



# EUROPEAN POLICY BRIEF



## REINFORCING ECONOMIC RIGHTS OF EU CITIZENS

Policy scenarios and recommendations from bEU citizen, a research project on the barriers to realise and exercise citizenship rights by European Union citizens

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### INTRODUCTION

This is a brief in the bEUcitizen policy brief series. The bEUcitizen project - funded by the European Union - set out to identify, investigate, discuss, and ameliorate the barriers to the active use of rights (and knowledge of duties, the concomitant to rights, in so far as there are any) by European citizens. The project aimed to provide a comparative overview and classification of the various barriers to the exercise of the rights and obligations of European Union citizens in the member states. Simultaneously, the project analysed whether and how such barriers can be overcome and the future opportunities and challenges the European Union and its member states face to further develop the idea and reality of European Union citizenship.

Drawing on the research conducted during the project, **this policy brief advances several key ideas as regards the reinforcement of economic rights of European Union citizens.** As the cornerstone of the European Union's Single Market, the four freedoms constitute a principal driving force behind the European economic integration process. Through the case law of the Court of Justice of the European Union, the economic principles and commitments for the Member States enshrined in the Treaty provisions on free movement have been transformed into substantive economic rights for European Union citizens. A particularly broad interpretation of the Treaty rules on free movement of goods, persons, services, and capital set in motion a process of constitutionalization of the economic freedoms. Now, with the legally binding European Union Charter of Fundamental Rights containing several economic rights – such as the freedom to choose an occupation and

the right to engage in work (Article 15), the freedom to conduct a business (Article 16), the right to property (Article 17), the right to non-discrimination (Article 21), and the freedom of movement and residence (Article 45) – the fundamental character of the four freedoms has been reinforced. It can after all be argued that the four freedoms are more specific elaborations of these Charter rights. Accordingly, within the area of the Single Market citizens have gained, at least in theory, far-reaching rights to develop themselves and to challenge various kinds of measures and practices that hinder them in doing so. However, notwithstanding these legal developments, legal and factual barriers to the exercise of European Union economic rights continue to exist.

This policy brief aims to show which potential scenarios can be envisaged to relieve and perhaps ultimately eliminate persistent barriers to the exercise of economic rights. At the same time, proposals are made for how economic rights for EU citizens can be further enhanced.

## KEY OBSERVATIONS

### EUROPEAN ECONOMIC INTEGRATION AND FREEDOM OF MOVEMENT

The Treaty Establishing the European Economic Community confined the free movement of persons to individuals participating in the common market. The creation of this market space – which was later referred to as the internal market – has played a central role in the attainment of the objectives of the original Treaty and its successors. It appears that from the outset the economic rights of European Union citizens based on the four freedoms have entailed a right to equal treatment, i.e. a right not to be discriminated against on grounds of nationality, and a right to free movement.<sup>1</sup> The Court of Justice of the European Union has gone beyond a mere right to equal treatment of citizens by prohibiting a range of restrictions which could have prevented citizens from obtaining market access in another Member State.<sup>2</sup> This has been an important step ‘towards removing barriers to the creation of a single market where persons and services can, in principle, move freely.’<sup>3</sup> In the case *Gaston Schul*, the Court referred to merging national markets into a single market as bringing about conditions as close as possible to those of a genuine internal market.<sup>4</sup> The principle of free movement appears to be at the core of the Court’s case law, and, together with the principle of equal treatment on grounds of nationality, it belongs to the core values of the European Union.

### MARKET CITIZENSHIP

Several key observations can be made in respect to the economic rights of European Union citizens. **First, the Single Market has constituted the means through which ideas of transnational cooperation in Europe were put into effect.** The Single Market also put traders, workers and consumers, and ultimately European Union citizens at its heart. Moreover, the economic rights of European Union citizens were constitutionally embedded in the Treaties and the Charter of Fundamental Rights. The emphasis on free movement and economic rights has led to the notion of ‘market citizenship’, which continues to constitute the essence of European Union citizenship more generally.<sup>5</sup>

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<sup>1</sup> O’Leary, S. ‘Free movement of persons and services’ in P. Craig and G. de Búrca (eds.) *The Evolution of EU Law*, 2nd edn, Oxford University Press, 2011.

<sup>2</sup> Snell, J. ‘The Notion of Market Access: A Concept or a Slogan?’ *Common Market Law Review*, Issue 47(2), pp. 437–472, 2010; S.A. de Vries, *Tensions within the Internal Market – The Functioning of the Internal Market and the Development of Horizontal and Flanking Policies*, Europa Law Publishing, 2006.

<sup>3</sup> See Barnard, C. *The substantive law of the EU: the four freedoms*, Oxford University Press, 2016, p. 204.

<sup>4</sup> Case 15/81, *Gaston Schul*, ECLI:European Union:C:1982:135.

<sup>5</sup> Shuibhne, N. ‘The resilience of EU market citizenship’ *Common Market Law Review*, 47(6), pp. 1597–1628, 2010.

**ACTIVE  
PROMOTION OF  
ECONOMIC RIGHTS  
AT EU LEVEL**

**Second, the European Union has not only put emphasis on economic rights but it has also actively promoted them.** For instance, the Union has liberalized the services markets and has actively promoted the rights of consumers. In turn, semi-public and semi-private societal organizations, which had partly been responsible for market regulation, have lost influence. Whereas economic rights in the Member States have been more socially embedded, this has not been the case with European Union level rights. At the national level property, labour, and economic enterprise are the three main areas in which economic rights can be recognized, but these rights do not constitute a stable category because their legal recognition and/or constitutional status very much depends on the economic order in the relevant Member State and, related to this, on historical developments. A coherent approach to economic rights in most Member States can nevertheless be discerned due to the emergence of the welfare state and the establishment of a social market economy. As a result, social rights have gradually gained importance and have defined and demarcated the scope of application of economic rights. However, at the European Union level, economic rights are extensively regulated whereas social values and rights continue to be included in a rather eclectic way.<sup>6</sup>

**BARRIERS TO  
ECONOMIC RIGHTS**

Third, despite the importance of economic rights at the European Union level, there are still numerous barriers to the exercise of these rights, which range from legal barriers to more administrative and practical barriers.

In relation to the **recognition of professional qualifications** we see a widespread national regulatory zeal leading to legal barriers. Furthermore, language – both in terms of communication with national authorities and the proficiency requirements for gaining access to certain professions – has been identified as a serious practical and legal barrier. Moreover, limited access to information still results in hindrances to the exercise of economic rights in some Member States. Finally, aside from these formal barriers, informal barriers in the form of cultural ‘unspoken rules’ also affect the access of foreign professionals to the services market.

In relation to **consumer protection in the Digital Single Market**, examples of barriers include discriminatory practices based on nationality or place of residence, unaffordable and inefficient cross-border parcel deliveries, and a large-scale lack of trust in foreign online shopping outlets. Other barriers originate from conflicts that arise between the economic rights of consumers and businesses, on the one hand, and the privacy and data protection rights of citizens, on the other hand. The latter have been considerably strengthened at the European Union level and particularly through the case law of the Court.

In the field of **intellectual property rights**, rapid technological developments necessitate a radical overhaul of the current legal regime, which is not appropriate anymore to realise the objectives pursued. Legal barriers to the exercise of economic rights can, for instance, be found in the absence of a unitary title of copyright at the European Union level, which has a negative impact on the proper functioning of the Single Market and competition with companies in the United States. A complex regime of exceptions and limitations, resulting from the not entirely successful harmonization of copyright rules, provides further legal barriers. Finally, problems caused by geoblocking, which allows right holders to partition markets and thus prevent a proper realisation of the (Digital) Single Market, constitute significant

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<sup>6</sup> Veldman A. & De Vries, S., ‘Regulation and Enforcement of Economic Freedoms and Social Rights: A Thorny Distribution of Sovereignty’, in: T. Van den Brink, M. Luchtman and M. Scholten (Eds.), *Sovereignty in the Shared Legal Order of the EU*, Intersentia, Antwerpen, 2015, pp. 65-92.

## IMPORTANCE OF LANGUAGE

barriers to the exercise of economic rights.

Fourth, a specific barrier to the exercise of economic rights for citizens comes from the Union's multilingualism.

The protection of linguistic diversity in Europe makes communication across national borders more difficult. It is undeniable that the preservation of individual languages produce transaction costs which hamper free movement and may lead to indirect discrimination.

Language policies adopted at the national, regional or local levels create market distortions, restrict informal forms of interaction between employers and employees and thus impact on the normal functioning of the market. Where overprotected language policies are pursued, such as the imposition of multilingual labels for goods, this can lead to vast obstacles to the exercise of economic rights by traders and consumers. In other words, national and regional linguistic policies restrict trade in goods and services, as well as the mobility of persons.

The problem is that neither the institutions of the European Union nor the Member States have dealt with the issue of multilingualism in a comprehensive and satisfactory manner.

## POLICY IMPLICATIONS – FOUR SCENARIOS

The four freedoms and their key principles of free movement and equal treatment lay at the heart of the European legal order. The economic rights enshrined in the four freedoms thus constitute an indispensable element of European Union citizenship and they are emphasised by the Charter of Fundamental Rights.

**Against this background, the protection of economic rights of European Union citizens, including free movement and equal treatment, should remain at the forefront of the Union's policies. The prevention of disintegration and a fragmented Single Market is even more important considering the economic and financial crisis, the migration crisis, the rule of law crisis, as well as the external threats currently facing the European Union. If citizens fail to understand the concrete benefits of the Single Market, the result might be protectionism and increasing barriers to the exercise of rights. Bearing this in mind, the following four scenarios can be imagined about the future development of economic rights in the European Union.**

### SCENARIO 1: PRESERVING THE STATUS QUO

The European Union continues to focus on barriers to the exercise of economic rights, particularly those legal and factual barriers that restrict market access, free movement and reinforce discriminatory practices to the detriment of citizens' economic rights. This approach is in line with the European Commission's Citizenship Report of 2013 and the case law of the Court of Justice of the European Union.<sup>7</sup>

**The European Union pursues and deepens its current policies on the internal market on the basis of its strong competences as laid down by the Treaty. The citizens are expected to benefit from this approach.** European Union rules will strengthen consumer confidence and seek to stimulate the cross-border purchase of goods and services. Professionals

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<sup>7</sup> See *Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'EU citizenship report 2013 - EU citizens: your rights, your future, COM/2013/0269 final, <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52013DC0269>; see also Case C-55/94 *Gebhard* ECLI:European Union:C:1995:411; Case 8/74 *Dassonville* ECLI:European Union:C:1974:82; Case 120/78 *Cassis de Dijon* ECLI:European Union:C:1979:42.*

should more easily get their diplomas recognized in another Member State, e.g. through the introduction of the European professional card. The relaxation and modernization of the intellectual property regime should make it easier for traders to market and sell products and services, and for consumers to benefit from the internet in the Digital Single Market.

Furthermore, citizens will benefit from a strengthening of the enforcement of European Union legislation and case law of the Court in the field of economic rights. One example concerns the system of mutual recognition of professional qualifications. Barriers to the exercise of economic rights often result from restrictive or wrongful national implementation and application of European Union rules.<sup>8</sup>

But next to legal or formal barriers, there are numerous factual and informal barriers to the exercise of economic rights, which the European Union should focus upon. Research has shown that language barriers, cultural unspoken rules, red tape or lack of trust and information in respect to the recognition of professional qualifications or the Digital Single Market lead to hindrances or even discrimination.

**THE SINGLE  
MARKET AS THE  
LEAST CONTESTED  
POLICY AREA**

**The European Union's Single Market remains one of the least contested areas of integration, even after the Brexit referendum. Strengthening the economic rights of citizens is therefore crucial in offering a prospect for the future of European Union citizenship and for European integration.**

But there are two caveats here. First, it must be realized that the free movement of persons, including persons who are economically active, remains an area of greater sensitivity than the free movement of goods, "as persons raise welfare and even security implications in a way that goods do not".<sup>9</sup> Tensions and clashes continue to exist between economic rights, on the one hand, and civil, social and political rights, on the other hand in a multi-level context, which leads to barriers. Research in the bEUcitizen project shows that at the national level the recognition and scope of economic rights depends on the economic order of the Member State and is strongly intertwined with social rights. In some states, one rather speaks of social or socio-economic rights than of economic rights as an independent category of constitutionally protected rights. This interaction between economic rights and social rights applies to economic and civil rights and economic and political rights as well. At the national level, these rights are all strongly inter-linked and it is this connection that lies at the heart of our modern understanding of citizenship. A too strong focus on economic rights in seeking to preserve the status quo may well entail that European Union citizenship remains a very narrowly defined and hollow concept. That is because the focus would remain on economically active persons who can support themselves financially, and on companies, traders and consumers.

Second, even in traditional areas of Single Market policies, like trade in goods, it is essential for the European Union to clarify both the potential and the boundaries of economic rights of citizens. The broad interpretation given by the Court of Justice to Article 34 of the Treaty on the Functioning of the European Union with a focus on market access has severe implications for national, regional and local rules. There is a tension between the free movement principle and the intention to protect diversity and local interests. Under the principle of subsidiarity some barriers to economic rights may well

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<sup>8</sup> See bEUcitizen research paper *The transposition of the relevant EU instruments in several Member States*, D 5.2, by de Vries, S., van den Bossche, M. T. S. S., Adamo, S., Hatzopoulos, V., Nyirscsak, A., Salat, O., Pulice, E., Guarda, P., Ioriatti, E., Vega, J.A.G. and Menendez, I. V., 2015, <https://doi.org/10.5281/zenodo.46831>.

<sup>9</sup> See Barnard, C. *The substantive law of the EU: the four freedoms*, Oxford University Press, 2016, p. 206.

**SCENARIO 2:  
STRENGTHENING  
THE DIGITAL SINGLE  
MARKET – LESS  
EMPHASIS ON  
MOBILITY**

have to be accepted, also in the wake of the Court's *Keck* ruling.<sup>10</sup>

The Digital Single Market offers many opportunities for businesses and consumers in terms of increasing the choice of products and services with regard to quality, price and convenience. **Since consumers do not have to use their free movement rights in order to access the Digital Single Market, the result can be a 'commuting model' with less emphasis on the mobility of citizens.**<sup>11</sup>

The European Commission adopted the Digital Single Market strategy on 6 May 2015.<sup>12</sup> It involved a series of targeted actions to be implemented by the end of 2016. The strategy rested on three pillars: (1) better access for consumers and businesses to digital goods and services across Europe; (2) creating the right conditions and a level-playing field for digital networks and innovative services to flourish; (3) maximizing the growth potential of the digital economy. The research by bEUcitizen shows that it is essential to update copyright legislation, which suffers from a certain level of obsolescence.<sup>13</sup> The aim should be to improve citizens' access to online content, thus supporting cultural diversity, while at the same time unlocking new opportunities both for creators and the content industry. In this perspective, online intermediaries play a pivotal role, particularly with reference to strategies for contrasting intellectual property rights infringement.

Although the Digital Single Market first and foremost concerns the economic rights of traders and consumers in using online tools and services, it also offers the opportunity to strengthen other rights, including social and civil rights of citizens.

Firstly, the Digital Single Market can be used to increase the cross-border sale and purchase of goods and services. Currently, citizens face many obstacles as a result of improper implementation of European Union rules, lack of enforcement, geoblocking,<sup>14</sup> lack of trust, different payment methods or different ways through which contracts enter into force. A large public consultation conducted from 24 September to 28 December 2015 showed that the vast majority of consumers experienced geoblocking or other geographically-based restrictions when shopping in another Member State for goods, services and/or digital content.<sup>15</sup> These obstacles could be largely removed by unlocking the potential of the Digital Single Market.

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<sup>10</sup> Joined Cases C-267 and C268/91, *Keck & Mithouard*, ECLI:EU:C:1993:905.

<sup>11</sup> See bEUcitizen report *Conceptual and methodological framework for systematic comparison and analysis*, D 4.1, by Ferrín, M., Cheneval, F., van Waarden, F., Koska, V., Hlousek, V., Levi-Faur, D., Velasco Rico, C.I., Bianculli, A., and Yilmaz, H. 2014, <https://doi.org/10.5281/zenodo.14055>. see also bEUcitizen policy brief *Towards a more legitimate form of direct democracy in the European Union*, 2017, by Cheneval, F. <http://beucitizen.eu/publications/european-policy-brief-towards-a-more-legitimate-form-of-direct-democracy-in-the-european-union/>.

<sup>12</sup> See *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'A Digital Single Market Strategy for Europe*, COM/2015/0192 final, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1447773803386&uri=CELEX:52015DC0192>.

<sup>13</sup> See bEUcitizen research paper on Case Study (iii) *Barriers that citizens face regarding their intellectual property rights*, D 5.5, by Guarda, P., 2016, <https://doi.org/10.5281/zenodo.61629>.

<sup>14</sup> See bEUcitizen research paper *Barriers that citizens face regarding their intellectual property rights* (2016).

<sup>15</sup> See *Proposal for a Regulation of the European Parliament and of the Council on addressing geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC*, COM(2016) 289 final, available at <https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-289-EN-F1-1.PDF>, p. 5.

## THE IMPORTANCE OF INTELLECTUAL PROPERTY RIGHTS

Secondly, intellectual property rights play a pivotal role. The existence of barriers to online activities in the form of intellectual property rights prevents citizens from taking advantage of a wider range of goods and services in the Digital Single Market. Furthermore, the European Union still faces a number of challenges:

- the crisis of the cultural industry and the inability to restrict trade and free movement of unauthorized intellectual works;
- the poor protection of emerging professional creators by current copyright rules;
- the insufficient use by consumers of the digital environment;
- the legal changes in terms of better services at competitive prices;
- different perceptions of citizens from different generations.

From this perspective, taking the copyright system as a paradigmatic example, the absence of a unitary title of copyright at the European Union level impacts on the efficiency of the system itself, both internally and especially in the competition with United States' companies, which instead benefit from a single intellectual property title. Moreover, the difficulties linked to the regime of exceptions and limitations are, furthermore, caused by a not entirely successful harmonization process of copyright regulation in the European Union. The differences that still remain at the implementation level in the various Member States are an obstacle and a tough barrier to the exercise of the rights of European citizens in a continental perspective. These are obvious and clear examples of legal barriers.

## BALANCING ECONOMIC, SOCIAL AND CIVIL RIGHTS OF TRADERS AND CONSUMERS

Thirdly, in the Digital Single Market, just like in any other market place, various rights of European Union citizens conflict with each other. If a Member State adopts stringent rules on nightshifts in shipment logistics with the intention to protect workers, this may have an impact on the availability and the price of products offered by web stores. Consumers may be inclined to purchase products and services from foreign web stores based in Member States where less stringent rules apply. The Digital Single Market should be able to address these distortions between Member States not only for the benefit of economic rights of European Union citizens, but also in view of protecting their social rights.

Furthermore, the Digital Single Market poses problems with regard to the protection of citizens' civil rights in the exercise of their economic rights. This refers in particular to the freedom of information, the freedom of expression and the rights to privacy and data protection. One way would be to incorporate the stringent requirements laid down in the General Data Protection Regulation (Regulation 2016/679) and derived from the case law of the Court on the Digital Single Market.<sup>16</sup> This would allow for a balanced approach to civil and economic rights which will enhance citizens' trust in using the market's full potential.

## SCENARIO 3: THE REALIZATION OF MORE 'SOCIALLY EMBEDDED' ECONOMIC RIGHTS

Although there is general agreement on the benefits of the Treaty freedoms and free movement, there are still areas of contestation, particularly where social rights of citizens are concerned. European Union citizens have relatively strong economic rights rooted in the internal market, as opposed to social rights, which are still mainly protected at the national level.

As stated under Scenario 1, the danger of merely focusing on the removal of barriers to the exercise of economic rights is that social rights and other values of citizens become too easily subsumed under the already established economic values of the European Union. **In light of growing**

<sup>16</sup> See C-131/12 *Google Spain* ECLI:European Union:C:2014:317; see also C-293/12 *Digital Rights Ireland* ECLI:European Union:C:2014:238.

inequality, increased opposition against globalization and lurking protectionism, the holistic character of the internal market must be underscored and further developed. Economic rights of citizens should be more socially embedded, giving a social dimension to the European Union. In line with one of its main objectives– namely the creation of a social market economy. Moreover, more account should be taken of the structural differences that exist between national social systems at the level of policy-making and in the case law of the Court. Furthermore, the social rights and principles enshrined in the Charter of Fundamental Rights may constitute a counterweight to economic rights, giving the European Union the opportunity to position itself as the protector of socially embedded economic rights of its citizens. The problem remains that the Court has so far adopted a restrictive approach to the Charter, particularly where fundamental social rights were at stake.<sup>17</sup> This approach may therefore lead to suboptimal solutions. However, as long as no further competences in the social policy field have been transferred to the European Union level, market-correcting policies remain a national affair.

**In order to further socially embedded economic rights, one could also think of promoting the collective dimension of economic rights and horizontal subsidiarity.** Rather than continuing to focus on individual economic rights of its citizens, on liberalization, privatization and free competition, the European Union could also choose to more actively protect and pursue public services, general interests, or common goods.<sup>18</sup> This may also require a more coherent application between the European Union's policies in the fields of internal market and competition.

**PUBLIC INTERESTS,  
COMMON GOODS  
AND HORIZONTAL  
SUBSIDIARITY**

Furthermore, the concept of horizontal subsidiarity, which at the European Union level is used to address the role of social partners, could be further elaborated in view of regulating the collective dimension of economic rights of citizens. The way in which horizontal subsidiarity is applied in Italy, for instance, to regulate public collaboration in cities and towns could be an example for the European Union. For now, traditional professional organizations, public companies, municipal authorities and institutions have only made limited efforts to restrict economic rights of citizens.<sup>19</sup> Entrepreneurship, the freedom for all European Union citizens to conduct a business and the right to property can be addressed in a socially sustainable manner only if one admits that individual rights also have a 'collective dimension'.

**SCENARIO 4:  
PLURILINGUALISM  
AS A BARRIER AND  
AN ECONOMIC  
ASSET**

**Plurilingualism is the emblematic example of a barrier to the exercise of economic rights in the European Union. At the same time, it is crucial for the protection of the various identities of citizens.**

On the one hand, language requirements may be essential in safeguarding economic rights of citizens. In order for consumers to make well-informed choices in purchasing goods and services, the information should be provided in a language they understand.<sup>20</sup> In a similar vein, knowledge of the language is crucial for traders and workers to be able to successfully access the market of another Member State.

On the other hand, states are free to regulate the use of language(s) and set specific requirements. Neither the European Union nor the Member

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<sup>17</sup> See C-333/13 *Dano* ECLI:European Union:C:2014:2358.

<sup>18</sup> Windhoff-Héritier, A. *Common Goods: Reinventing European and International Governance*, Rowman & Littlefield, 2002.

<sup>19</sup> Colombo, A. *The Principle of Subsidiarity and European Citizenship*, Vita e Pensiero, 2004.

<sup>20</sup> De Vries, S.A. 'The Court of Justice's Paradigm Consumer in EU Free Movement Law' in Leczykiewicz, D. and Weatherill, S. (eds.) *The Images of the Consumer in EU Law*, Hart Publishing, 2016, pp. 401-430.



States have adopted language policies in a comprehensive and coherent manner. As a consequence, the impact of linguistic pluralism on economic rights of citizens is largely arbitrary. This applies to the free movement of economically active citizens<sup>21</sup> as well as to the free trade in goods and services, where additional transaction costs for firms are created.

Other examples of linguistic requirements concern language proficiency tests or integration programmes that specifically apply to third country nationals. These intensive language courses are often mandatory in order to obtain social benefits or gain access to employment opportunities.<sup>22</sup> Paradoxically, third country nationals seem to be better protected against language discrimination in case of employment recruitment than European Union citizens. The Race Discrimination Directive provides that linguistic requirements which are not justified by the nature of the job constitute indirect forms of race or ethnic discrimination (Council Directive 2000/43/EC).

The core issue is thus the position which the European Union should take towards the high number of languages on its territory. Article 342 of the Treaty on the Functioning of the European Union establishes that it is up to the Council to determine the rules governing the languages of the Community institutions, 'without prejudice to the provisions contained in the Statute of the Court of Justice of the European Union'.

Obviously the recognition of a plurality of different languages hampers market integration. It is clear that an extreme protection of multilingualism – such as imposing multilingual labels in all the Member states – would create huge obstacles to the exercise of economic rights.

**The best scenario thus requires a balance between safeguarding the right to speak one's language and the promotion of plurilingualism in a way that is comprehensible, sizeable and manageable.**

## RECOMMENDATIONS FOR POLICY-MAKERS

Taking these scenarios into account, it is relevant to ask 'how could the European Union eliminate or reduce the legal and factual barriers that affect the exercise of economic rights by its citizens? We provide the following policy options for each scenario.

### SCENARIO 1: PRESERVING THE STATUS QUO BY FOCUSING ON BARRIERS TO ECONOMIC RIGHTS

European Union citizens seeking to exercise their economic rights face multiple formal, informal, legal and factual barriers. Particular attention should be given to the informal and factual barriers. Consumers and professionals should be provided with adequate and up-to-date information in more than one language, administrative burdens should be reduced and a system of best practices based on experiences in Member States for the recognition of professional qualifications should be developed at the European Union level.<sup>23</sup> At the same time, it is recommended that informal barriers in the form of cultural unspoken rules, which may lead to discriminatory behaviour towards workers and traders from other Member States, are properly addressed at European Union level.

**Concerning the recognition of professional qualifications the following policy recommendations can be made:**

<sup>21</sup> An example is the case of Roman Angonese, Case C-281/98, *Roman Angonese v. Cassa di Risparmio di Bolzano SpA*. ECLI:EU:C:2000:296.

<sup>22</sup> Van der Jeught, *idem*, p. 213.

<sup>23</sup> See bEUCitizen report *The barriers that professionals face in gaining access to the services market*, D. 5.3, by Adamo, S., Jacqueson, C., Neergaard, U., Hatzopoulos, V., González Pascual, M., de Vries, S., and Ioriatti, E., 2016, <https://doi.org/10.5281/zenodo.209578>, p 25.

**DRAWING MORE  
ATTENTION TO  
INFORMAL AND  
FACTUAL BARRIERS**

The European Union should adopt policies which encourage or even require **up-to-date information in more than one language to be available on the website of the relevant authorities in every Member State.** Furthermore, information should be made more accessible and easier to find for both professionals and employers, for instance by providing one webpage with links to all the regulated professions, relevant authorities and related application forms. Information should be regularly updated and also be made available in other languages, with English as the minimum requirement.

Moreover, the European Union **could develop and set up applications for the recognition of professional qualifications in an electronic form, while actively sustaining Member States which have failed to do so.** The European Union should also allocate resources and/or operational support to the Member States in order to support the use and knowledge of the Internal Market Information System and the development of effective e-government. In some Member States, more support is needed to help national authorities to actively implement and monitor the system of mutual recognition.

**As languages play a crucial role, more support should be given to courses on foreign language learning.** Conversely, the issue of plurality of national official languages and the linguistic requirements enforced in order to gain recognition should be closely monitored. The possibility to rely on the Internal Market Information System to solve the issue of translation of documents or certificates should be explored.

The European Union should also **introduce harmonization measures with respect to the legal recognition and certification of papers** that could ease the administrative burden of professionals.

**Finally, with respect to social rights, the European Union must acknowledge and address the issue of portability of social security benefits as an element influencing the mobility of professionals across borders.**

**SCENARIO 2:  
STRENGTHENING  
THE DIGITAL SINGLE  
MARKET**

The Digital Single Market should be a market that protects the interests of consumers against unsafe and unhealthy products. **To this goal, the European Union can look at national practices and initiatives to enhance the Digital Single Market and protect consumers' interests.** The 'Online Shopscan' developed by the Dutch ConsuWijzer offers a very concrete example of how consumers can quickly check the shop before they purchase a good or service. This could be a useful instrument for other Member States as well.

Nevertheless, information is not always a panacea for consumers, while consumer empowerment is not the only tool to promote citizens' economic rights. **The European Union should carefully monitor consumers' behaviour related to online purchases of goods and services and, where necessary, adopt additional rules to protect consumer safety.**

Differences continue to exist between consumers in the different Member States regarding their views on data protection, privacy or cyber security. **The European Union should actively integrate its policies on the Digital Single Market with data protection instruments** and use the potentially broad competences it has in these areas to protect consumers' and business interests and to promote trust in using the internet for the sale and purchase of goods and services.

More specifically, the use of payment and click methods differ depending on the Member State. Here, **there is scope to protect consumers more actively against the dangers of the use of the Internet by promoting the**

**harmonization of payment methods and requiring a click method.** On the one hand, this would make it easier for consumers and businesses to accept an offer; on the other hand, it would protect them against quick, irrational or unfounded decisions.

In view of granting better access for consumers and businesses to digital goods and services across Europe, it is essential to update copyright rules, which are suffering from a certain level of obsolescence.

Finally, the European Union should not focus only on the benefits brought by the Digital Single Market in terms of savings. Instead, the Union should also pay attention to the extension of citizen digital rights across Europe. Indeed, while merchandise circulates without borders in the Single Market, digital goods and services suffer from invisible regulatory borders within Europe.

Under the circumstances, it becomes even more crucial to emphasize the need and importance of the general principles that should guide the actions of the several (national and supranational) lawmakers, with particular reference to the right to Internet access and the right to knowledge and education networks.

Taking into account the copyright context, on the side of the legal barriers, it would therefore be prudent to begin a serious debate on the possibility **to provide for a unitary title of copyright at the EU level** for fostering the efficiency of the system. Furthermore, the **regime of exceptions needs to be definitely harmonized** for eliminating obstacles to the exercise of the rights of EU citizens within the Union.

On the side of factual barriers, **the problems related to geo-blocking systems that allow the right holders to partition the markets and thus prevent proper realization of an efficient single market must be solved.** After assessing the responses from a public consultation held in 2015, the Commission has recently made a legislative proposal in this respect.<sup>24</sup> The proposed regulation addresses the problem of customers not being able to buy goods and services from traders located in a different Member State, or being discriminated in prices or sales conditions compared to nationals.

Finally, and more generally, it is important to acknowledge that digital technologies have revolutionized the framework within which intellectual property rights have been shaped. New creative processes can be identified, while innovative dissemination activity and sharing tools are becoming more salient. **Copyright therefore needs to be modernized and updated to today's needs, so that it can properly carry out its function and become a booster for creative activities. Simultaneously, copyright rules should encourage the need for knowledge of the European citizen rather than limit the development and dissemination of creative and innovative ideas.**

## COPYRIGHT AND ACCESS TO ONLINE CONTENT

## SCENARIO 3 THE REALIZATION OF 'SOCIALY EMBEDDED' ECONOMIC RIGHTS

There are various ways for the European Union to strengthen the social dimension of the internal market. **One way to achieve this is by carrying out a social impact assessment** of its policies in the field of the internal market.

**In order to expand the 'socially embedding' of economic rights, the European Union could also think of promoting the collective**

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<sup>24</sup> See *Proposal for a Regulation of the European Parliament and of the Council on addressing geo-blocking* (2016).

**SCENARIO 4**  
**STRENGTHENING**  
**EDUCATIONAL**  
**LANGUAGE POLICIES**

**dimension of economic rights and horizontal subsidiarity, as well as recognizing common goods.** The European Union could actively support this by setting up a legal framework allowing for financial aid to corporate forms of citizenship while actively monitoring best practices in Member States. The European Union should also look at the impact and potential of its internal market policies on these initiatives, particularly competition policy, which may set limits to collective initiatives in the field of economic rights. By giving its support, the European Union would respond to citizens' demand for change and encourage the creation of a market that focuses on competitiveness but also on social and collective economic values.

The European Union has already promoted plurilingualism through policies aimed at supporting language learning. In other words, part of the **solution can be to strengthen educational language policies which would produce a plurilingual environment able to foster closer interactions among European citizens.** Furthermore, the economic benefits of a multilingual society are already recognized by the Common European Framework of Reference for Languages, which defines plurilingual skills in close relation to pluricultural skills. The Common European Framework of Reference for Languages promotes "the ability to use languages for the purpose of communication and to take part in intercultural interaction, where a person, viewed as a social agent, has proficiency of varying degrees, in several languages, and experience of several cultures".

The European Union should furthermore foster **a linguistic policy** in order to prevent disproportionate national regulations on the exercise of economic rights of European Union citizens. A specific example of such a barrier originates from the **lack of a unitary language certificate at the European level which would enable the** exercise of the right to free movement.

## **Conclusion**

As the research within Work package 5 has underlined, economic rights within the context of the European Union are characterized by their broad scope of application and by a multilevel governance. When European citizens exercise their rights, the enjoyment of these rights may clash into a plurality of other kinds of citizenship rights (mostly social and civil rights), as well as into a variety of barriers, factual and legal.

Because of the presence of different interconnected factors, lifting or mitigating the barriers to the exercise of economic rights and freedoms require different actions and policies.

The realization of 'socially embedded' economic rights is another strategic aim, which deserves attention by the EU Institutions. Accordingly, the collective dimension of economic rights, horizontal subsidiarity and recognition of common goods should be further promoted.

Moreover, the potential of the Digital Single Market must be recognized. It may represent a 'commuting model' more profited on increasing cross-border sale and purchase of goods rather than on the mobility of citizens, while at the same time offering the opportunity to promote social and civil rights.

Likewise, copyright rules shall be harmonized, modernized and updated to current needs in order to properly boost intellectual property rights.

A more comprehensive and coherent language policy is needed as well, in order to reduce linguistic barriers; this should be done within the context of educational policies, which promote and increase a truly plurilingual

environment. At the same time, a unique EU language certificate could prevent the clash among national – regional language requirements and freedom of movement.

The scenarios and policy options described in this policy brief are designed on the one hand to actively promote citizens' economic rights and overcome persistent barriers to the exercise of these rights, whilst on the other to combat inequality and disproportionate limits on other rights and values of EU citizens.

## RESEARCH PARAMETERS

### OBJECTIVES OF THE PROJECT

bEUcitizen is a European Union-funded research project focused on the barriers that still exist to realise and exercise citizenship rights of European Union citizens. The project aims to:

- understand the problems European citizens experience when they try to exercise the rights provided - or perform the duties required - by the legal concept of European citizenship;
- examine where, when, and why they run into hindrances and explain their nature thereof;
- identify the causes of the existence of these barriers, both direct and indirect
- explore whether these barriers can be reduced or even lifted;
- investigate which actors have already taken initiative to do so and assess how successful have they been;
- evaluate the unintended and perhaps unwanted consequences of some possible solutions to reducing these barriers.

### METHODOLOGY OF THE PROJECT

The research into the rights of European Union citizens and the barriers to them exercising these is pursued within a multidisciplinary and multidimensional approach. By combining normative and empirical disciplines, bEUcitizen also integrated diverse methodological paradigms, tools and instruments. Taking into consideration that European Union citizenship is not only a legal principle but also a social practice as well as a historical process, the project raises mutual multidisciplinary understanding on the multidimensional character of citizenship, formulates linguistic and conceptual principles that enforce this mutual understanding and exchanges methodological approaches that improve mutual understanding.

The research is carried out in clusters and employs the following approaches:

- a horizontal approach, dividing citizenship rights into policy domains, i.e. economic, social, civil and political rights, recognising the multidimensionality of rights;
- a vertical approach, starting from the premise that citizenship rights and duties affect various categories of citizens differently, recognising the multitudinous effects of rights on different categories of citizens;
- comparisons over time and space, providing a comparative and historical approach;
- a cross-sectoral and conceptual approach, running like a red thread through all work packages—from the beginning to the end.

## PROJECT IDENTITY

<b>PROJECT NAME</b>	All Rights Reserved? Barriers towards EUropean CITIZENship (bEUcitizen)
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#### **FURTHER READING**

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