to reinforce EU citizens' rights. These include the creation of a citizenship portfolio in the European Commission and the implementation of the report entitled "Dismantling the obstacles to EU citizenship rights", issued on 27th October 2010, which sets out twenty-five measures to resolve practical procedural problems faced by mobile—living, studying or working abroad in other EU member states—and static EU citizens—for instance when shopping online for products from other EU member states.

Enforcement actions that the EC will take to promote EU citizenship across the member states include directives and infringement procedures, facilitating best practices among national administrations through the Open Method of Coordination and awareness campaigns—channelled through a new EU website (<http://ec.europa.eu/youreurope>), five hundred Europe Direct centres across the EU member states and the EC marking 2013 the EU Year Of Citizenship. The EC will also issue a report on consulate rights in March 2011.

Ms Georgiadou concluded with words by



*This conference was co-funded by the European Commission Representation in the UK.*

EC President José Manuel Barroso: “Europe’s raison d’être is to empower Europeans.”

The second speaker, **Richard Laming**, Chairman of the Federal Union, began by noting that EU citizenship is neither widely appreciated, nor even widely recognised in the UK (United Kingdom).

The concept of EU citizenship is not widely appreciated in the UK, given the UK’s historically reluctant relationship with the EU. Mr Laming stressed that EU citizenship is not a mere legal or political term. It also has emotional and moral connotations. EU citizenship is not widely recognized in the United Kingdom because the British tend to see themselves as subjects of the monarchy, rather than citizens. The recent change in government has not altered the executive’s approach to the issue of promoting EU citizenship.

Mr Laming discussed EU citizenship under four criteria: shared justice, influence, identity and resources.

Shared Justice. Before the Treaty of Lisbon, cooperation in this policy area remained largely intergovernmental. For instance, the Trevi and Prüm conventions—member state cooperation for police and security officials—did not engage national parliaments or citizens from the EU member states.

With the new Treaty, Judicial and Home Affairs is largely (but not entirely) moved to the Community method. The Charter of Fundamental Rights becomes legally enforceable (except opt outs for the UK and Poland) and anti-discrimination measures retained.

Recently, the EU has sought to enhance judicial cooperation through measures to improve the mutual recognition of the legal systems of EU member states, EU marriage/divorce procedures for mobile EU citizens—with discussion of possible enhanced

cooperation between twelve of the EU member states (excluding the UK)—and the Stockholm programme. The latter is a counterpart to the EAW (European Arrest Warrant) and seeks to strengthen the rights of criminal suspects being transferred by the EAW. For instance, the Stockholm Programme calls for the right to interpretation and translation in court proceedings.

In the UK, the political establishment continues to be suspicious of the Charter of Fundamental Rights, the ECJ and EU law. The UK has an opt-out from the Charter of Fundamental Rights and 2013 will be the deadline for a final decision for the UK to decide to opt out of or into various segments of JHA. Proposals for a mutual recognition of EU member states’ legal systems could potentially receive a warm reception in the UK. However shared justice arrangements will remain problematic for the UK in the future given the British fear of high regulation costs versus perceived benefits.

Shared influence. Member states are reluctant to promote EU citizenship. EP (European Parliament) elections incite less turnout than parliamentary elections at national level across EU member states, MEPs (Member of the European Parliament) and European Commissioners are less well known than national politicians—perhaps because they are not available in the country for the national media. The notion that the European Commissioner is independent—a formal requirement of the EU treaties—from the member state where he or she was born has declined since the last two EU enlargement rounds. Finally, mobile EU citizens can only vote in the municipal, (but not national) elections in the member state that they choose to reside in.

With the Treaty of Lisbon, EP powers are significantly enhanced—a proposal is included for the EP to elect the European Commission

President. The Treaty also requires the Council of Ministers to legislate in public, which could potentially unite citizens from different EU member states with similar interests. Finally, the Treaty sets up a citizens' initiative.

Over the last year, proposals have surfaced that not only should the EP elect the European Commission President, but also for EP parties to put up presidential nominees from their parties for election.

From a British perspective, UK involvement in the EU political system is rather weak. The Conservative party does not want to be part of the centre right politics in the EP. Finally, UK media companies are closing down their Brussels outlets given the lack of interest in EU affairs from the British public and a low level of recruitment of UK citizens into EU institutions.

*Shared identity.* A few tangible single market symbols are shared among EU citizens, namely the Euro, EU anthem and the EU flag. The EU also has a range of cultural and educational exchange programmes. The flag and anthem are not included in the Treaty of Lisbon (as was proposed by the Constitutional Treaty), but the use of these symbols in practice will continue. The Treaty also includes measures for improving cross border sports and tourism.

The British still do not see themselves as European citizens—as demonstrated by the new British executive's furore over the EU Budget perspective and EU Fisheries policies. According to UK government figures, sixty-two per cent of the British population claim only to speak English and the UK government avoids using the European flag unless it is obliged. The UK also remains outside the Schengen system and the Euro.

*Shared resources.* To some extent, the EU is a monetary transfer union. About two-thirds of the EU Budget is spent on

redistributive policies, (such as the Common Agricultural Policy) and structural funds. With the Treaty of Lisbon, the EU Budget for natural resources—defined as birds, habitats, water, climate change and fisheries—remains unaffected. With the Eurozone crisis, there could be moves towards a fiscal union. However, the Eurozone crisis risks hampering EU efforts in international climate change negotiations.

From the British perspective, there continues to be a debate over the EU Budget although some areas of the UK receive extensive EU funding. The declining UK fishing industry continues to be wrongly blamed on the EU Fisheries policies and the UK will not partake in any Eurozone sovereign debt guarantees.

The third speaker, **Professor Jo Shaw**, head of the College of Humanities and Social Sciences and professor at the University of Edinburgh, discussed the notion of EU citizenship as an unfinished concept. Questioning whether the British can ever be EU citizens, she alluded to a Eurobarometer poll that showed twenty-five per cent of UK nationals do not want to be EU citizens at all. This finding, Professor Shaw noted, begs the question whether British nationals do not want to take advantage of EU benefits such as cross border consumer protection, the removal of border controls or the facilitation of transboundary family issues.

Questioning whether EU citizenship solely applies to (semi-permanent or permanent) mobile EU citizens, Professor Shaw discussed the impact on the host state of extending EU citizenship rights to nationals from other EU member states. Referring to Europeanization, Professor Shaw looked culturally at how UK and EU law fit together. Professor Shaw identified four areas of EU free movement law that remain problematic for the UK: (1) integration of EU citizens and their

third country family members; (2) immigration status or the right to reside for EU citizens as a means to access UK welfare benefits; (3) delinquency, i.e. EU citizens thought to be abusing free movement rights; (4) the rights of EU citizens from the new eastern European member states, currently subjected to various transition agreements with older EU member states.

In concluding remarks, Professor Shaw noted that the development of EU law into the citizenship arena is threatening to individual EU member states. Professor Shaw also warned that the mismatch between EU law and UK law could stifle UK international competitiveness by inhibiting talented EU citizens from coming to the UK.

The final speaker, **John Palmer**, a board member of the Brussels-based think tank European Policy Centre, discussed EU citizenship as shared political experiences. He argued that the politicisation of the EU will increase the demand for EU citizenship rights; but this will create a political dilemma for individual EU member states, that will only be resolved through the Europeanization of the party political process. Mr Palmer began by observing that the notions of identity and rights are elusive and subject to continual change. This is not because of formal decisions, but realities of life. For instance, UK education, social and retirement care rights are being interpreted differently today than twenty years ago in various parts of the UK.

In addition, Mr Palmer observed that the frontiers between identity and rights are merging. With the global financial crisis, there are increasing pressures for further European political integration. This has implications for the definition of identity, rights and democratic accountability. There are pressures for a more integrated Eurozone area and a more integrated European foreign policy beyond the confines of the currently intergovernmental EU

Common Foreign and Security Policy—as demonstrated by contracting national budgets for the foreign ministries in the EU member states (except Poland) due to fiscal tightening.

Mr Palmer noted that the EU could face a democratic dilemma as a result of pressures for further European political integration. Risks include a rise in irredentist movements and a rise in populist left/right movements.

Mr Palmer argued the need for an open debate between EP parties and EU citizens regarding visions of Europe because EU citizens do not identify with the EU political process—as demonstrated by low voter turnout rate across EU member states at EP elections, the identification of EP parties through an exclusively national political lens and the tendency to use EP elections as a protest vote against the national government.

Mr Palmer suggested that the EP parties should put their candidates for EC president to the voters at the next EP elections. National parliaments should also hold member states' governments to account—in terms of surveillance and accountability: this is essential given the central role of national executives in the Council of Ministers and the European Council. New networks between national parliaments and the EP should also be created.

In concluding remarks, Mr Palmer observed that there are new opportunities for EP parties to engage in open conflict and contestation of ideas, given the increasing synchronisation of the political cycles of EU member states. Mr Palmer concluded that Eurosceptic propaganda in the member states would only be countered fully if EU citizens are able to choose their EU political representatives, who are accountable to the choices they make.

In concluding remarks, the chairman, **Brendan Donnelly**, Director of the Federal Trust, drew parallels between citizenship and the single market. Mr Donnelly argued that common standards for EU citizenship would develop over time. State sovereignty is malleable and changes as it interacts with the free movement of goods, services and people. The citizens' initiative will not resolve the democratic deficit between EU member state citizens and EU institutions concluded Mr Donnelly. Instead, setting up EU representative democracy is a prerequisite for resolving the democratic deficit.

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