



# The Meaning of Citizenship in the Context of European Integration

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A Comparison of naturalization law between  
Western and Eastern Member States

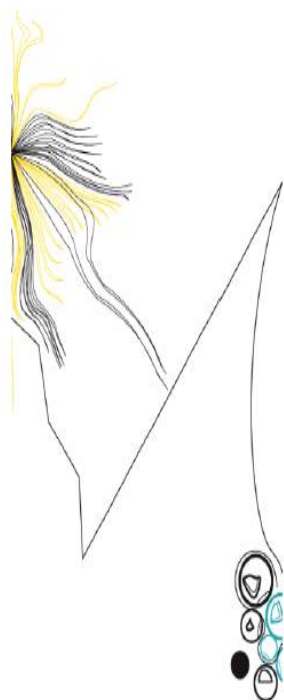
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## **Bachelor Assignment**

### **The Meaning of Citizenship in the Context of the European Integration**

*A Comparison of naturalization law between Western and Eastern  
Member States*



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# 1. Introduction

The attention to European identity is increasing. Opponents always criticize that European identity is nothing else than an artificial concept which does not exist in reality. Even surveys conducted by the EU indicate that, the most often, EU citizens feel closer related their own nation than to the EU. Anyhow, the European identity was created to bring the citizens within the EU closer to its institutions. Important elements of this identity are the anthem, the flag, the Euro as well as the EU citizenship. In general citizenship describes the bond between an individual and a state by regulating the rights and duties of its citizen. In the last decades the meaning of citizenship has changed. In its first steps it was only limited to the ancient Greek city-states. As time passed by it was extended first to the national level in the French Revolution and then to the supranational level in the EU. The main element of the EU citizenship is the free movement of people, although it has existed since the foundation of the European Community. This means that the citizens of the EU are allowed to move to and reside in every EU member state. It indicates supporting attitude the migration of the European community. Indeed the migration flow in the EU has increased enormously in the past decades, in particular the migration within the EU member states. Not only are third-country nationals moving into EU member states but also migration within the EU countries is increasing. Today migration differs from the past because most of the time immigrants live or reside for a longer time in a host country, they may even establish their life there. So the wish to become an official citizen of that country is rising within the immigrants, especially when we look at second- and third-generations. For this reason I want to study in how far citizenship law, with a closer look at naturalization law, is different within the EU. Moreover I want to find out if there is a difference between Western and Eastern member states, as the Eastern countries are marked by the Communist regime. It is interesting to see how the post-communist countries have changed their citizenship policy since the collapse of Communism until the accession to the EU. Regarding the EU enlargement in 2004 there had been a lot of doubts and criticism because it was uncertain whether the Post-Communist countries matched all the required conditions in particular democratic and economic ones. Ten of the twelve accession countries of which two more followed in 2007 are post-communist countries. The most critical arguments were that those countries were facing an intense transition process in comparison to the Southern European after dictatorship, like Spain or Portugal. After the fall of the Communist rule not only liberal market economy and democratization were prominent processes but also state-building and nationhood formation. Hence some countries had to re-establish their citizenry and the related policies. Nearly all Central East European countries

(CEEC's) have a limited experience of democratic citizenship. During the Communist rule all citizenship legislations that had existed before were annulled and replaced by the Soviet one. The socialist citizenship was described not only as a legal bound between an individual and a state but also as "belonging to a collective of working people who participate in the building of the communist society and in the building and defence in the communist state." (Barsova, 2009, p.3) Further remarkable about this citizenship was that individuals could lose this citizenship if they would leave this collective, e.g. through dual citizenship. In contrast to the EU citizenship which has the function to be a supplement to the national citizenship, the Soviet citizenship was rather suppressive in relation to other.

My research question will be related to the struggles of European enlargement and the division between Eastern and Western member states. The aim of the thesis is to analyze whether there is an east-west divide in terms of citizenship law. As the term citizenship is a broad subject I will limit the topic by only analyzing the law on naturalization in the EU member states. Naturalization, as a sub-category of citizenship, is an important topic today due to the ever growing migration flows the world is facing in the light of globalization. So my research question will be the following: *'To what extent can a convergence towards the Union citizenship be observed in Eastern and Western Member States?'* To facilitate the evaluation I will further relate to some sub-questions in the analysis part, which are the following: (1) What is the historical background of citizenship policy in the selected countries? (focusing on the period of post-1989) (2) How has citizenship policy changed since the Maastricht Treaty for EU-15? How has citizenship policy changed since accession for Eastern enlargement? (3) What citizenship type can be assigned to each selected country? (4) Is there a difference between the member states? These sub-questions will be an important element for the analysis. They will help to structure the thesis and facilitate the comparison of the selected countries. The method of analysis will be introduced in a later section. Now, a short overview regarding the structure and method of the bachelor thesis will be presented.

To find an answer to the main question I will do a desk-research and therefore focus on secondary data. Moreover, I will conduct a comparative case study to be able to compare the development of citizenship within the European member states. The first step is to identify what kinds of concepts are appropriate for evaluating the results and give a final answer. On that account I will focus on the concept of national citizenship. In contrast to the post-national citizenship, the national one not only describes the rights and duties of an individual to a political community but it also ascribes it to the national identity of that community. This will be the subject in the section of the theoretical framework where I will illustrate the types of

national citizenship. These two models describe what kind of path a country is following to define its citizenry and in how far they are integrating foreigners into their society. The ethnic citizenship is a stricter mode which favours the exclusion of foreigners while the civic type is more inclusive. Thereafter, an introduction will be given on the definition of Union citizenship and Soviet citizenship in order to see how these citizenships relate to the two citizenship types. The Soviet citizenship will be important because it will help to analyse the historical background of the Eastern member states. The EU citizenship will play a role for finding a final answer to the main question and thus to see whether or not the member states show a convergence to the EU. The theoretical framework is important to set out the concepts which will be the basis for comparing the member states in the analysis part. The next section is the methodological part where I will explicitly work out what methods are used to find an answer for the main question. First, there will be an overview of what kind of data is going to be used for the analysis. Then I will point out what cases are selected for the analysis and why. For this I will select two old western member states (of EU-15), Germany and Spain, and three new eastern member states, namely Romania, Latvia and Slovakia. For the analysis the three sub-questions identified above are fundamental instruments for the framework of the case study. Hence for each country I will first display the historical background of the citizenship policy in relation to the acquisition for immigrants, which includes also the periods from 1989 on until the accession of the European Union, for the Eastern countries as well as until the introduction of the Maastricht Treaty, for the western countries. Secondly, I will evaluate whether the citizenship policy has changed after the Union membership respectively after the Maastricht Treaty and whether these changes can be put into relation with those events. The last sub-question analyses what kind of ideal-type, ethnic or civic citizenship, corresponds to each country, in each phase outlined before in the first two sub-questions. The identification of the countries' citizenship type in the third sub-question will be relevant to find the final answer to my research questions. After the identification of each country I will try to compare whether an approximation to the Union citizenship, which favours the civic citizenship, can be observed and whether there are differences between Eastern and Western member states. These results will then be summarized in the conclusion and will be put in relation to the main topic of shaping European's identity and in how far this corresponds to my thesis. In addition I will reflect on the citizenship policy today within the member states and highlight the role of the EU.

## **2. Theoretical Framework**

In this section focuses on the concepts of citizenship and sets out the features by means of that I will be able to compare the countries which I select for my case study. I will use the conception of national citizenship as an instrument to answer my main question. In the introduction I already emphasized that I will concentrate on the naturalization laws of the different member states to see whether an approximation between the EU member states can be observed. In the following I am going to define the concept of national citizenship and in order to explain what kind of ideal-types can be found. The construction of ideal types will be important to find an answer for my research question because it is useful for the comparison of the countries. Being a fundamental instrument for a comparative case study it is a measuring tool to determine whether there are similarities or deviations in the certain cases. However, an ideal type never meets the concrete reality. "It is constructed out of certain elements of reality and forms a logically precise and coherent whole, which can never be found as such in that reality" (Coser, 1977). Regarding the main question of the bachelor assignment, the elements of the ideal-types will be related to naturalisation law. Then I will point out how the Soviet and the EU citizenship correspond to these ideal types and what kind of role they play within Eastern and Western member states.

### **2.1 Ethnic and Civic citizenship**

In contrast to the post-national citizenship, the national one not only describes the rights and duties of an individual to a political community, but also ascribes it to a national identity of that community. The post-national citizenship describes the decline of the nation-state and therefore, it would not be useful for my analysis. (Soysal, 1996) The competence to define the citizenry of a country and hence decide who can acquire citizenship is left to the national government and not to the EU level (TEU, article 6). Moreover the EU citizenship is only a complementing part to the national citizenship and not a replacement. According to Brubaker (1992) the national citizenship is an institution which assigns a set of persons to the members of the state community and identifies everyone outside this community as an alien. On the one hand, this community confirms certain civil, political and social rights and duties to its members and thus creating an inclusionary and exclusionary community. On the other the members give the sovereignty to the community (nation-state) which acts as the main regulator of the relationship between the community (nation-state) and the individual, as well as with other communities (other states and international organizations). (Vink, 2004) A nation-state can be seen as such a community because it contains modes of organizing and experiencing these kinds of memberships. (Brubaker, 1990) Moreover, citizenship not only



defines rights and duties of citizens but also is a kind of identity marker emphasizing on the question 'who is what'. Hence it is inclusive for ones while it is exclusive for others. (Koopmans, 1999) To establish a citizenship within a country residence and being born in the territory are determinant elements to construct citizenship. Notwithstanding, these elements are not equally established in all countries, even regarding the European member states. (Sieveres, 2009) National citizenship may follow two ideal-types of citizenship, on the one hand it is the ethnic type, and on the other it is the civic one. While the former one defines citizenship as representing a culturally homogenous state, the latter one supports a multicultural state. Both types developed from the concept of nationalism which emerged in the 18<sup>th</sup> century and were expanded by several authors. Besides different modes of nationalism exist because the communities within nation-states emerged differently. While an ethnic nationalist country based its citizenry on blood-ties the other one is based on the allegiance to the state and emphasizes on the political community.

Below I will define the two ideal-types by pointing out the main characteristics of each one. This will be helpful to determine in chapter four what ideal-type is represented in the selected countries.

#### Ethnic Citizenship

The ethnic citizenship defines a cultural homogenous nation-state. Hence, it disapproves the existence of a multicultural norm. A state based on a single cultural community implies that language, history and descent are determinant factors. According to Lecours (2000) ethnic citizenship portrays the nation as an organic whole which has a self-regulating social system. Moreover, this type of citizenship relies on the principle of *jus sanguinis*. It compromises that membership is determined at birth and excludes all persons who are not part of the prescribed collective identity because this is only ascribed through descent. (Koopmans, 1999) So this type is rather exclusionary for aliens because they are not part of this ethnic community and may never become. Anyhow, today most countries in the world inhabit also immigrants and also bestow some rights on them. It implicates that the pure model of ethnic citizenship is not possible in our world today as the migration flow is increasing today, especially when we talk about the EU. That is why I will extent characteristics that illustrate ethnic citizenship.

There are three main features of this ideal-type that are prominent for identifying whether a country can be considered as an ethnic type or not. First, if the only possibility to acquire citizenship at birth is solely the *jus sanguinis* principle. So the inclusive element for second- or third generation immigrants to acquire citizenship at birth is no option. Secondly the strict condition of naturalization where not only the residence is a decisive requirement but also the



integration conditions like knowledge of language and history. To meet the residence requirement a country that is following the ethnic citizenship type demands a high period in addition to a permanent residence permit. Finally, the non-acceptance of dual citizenship by legislation is another indicator establishing the ethnic type. Aliens who want to naturalize, as well as the country's citizens are not allowed to hold an additional citizenship. Thus an immigrant has to give up the previous nationality to be able to naturalize. If some of these requirements can be found in a country it can be identified as an ethnic citizenship.

#### Civic citizenship

The second ideal-type of the national citizenship is the civic citizenship which deviates from the idea of a culturally homogenous nationhood. According to Lecours (2000) in the civic perspective the nation is described within territorial and legal dimensions, hence forming a community of law. Unlike the ethnic type, an individual has to demonstrate commitment to the country's political system to become its citizen. The phenomenon of civic citizenship is accompanied by industrialisation and democratic as well as liberal values. In addition the integration process is another important movement. Thus, it is more inclusive than the ethnic type in related to the immigration integration. The intention of the civic citizenship is that the political membership exceeds nationality. Other than the ethnic type, the inclusion of individuals into the community is not based on descent but on a contract between the individual and the nation-state.

To be able to categorize in chapter four the countries that will be selected the following three features are determinant for the analysis. First the acquisition of citizenship is acquired by birth through the principle of *jus soli*. This means that children whose parents are immigrants can acquire citizenship at birth within the territory of the country. With regard to the second requirement it contrasts with the ethnic type because the naturalisation procedure is easier and facilitates the accession to citizenship for foreigners. The conditions may disregard integration demands like language and testing the knowledge about the country's history and basic facts. Instead the low residence requirement will be the most relevant criterion for the civic type. The last feature is the case of dual citizenship which within the civic type is tolerated or even promoted by the country's legislation. This means that foreigners who want to acquire citizenship are not obliged to give up their previous nationality. All in all, if all these characteristics are represented in a country, then it can be said that it follows the civic citizenship type.

These two citizenship types are reasonable models to analyze national citizenships. Above all, both types are appropriate to examine the integration of immigrants, in particular, when it comes to the integration of second- or third-generation immigrants.

## **2.2 How do these concepts relate to Eastern and Western member states?**

In the light of these national citizenship types there are scientists, like Kohn, who argue that there exists a gap between Western and Eastern countries. The Western nation-states embody liberal and democratic values and hence feature characteristics of the civic model. Whereas the Eastern European countries can be regarded as ethnic countries because they lack those values and have a fragile nationhood. (Lieblich, 2009) This distinction can be attributed to the fact whether it is an immigrant or an emigrant country. The Western member states are politically and economically more developed and so they attract more immigrants. The Eastern are preoccupied to rehabilitate its history by the restitution of former citizens. Especially after the end of Communist rule which has suppressed those countries through the central power. Brubaker (1996) identifies the Post-communist countries as nationalizing states which are concerned with the promotion of the ethno cultural core nation. For example the state protects and promotes language which under Soviet regime was mainly substituted through the Russian language.

### **Soviet citizenship**

With the rise of the Communist regime, simultaneously the desire to establish a Soviet citizenship arose. The idea was to construct a citizenship that not only stands for the bond between the state and the individual, but also encloses the working class in the whole Soviet area. Above all, the intention of this citizenship was to create a feeling of belonging to that collectivity whose aim was building the Communist society by following the same ideals. However, a remarkable aspect of the Soviet citizenship was the deprivation of citizenship due to certain political offences against the Communist regime. These were offences like holding an additional citizenship of a non-communist country, those who lived abroad without a valid passport for a longer period and those who acted against the Soviet regime. The introduction of the Soviet citizenship caused in many post-communist countries the desire to correct the past wrongs that had been done by the Communist regime. For that reason those countries based their citizenship policy on the restitution of the same after '89. (Barsova, 2009) Taking everything into account, the Soviet citizenship sympathizes rather with ethnic ideal-type albeit it seems to relate more with the civic type because it included all the countries under the Communist regime. But the countries had only limited power of rule because the central power is laid in the central state. (Brubaker, 1996) That is why the migration within the Communist countries was determined as internal migration. Furthermore the fact that the Soviet regime did not allow dual nationality and acted discriminating, e.g. the dissolves marriages between Communist citizens and vis-à-vis citizens of non Communist countries, are decisive factors that relate to the ethnic ideal-type.

## European citizenship

The Union citizenship was official introduced by the Maastricht Treaty in 1993. It compromises the idea strengthening the relation between the European Union and its citizens and it is therefore also concerned with the creation of a common European identity. The EU citizenship has to be seen rather complementary to the national citizenship. Therefore, it is laid down in the treaty that “the Union shall respect the national identities of its member states”. (TEU, article 6) Moreover the EU leaves regulations for defining the citizenry as well as the naturalisation rules to the member states’ government. Hence, a Union citizen is automatically obtained whenever somebody is a citizen of one of the member states. (article 17 TEC) The most relevant laws are the right of free movement of persons inside the community and the right to elect the European Parliament. Nevertheless, the right of free movement for workers has already been introduced with the foundation of the European community in 1951, established in the Treaty of Rome. To sum up, regarding the main aspects of the Union citizenship, it prefers rather the civic mode. In particular, the aspect that the Union citizenship shall be regarded as supplementary to the national one it clearly demonstrates that it tolerates and even supports dual nationality. This is also strengthened through the introduction of the right of free movement and residence. In comparison to the Soviet citizenship the Union citizenship aims at integrating the different nationalities and supports their coexistence and hence blood ties do not play a role. This was differently in the former Soviet Union which aimed to create a feeling of belonging to the Communist ideology and was therefore exclusive when it came to other nationalities than the Communist ones.

All in all, this section has delivered concepts that will be relevant for answering the research question. The ethnic and civic ideal types enable me to categorize whether the country fits into the ethnic citizenship which has stricter requirements or whether the country fits into the civic type which is looser. Moreover, I will be able to conclude whether the selected countries show a convergence towards the EU citizenship. With this outcome I will be able to conclude in how far one can say that there are differences, as for example Kohn suggested, between Eastern and Western European member states regarding the citizenship laws. I will expect to confirm the hypothesis that there is a division between East and Western member states concerning citizenship. But it also might show that there can be observed an approach of those countries towards the Union citizenship, especially in the light of dual citizenship. In the following it will describe how the theoretical framework will be employed in the analysis.

### 3. Methodological Approach

This section will explain how I will proceed to answer the main research question. Therefore, I will point out what kind of methods I will use and how the ideal types identified before will be used. This chapter is important because it will show how the analysis will be answered step by step and thus leads me to the answer of my bachelor thesis. Moreover, it constructs the framework for conducting the case study so that it will be reproducible. First of all, I will introduce the kind of data which will be used and where it was collected. Secondly, I will describe how I will analyze the data. This will include defining the method that will be used to answer the research question. In general, I will conduct the bachelor thesis as a desk research based on secondary data.

#### 3.1 Data Collection

I will use basically secondary data for the bachelor thesis. This means it had already been collected by other authors and scientists. Therefore, I focused on documents that analyze citizenship developments in Europe, respectively on journals of international politics and ethnic relations. Thus, my bachelor thesis will be based on a document analysis. To be able to develop concrete concepts of ethnic and civic nationalism I focused generally on the material developed by Rogers Brubaker. As sociologist, he has broadly written about nationalism and citizenship. Above all, he has published a book about citizenship and nationhood in France and Germany (1992) in which he identifies what different ways there are to define nationalism, in particular when regarding the integration of immigrants. Thus, he identifies that France is following the civic citizenship type, being more inclusive and allow acquisition at birth through the *jus soli* principle, and Germany fits into the ethnic type which only allows acquisition through descendants (*jus sanguinis*). Moreover, he attributes the principle of *jus sanguinis* and *jus soli* to the ethnic and civic citizenship types. So the data of Brubaker is fundamental for the construction of ideal-types because it reveals the fundamental relation of *jus sanguinis* and *jus soli* to both types. From the article “*Ethnic and Civic nationalism: Towards a new dimension.*” (Lecours, 2000) I received further information for the construction of the ideal-types (dual citizenship and naturalization requirements).

A further important resource is the website of the European Union Democracy Observatory (EUDO) on Citizenship for the deeper insight about the countries citizenship policies. It is an observatory source within EUDO platform arranged by the Robert Schuman Centre of the European University Institute in Florence since 2009. This platform put forward issues on citizenship policies like acquisition and loss of citizenship. Furthermore, it provides data on its policy developments, legal reform and statistical data in the European member states and

its accession candidates. For the bachelor assignment I collected data for the cases Germany and Spain whose selection criteria I will point out later on in this section. These were country reports as well as translated legislation texts. Thereby, I come across the work of Rainer Bauböck and his colleagues who published the book “Citizenship Policies in the New Europe” (2009) in which they discuss the development of citizenship policy of the twelve new member states. Within this book I concentrated on the country reports of Romania, Latvia and Slovakia. The data taken from EUDO and Bauböck’s publication reveals the most important turning points in the citizenship legislation of each case. Moreover I reinforced these turning points by referring to the translated legislation text retrieved from the webpage [legislationline.org](http://legislationline.org). This website allocates database on international and domestic legislation as well as other documents of importance to the issues of human rights. For my analysis these are relevant to answer the first two sub-questions where I discuss the development of the citizenship policies, particularly the law on naturalisation of the countries from 1989 until 2007.

### **3.2 Method of analysis**

My Bachelor-thesis will build on a qualitative research method because I will mainly examine data on a non-numerical basis, as already outline the data will be mainly taken from secondary documents. Given that I will concentrate on the development of citizenship policies in some Union’s member states, it will be more appropriate to use a case-oriented analysis. The type of analysis will be a comparative case study, in which the cases that will be compared are selected EU member states. This type of analysis helps to look more closely to a particular case by emphasizing on a detailed contextual analysis of a limited number of incidences within the different cases. Concerning the thesis this type is relevant because I will concentrate on the development of citizenship policies in different member states of the European Union and thus the history of citizenship policy in each country is an important aspect. However, citizenship policy is a wide-ranging topic. That is why I need to narrow a more well-ranged area of analysis. I decided to focus on the naturalisation process in the selected countries. This will include the analysis of naturalisation law meaning that the concentration will be lying in the acquisition of citizenship for immigrants. This area can be set into relation with the concepts set out in section two. Civic and ethnic citizenship describe the way a country follows inclusive or exclusive immigration policy. Now I will first depict what criteria I used to select the countries for my case study. Afterwards I will go into detail in describing the analytical structure of this bachelor assignment.

## Cases

The next step will be to identify what and how many cases are to be selected. The units of analysis are the European member state countries. The first criterion of selection is whether it is a western or an eastern member state. From all the European member states I will choose two western countries and three post-communist countries, so I will be able to see whether there is a difference between Eastern and Western member states in terms of citizenship policies. In addition to the east-west selection, I need further criteria to diminish the cases. One of the Western countries will be a founding member because it has always been in the European Union and therefore, may have influenced the EU's projects. The other western country will be Spain, because it was under dictatorship before its accession and has some internal struggles with its strong regional identities concerning the question of nationality. I choose those western countries because they have a long tradition of state- and nationhood which has existed before dictatorship. A further criterion for selecting the eastern countries is the transition process. There are three processes of transition that can be found in the post-communist countries, namely double, triple and quadruple transition. Following these types of transition there are three models post-communist countries could use to rebuild their regimes after the fall of the Communist rule which are a new state model, restored state model and a mixture of the first two. (Brubaker, 1992) So I select three countries each following one of the models mentioned before, namely Romania, Latvia and Slovakia. That is the reason why I will compare three eastern and two western member states.

## Structure

In order to structure the analysis I will make use of the four sub-questions that I outlined in the introduction. These are helpful to compare the selected cases. The basic elements on which the questions will be compared are history, EU influence and citizenship type. The first two sub-questions collect data on laws of acquisition at birth, dual citizenship and naturalisation requirements in each selected country which in the third sub-question will be used to relate the ideal-types to each country. The first sub-question - *What is the historical background of citizenship policies in the selected countries since 1989?* – focuses on the historical background in citizenship policies of the country. To consider the whole historical background it would imply to include a long period of time. For that reason I will concentrate on the period from 1989 onwards until today. This period employs the important turning point, the end of the Cold War. The second sub-question is differently posed to Eastern and Western countries. For Western member states the sub-question is: *How has the citizenship policy changed since the Maastricht Treaty?* And for the Eastern member states the sub-

question is: *How has the citizenship policy changed since the EU accession?* This distinction of the second sub-question is relevant because its objective will be to identify whether there have been some changes due to the impact of the EU. It is important to differentiate between Eastern and Western member states because these countries have different relations to the EU at different points in time. The first and the second sub-questions will only consider the development of naturalisation law. Finally, the third sub-question - *What kind of citizenship type can be found in each country?* – will give some insights about how the found data of the first two sub-questions will be related to the ideal-types defined in the second section. Hence in this section I will be able to see whether the countries are more likely to follow an ethnic citizenship or rather a civic one. The role of the ideal-types helps to compare the countries by means of its naturalisation law. After having identified what kind of type the selected countries can be addressed to, I will be able to state whether the citizenship policies are converting towards the EU or whether there are remarkable differences between eastern and western member states, like Kohn (Kuzio, 2002) puts it forward. The three sub-questions are important elements for the analysis. So it will be easier to find some similarities or even differences within the selected countries what will help to answer the research question. Therefore, the fourth sub-question – *Is there a difference between the member states?* - will put the outcomes of the analysis together, whether a country is an ethnic or a civic types, and explain why there might be a difference or not. At the end then, in the conclusion, it will be possible to see whether there is a convergence towards the EU type and what could be further steps on EU level.

All in all, this section has delivered that I will conduct a comparative case study where four sub-questions will play a prominent role in the structure of the analytical part and hence how the ideal types set out before are found and converted. By describing the research approach I make myself accountable and show that the research is reproducible by using e.g. other countries. After having introduced the relevant methods for the analysis, I will start with the main part of the thesis, the analysis of the different citizenship policies in the selected countries.

## **4. Analysis**

This section will be dedicated to find the answer to whether the citizenship laws in the Western member states differ from those in the East. Therefore first of all the development of citizenship law will be portrayed with special emphasis on naturalization for each selected country. Focusing on two time periods the first period will be from 1989 until 1993 for the



Western European member states and from 1989 until 2004 for the Eastern member states and the second period from 1993 or 2004 until 2007. Within these periods I will figure out the most important reforms in each selected country. These data define what kind of citizenship type can be assigned to the countries. I assume to find results which will show that there is indeed a difference between Eastern and Western member states. First I will start with the country profiles by introducing the Western member states, namely with Germany and then Spain, because those countries had a long tradition of statehood than the Eastern ones. In the country profiles I will concentrate on the first three sub-questions, which have already been laid down before, aims at collecting the data and identify what kind of ideal type fits to them. Afterwards the fourth sub-question points out whether there are differences between the countries and why this is so.

## **4.1 Country Profiles**

### **a) Germany**

*(1) What is the historical background of citizenship policies since 1989?*

Before the fall of the Communist regime, Germany was a divided country consisting of the German Democratic Republic (GDR), the communist part, and the Federal Republic of Germany (FRG), being the liberal part. This division also led to the different nationality law. While the GDR was following the idea of a separated nationality, the FRG based its nationality law on the Citizenship law of 1913 pointing out that “every German acquiring German nationality by descent was still to be considered as German regardless of holding residence in GDR and FRG” (Hailbronner, 2010, p.2). In doing so the FRG ensured to accommodate the German citizens who were arriving legally or illegally from the GDR by granting them the same status as the German citizens of the FRG. However, with the German reunification in 1990 the GDR laws and regulations were abolished and adopted the FRG ones, thereunder the laws and regulations on nationality. (ibidem)

In the beginnings of the 90s issues of immigration became increasingly significant in Germany. Since the 1960s Germany has received many immigrant workers, especially from southern European countries because of the labour shortage at that time. Those workers were recruited from the factories with the intention to stay just for a few years and then return to their home countries. In the 90s the German government became aware of the increasing immigrant numbers, especially the second-generation. These observations showed that Germany was now an immigration country. That is why a political discussion arose about extending the political rights for immigrants. For this reason, the *Bundestag* introduced rules that facilitated the naturalisation process for the second-generation immigrants. The following

table summarizes under what conditions it was possible for immigrants to naturalize in Germany in the 1990s. The acquisition at birth was only possible for German descendants (*jus sanguinis*). For second-generation immigrants the years of residence decreased to eight years in contrast for the first-generation. A further difference to the requirements of the first-generation immigrants is that the second-generation had to attend school in Germany for at least six years. Moreover, for both generations it was not possible to hold dual nationality, except in some special cases, for example if the home country did not allow the foreigner to give up his former nationality. (Aliens Act 1990) Further exceptions are listed in the appendix.

Even though some crucial amendments had been introduced regarding the issue of facilitating naturalisation of immigrants in Germany during the beginning of the 90s, the requirements show a strict attitude to integrate immigrants in the German society, in particular when it comes to the acquisition at birth which is based on the *jus sanguinis* principle. Nevertheless, the different requirements for the first- and second-generation immigrants depict that the integration of the immigrant children into the German society had more importance.

Table 1: Summary of naturalisation requirements for immigrants in Germany in 1990s.

<i>Immigrant-Generations</i>	<b>First-Generation</b>	<b>Second-Generation (16-23 aged)</b>
<i>Conditions to naturalize</i>	Renounce previous nationality	Renounce previous nationality
	Legal habitual residence in Germany for 15 years	Lived permanently and lawfully in Germany for eight years
	Absence of criminal record	Not been persecuted for a criminal offence
	Ability to earn living	Attended school in Germany for at least six years

(2)How has the citizenship policy changed since the Maastricht Treaty?

In 2000 there was the major reform regarding nationality law in Germany lasting until today. This reform (*Staatsangehoerigkeitsgesetz 2000*) introduced the ‘optional model’, in connection to *jus soli* element, and thus beneficiating the naturalisation of immigrants. Under article four of the reformed nationality law it is stated that “a child of foreign parents acquires German citizenship under the optional model on the condition that one parent has legally had his/her habitual residence in Germany for eight years and is in possession of residence permit for three years. (Hailbronner, 2010, p.7) The ‘optional model’ enable the second- or third-

generation immigrant to acquire German nationality right after its birth and to decide at the age of 18 whether he wants to keep the German nationality or his foreign one, and hence renounce the other. So until the 18<sup>th</sup> birthday the immigrant child is allowed to hold dual if not multiple citizenship as normally the children may receive the parents' nationality, too. (ibidem) Moreover, this reform also has facilitated the naturalisation process by reducing the residence period from 15 years to eight years. In addition, the applicant has to possess a residence permit, being capable of earning a living without any resources to public assistance or unemployment benefits, has no criminal conviction and renounces the previous nationality. (2000 reform) The EU citizens were entitled to naturalize without giving up their previous nationality if the country granted reciprocity.

The Immigration Act of 2004 further set out regulations for naturalisation of immigrants. It especially puts emphasis on integration requirements which are the proof of sufficient knowledge of German language, as well as a successful attendance of integration course including language, basic facts of German history and political system are briefed. (Hailbronner, 2010)

In 2007 the integration requirement was tightened by the introduction of integration tests. It further compromises that immigrants have to know the German language at B level of Common European Reference Framework for languages which can be replaced by a primary school certificate. In addition to this it abolished the residence permit. For EU citizens it was replaced by the requirement of free movement, basic element of the EU citizenship and for non-EU citizens by the settlement permit meaning that the person needs to possess an unlimited permit. (ibidem)

There have been radical changes concerning the German citizenship law since 2000. The most noticeable change is the introduction of *jus soli* for the immigrant children and the reduction of the residence period to eight years for the first-generation. Moreover, the requirements changed for EU citizens. They do not need a residence permit anymore. However, the integration requirement tightened with the introduction of the integration test in 2007.

### *(3) What kind of citizenship type can be found?*

The first period I have evaluated above, from 1989 to 1993, clearly shows that Germany was following the ethnic citizenship type. First of all, the only way to acquire automatically the German nationality was through the *jus sanguinis* principle. So the children of immigrants born within the German territory had not the possibility to acquire the German citizenship at birth. Furthermore, the residence requirement said that the immigrant has to reside legally

habitual 15 years. Another indication is the prohibition of dual citizenship. Germany acted like this because it always has been an ethnic type of country, as Brubaker (1992) pointed out. But after the big reform of the nationality law in 2000 the German citizenship type became more civic. It introduced the *jus soli* element in connection with the 'optional model' which also allows the immigrant child to hold dual or even multiple nationality until its 18<sup>th</sup> birthday. Furthermore, in matters of EU citizens the German law is quite tolerant by allowing dual citizenship and replacing the residence permit through the free movement item. Anyhow, the process of naturalisation is still stricter and resembling though more the ethnic type (integration test with language knowledge of B level). (Hailbronner, 2010)

Concluding, in the end of the 80s Germany was following the ethnic type of citizenship because it has always been a country with a strong ethnic tradition like Brubaker (1992) pointed it out. Also during the Communist regime the citizens of the GDR were always regarded as being citizens of the FRG because they share a common past and still were Germans by descent. But in 1990s there was a huge discussion on the immigration situation in Germany. The proponents were arguing that Germany had to take into account that it has transformed into an immigration country with inhabiting a lot of second- and third-immigrants who should be more integrated because they may reside permanently in the country. That is why naturalisation law had to become more broadminded and hence be more inclusive adverse immigrants. The big reform entered into force in 2000 and turned the ethnic citizenship into a civic citizenship.

## **b) Spain**

*(1) What is the historical background of citizenship policies since 1989?*

With the death of dictator Franco in 1975 Spain began its transition to democracy. This included the introduction of a new constitution in 1978. Moreover, the transition process also strengthened the return of emigrants who had left the country during the dictatorship. Until the '80s Spain was known as an emigration country. Later on the country also became attractive for immigrants due to the foreign investment. In general the law on nationality is based on the Spanish constitution of 1978 and on the Civil Code (CC) of 1889. Even though, Spain is divided in autonomous region, issues concerning nationality are exclusively regulated by the central state which is mainly represented in the Civil Code. In 1990 the CC was reformed for the second time since the Franco regime with its main objective of facilitating the naturalisation of political refugees and reinforcement of dual nationality. The main mode of acquisition is *jus sanguinis* (Article 17.1 CC). In the Spanish nationality law there can also be found *jus soli* principle, it is rather known as double *jus soli*. This means that those born in

the Spanish territory can acquire Spanish nationality but only if at least one of its parents had also been born in Spain. Furthermore, the *jus soli* principle is also extended to those born in Spain with the condition of legally residing one year there. However, the elementary *jus soli* principle allows the target person to only acquire the Spanish nationality after one year of legal residence, so mostly one year later. For foreigners there are two modes of acquiring nationality namely by discretionary naturalisation (art.21.1 CC), allowing a person to gain Spanish nationality who is under extraordinary circumstances (e.g. talent for soccer) through a Royal Decree, and a residence-based acquisition (art.21.2 CC). In the latter case, the residence requirement differentiates between certain groups. Normally an immigrant had to be legally and continuously residing ten years in Spain before acquiring citizenship. The reform of 1990 facilitated the acquisition for some groups by diminishing their residence period: refugees and asylum seekers needed a five-year period, immigrants from Iberian and American countries, like Andorra, Philippines or Portugal two years. Other groups are required to have a residence period of one year. Apart from the immigrants who were born in the territory, those who had not been timely exercising the right to choose, those married to a Spanish national, and those born abroad where at least one parent is of Spanish origin, these were also the following groups since the 90s reform: those who have been legally subject to guardianship, foster care or a citizen or Spanish institution for two consecutive years and a widower of Spaniard if at the time of death they were not separated. Another important aspect was that the interested should justify good civic conduct, by presenting a certificate that proved their lack of criminal record, and sufficient degree of integration into the Spanish society by the means of whether he knew castellan or another official Spanish language. Furthermore, the applicant had to be older than 14 to be able to declare himself with an oath to the King and the Spanish constitution and law and to renounce his previous nationality. (Marino, Sobrino, 2010) Above all, in chapter one section 11.1 of the Spanish constitution it is exposed that Spain has negotiated bilateral agreements on dual citizenship with some Latin American countries and those countries with whom Spain has special links to. Thus dual nationality will be allowed for citizens of those countries even if these do not grant a reciprocal right. However dual nationality for all EU citizens is not granted so far in Spain, but it is already in discussion. (Marino, Sobrino, 2010)

Summing up, the Spanish citizenship law is quite open minded since the '90s. The most relevant changes that the reform brought were the reduction of residence period for refugees to five years (Article 22.1 of CC) and to one year for Spanish spouses and widowers (Article 22.2 of CC). (Marin, Sobrino, 2010) Overall the naturalisation law and procedure remained

largely like laid down in the first reform of the CC of 1982. Besides regarding dual citizenship it is only allowed for those foreigners with whom Spain has special agreements with.

*(2) How has the citizenship policy changed since the Maastricht Treaty?*

Since 1990 there have been no significant changes in the nationality law concerning the naturalisation of immigrants. The reforms that have been done so far are related to former Spaniards. In 2002 article 22 of the CC only one year of residence is sufficient to apply for nationality through naturalisation, was extended also to the third-generation emigrated Spaniards. The next reform was the Historical Memorial Act of 2007 which referred to the former Spanish citizens who suffered persecution or violence during the Civil War and dictatorship. It contains that the Spanish government would recognize, extend rights and establish measures in their favour. (ibidem) After all, there have been no crucial changes in the naturalisation process.

*(3) What kind of citizenship type can be found?*

Regarding the citizenship law, Spain can be considered to apply the civic citizenship type since the first reform of the CC in 1982. Indeed, the *jus soli* elements in the Spanish nationality are meaningful evidences for the civic type. However, the double *jus soli* element is stricter unlike in Germany since 2000 reform. First of all, the Spanish nationality is only passed to second-generation immigrants if one of the parents has also been born in Spain. Secondly, the elementary *jus soli* principle entails the obstacle of a one-year-residence. Like in most European countries, also in Spain the *jus sanguinis* principle is the main type of acquisition at birth. (Medrano, 2005) In general a foreigner has to reside ten years legally in Spain concerning the naturalisation procedure. Nevertheless, for certain groups this requirement was relaxed, e.g. five years for refugees or one year for those married to a Spanish citizen. Moreover, the applicant has to show good civic conduct with a clean criminal record, knowledge of one official Spanish language. Regarding dual nationality there are some exceptions. Generally Spain does not allow dual nationality and thus it demands the immigrants that want to acquire nationality to give up their previous nationality. However, for some nationalities it is allowed to hold dual nationalities because Spain has negotiated agreements with some Latin American countries and countries that have a special link to Spain like Andorra or Portugal.

To sum up, in contrast to Germany, Spain has stronger ties to the civic citizenship type since the mid 1980s with the introduction of the *jus soli* principle. Nevertheless, it is difficult to acquire automatically the Spanish nationality through *jus soli* at birth. A second-generation

immigrant can acquire nationality if at least one parent has been born in Spain, otherwise only after one year of residence. The double *jus soli* principle is related to the fact that Spain transformed into an immigrant country. But unlike the German naturalisation law, the Spanish legislation aims basically at integrating those foreigners whose countries had strong historical ties with the Spanish country. The background of these agreements is that during the Civil War and the dictatorship some Spaniards immigrated to those countries. Moreover, Spain was first seen as a country of emigration and after the 1980s it turned into a country of immigration due to the foreign investment. (Marino, Sobrino, 2010) As result the Spanish nationality is a civic type with a strong ethnic background. Anyhow, one cannot disregard the aspect that also Spain has turned into an immigration country.

### **c) Romania**

*(1) What is the historical background of citizenship policies since 1989?*

Romania was established in 1859 with the Civil Code (1865) as basis for the nationality issues of the country. The law on nationality became more liberal in 1924 after the borders of Rumania had changed due to the wars. This law builds the basis for the nationality law of 1991 which was introduced after the fall of the Communist regime that had abolished the 1924 law with the introduction of the Communist ideal of citizenship. The reforms in 1991 are significant for the introduction of the citizenship law after the Communist regime. Romania was preoccupied with the restoration of its nationality and the reintegration of the former citizens that were displaced due to the Soviet regime (article 8 of new citizenship law). *Jus sanguinis* is fundamental principle of acquisition laid out in the 1924 legislation on Romanian citizenship and was also adopted in the nationality law of 1991. (Iordachi, 2009) The new law introduced in '91 was affected by the democratic transformation Romania underwent after the Communist regime. Article four of the Law on Romanian Citizenship pointed out four main ways to acquire nationality by different categories of inhabitants, namely: *jus sanguinis* at birth, adopting of an alien child by a Romanian citizen, repatriation of former citizens and upon request, meaning naturalization of aliens born and lived a required time in Romania. (article 5 to 11) The naturalisation procedure in Romania during the 90s showed that important items are residence period as well as the proof integration. Compared to the residence period of the 1924 law, the length of residence has become more liberal by decreasing from ten to five years. Further criteria presented in the citizenship law are that interested applicants have to show their attachment to the Romanian state and its people, be 18 or older, prove that he or she possesses sufficient material means of existence, demonstrates a clean criminal record as well as a sufficient knowledge of language which is a



proof of integration into the Romanian society (article 9). (Iordachi, 2009) Another important element of citizenship law is related to the matter of dual citizenship. Especially, in the post-communist countries dual citizenship plays an important role because during the Communist era there has been a lot of internal migration. (Ostergaard-Nielson, 2008) Some eastern countries tolerate dual citizenship for their ethnic minorities abroad. Romania inhabits Hungarian and Moldavian minorities that in the last years has produced an intense debate about holding dual citizenship not only for the former Romanian citizens living abroad, but also for those minorities living in Romania. The Law on Romanian Citizenship of 1991 granted Romanian citizens granted dual citizenship also in the case of repatriated. (Jordachi, 2004)

All in all, the citizenship law of Romania was based on the legislation of 1924 but it had to undergo some changes after '89 because of the Communist regime. Basically the law intended to reintegrate former citizens who had to leave the country due to the wars. Moreover the residence period for naturalisation applicants had decreased to five years. The further naturalisation requirements are more or less strict, like the clean criminal record or knowledge of language.

*(2)How has the citizenship policy changed since the EU accession?*

After the EU accession there have not been remarkable changes to the citizenship law. However, in 2003 there has been a reform which was related to the EU accession; in particular it has tightened the naturalization process. First of all the residence period for the naturalization of foreigners has been extended from five to eight years, although the period for foreign spouses of Romanian citizens was reduced to five years. Moreover, this reform demands applicants spending at least six month per in Romania and paying taxes there. Above all the amendments of 2003 stressed attention to the proof of civic integration. This means that issues like the elementary idea of Romanian culture and civilization (since 1999) and knowing the national anthem were demanded from the applicants. (Jordachi, 2009) After all, this reform puts special emphasis on tightening the requirements of residence and integration.

*(3)What kind of citizenship type can be found?*

The Romanian citizenship legislation clearly points to the ethnic type regarding the elements of acquisition at birth, naturalisation and dual citizenship. At first, the only way to acquire citizenship at birth is only through *jus sanguinis*, there are no elements of *jus soli* at all. Then the naturalisation process highlights the requirements residence and integration. However, this

shows a rather loose approach to the ethnic citizenship comparing it to other countries. Besides, dual citizenship is only allowed for Romanian citizens and repatriates and not for foreigners applying Romanian citizenship.

The Romanian citizenship can be identified as ethnic type because the evidences demonstrate that the country itself shows a strong reliance to the Romanian nationality which emerged through the territorial changes related to the Communist era and the proceeding wars. Like in the most Post-Communist countries the Soviet citizenship tried to establish a Communist community in the occupied countries which was stricter towards foreigners who did not belong to the Soviet Union. After the fall of the regime the occupied countries had to re-establish legislation concerning citizenship. The focus laid in the reconstruction of statehood and nationhood which were important aspects of the transition process of the country. Hence its main feature was the reintegration of former citizens who were deprived from its citizenship.

#### **d) Latvia**

*(1) What is the historical background of citizenship policies since 1989?*

Latvia has been an independent country since 1918, when it officially proclaimed statehood. This changed with the rise of the Communist regime and the occupation of the country in 1940. After the Communist era, Latvia followed the principle of state continuity and declared that the citizenship law of 1919 and the related Latvian nationality had continued to exist. Thus, the citizenship law of 1991 was based on the Latvian citizenship law of 1919 with the idea of reintegrate all those who had been citizens before 1940. However, in 1994 the Latvian government had to introduced new legislation and facilitate the integration of Soviet era settlers who became stateless after the fall of Communism. This law focused on residence and integration requirements for naturalisation as well as the renunciation of the previous citizenship. The residence periode was diminished from 16 to five years to facilitate naturalisation. Moreover, the intergration requirements compromises the knowledge of the Latvian language, history, anthem and the Latvian Constiution and laws. Besides the applicant has to demonstrate that a legal source of income is given and to take an oath of loyalty to the Republic of Latvia. (Aritcle 12 of 94 citizenship law) Another important issue that was introduced after '89 was the legislation on the non-citizen status. This status particularly was given to the Russian-speaking community from the former USSR. In 1995 the principle of non-citizens was introduced in the Law on Latvian citizenship. According to the law a non-citizen is "a citizen of the former USSR who resides in the Republic of Latvia as well as who are in temporary absence, and their children, who simultaneously comply with some

conditions” (Kruma, p.9). The conditions comprised the following issues: being registered resident within the territory of Latvia on July '92 or when before registered not less than 10 years. Further criteria are that they neither hold Latvian citizenship and nor a citizenship of another country. It was a long procedure to implement this status. Moreover, the status links Latvia and the non-citizens with mutual rights and obligations but not the same as nationals, for example they do not have the same political rights. (ibidem) The 1998 reform facilitated the access to citizenship for children of non-citizens and stateless. When it comes to dual citizenship, it is not permitted in Latvia (art. 9 of citizenship law). However, there can be observed some differences within the different groups. Those who acquire Latvian citizenship by naturalisation are obliged to renounce their previous citizenship. For it is an expatriate citizen, it is not explicitly laid down in the legislation that dual citizenship is allowed. If a Latvian citizen possesses a further citizenship, then the law set out that it will only recognize the relation of a citizen with the Latvia government. Moreover, dual citizenship is allowed for children until their 18<sup>th</sup> birthday. The Constitutional Court has ruled that dual citizenship is only prohibited in cases of naturalisation and is allowed when it arises at birth.

The main reform in the Latvian citizenship law was in 1994 with liberalising the requirements for the naturalisation of immigrants, like the decreased number of residence period and the introduction of the non-citizen status.

*(2) How has the citizenship policy changed since the EU accession?*

Since the EU accession there had not been crucial changes in the Latvian citizenship law. The most important changes occurred in the 1994 with the new citizenship law and in 1998 the amendments intending to liberalize naturalisation. From 2000 to 2004 onwards changes have been introduced concerning the administration and procedures. In 2007 the Latvian government introduced a new regulation for determining the procedures of examination of the language and basic knowledge test which has not been modified since 1995. The reforms basically facilitated examination conditions for disabled people. (Kruma, 2009) Furthermore, since the accession in 2004 there is a hot debate about the strict regulation on dual citizenship because many of the Latvians immigrated into other EU countries.

*(3) What kind of citizenship type can be found?*

Keeping in mind the historical background of the country it is clear that it follows ethnic type of citizenship during both periods. One reason is the missing possibility for second- and third generation immigrants to acquire citizenship at birth through jus soli. Since the first steps of the independent Latvia its citizenship legislation is based on the *jus sanguinis* principle. This

principle has also been reintroduced after the collapse of the Soviet Union. The second reason is the strict naturalisation requirements. After the collapse of the Soviet Union Latvia followed the state continuity principle, the country adopted the citizenship law of 1919 and thus the requirement of 16 years of permanent residence in Latvia before applying for citizenship, which was reduced to five years with the introduction of the new citizenship law on 1994. In addition to residence also the integration elements language and basic knowledge of Latvian Constitution and history, are significant requirements. These are still today very present and were only facilitated for disabled and old people. And finally, the regarding aspect of the dual citizenship the Latvia legislation acts very strict. In general dual citizenship is not allowed, particularly for naturalized persons. However, there are two exceptions where it is permitted: when it arises at birth and former Latvian citizens who were expatriated during the Communist era and consequently had to acquire the citizenship of another country. Both situations assume that the other country allows dual citizenship, too.

After the fall of the Soviet rule Latvia declared that the Communist era was seen as invasion and they appointed the principle of state continuity with the restoration of its independence in 1991. That is to say that the citizenship legislation that had existed before 1940, and so the Latvian nationality had continued to exist, irrespective of the Soviet occupation what involved the Soviet citizenship(1940-1989). The main cause for the restored state model was the ethno demographic decline that could be observed in Latvia's big cities. At that time Latvia inhabited a lot of Russian and Soviet-era settlers who made 51 % of the total Latvian population. (Brubaker article, 1992) But this caused a serious discussion on international stage because the legislation did not meet the requirements of international law and regarding the naturalisation it was too strictly. For that reason in 1994 the government passed a new Law on citizenship which still today is the fundamental legislation for citizenship. Concluding, these elements prove that the Latvian citizenship has a strict view on the naturalisation of immigrants even though it became more liberal over the time. Especially, the examinations on the integration requirements demonstrate a strong connection with the ethnic citizenship caused by the high number of Soviet-settlers. Unlike Romania, Latvia was hurt more by the Communist occupation because of the high number of Soviet immigrants.

#### **e) Slovakia**

*(1) What is the historical background of citizenship policies since 1989?*

Slovakia is one of those countries that gained its independent status after the fall of the Soviet rule with the separation of the Czechoslovakia in 1993. This process was not simple because both ethnicities, the Czech and the Slovak, were struggling to maintain the position

within Europe. In the 1960s the desire of self-determination started growing within the Slovak community in the Czechoslovakia what in the end had lead to the Czechoslovak Federative Republic. It also included the additional establishment of a Slovak and Czech citizenship. An obstacle was the reconstruction or even reinvention of a national identity. This included the step to find a common decent history. This was very difficult and lead to separation of the Czechoslovakia. Since January 1993 both are independent countries with their own citizenship law. There are four ways to acquire Slovak nationality: by birth, adoption, request/grant or restoration of citizenship. The only way to acquire citizenship at birth is by *jus sanguinis*, meaning that at least one parent has to be a Slovak citizen. (Art. 5 Act No.40/1993 Coll.) So the only way for immigrants to acquire citizenship is the naturalisation process. Therefore, they have to fulfil certain criteria. First, they have to prove that they have at least been living in the Slovak territory for five years. Then they have to demonstrate that they possess sufficient knowledge of the Slovak language. Finally, they have to present a clean criminal record for the last five years. Above all, there are also some factors that may facilitate the naturalisation procedure. One factor is the renouncement of the previous citizenship. Another one is the marriage with a Slovak citizen after a residence period of five years. (Kusa, 2009) Dual citizenship is tolerated by the legislation that was not only influenced by the EU entrance but also by signing the European Convention on Nationality in 2000. That is why the dual citizenship is at least tolerated and applicants are not obliged to renounce their previous one in Slovakia. (ibidem)

*(2)How has the citizenship policy changed since the EU accession?*

After 2004 the there have been two reforms that marked the Slovakian citizenship law. In 2005 the law allowed dual citizenship for Czech citizens. (ibidem) There was no regulation allowing immigrants who applied Slovak citizenship to hold his previous citizenship. The next reform was the increase of the residence period from five to eight years for immigrants who want to naturalise. This was laid down in the Act No 344/2007 Coll which aimed to supplement the Act No 40/1993 Coll and was thus the most significant change. Furthermore, the number of cases which facilitate the naturalisation procedure has increased. One case is that before its 18<sup>th</sup> birthday the applicant has continuous permanent residence in Slovakia for at least three years. The other case relates to those who were born and reside continuously there for at least three years. Summing up, the 2007 reform was a meaningful amendment in the Slovak citizenship law.

### *(3) What kind of citizenship type can be found?*

Like the both Eastern European countries examined before, also Slovakia is following an ethnic type of citizenship. It is not as strict as in Romania or Latvia. The only way to acquire citizenship at birth is through the *jus sanguinis* principle. However the requirements for acquiring the Slovak nationality are not as demanding as in the two examples above. It includes the barriers of residence period, which in 2007 was increased from five to eight years, clean criminal record as well as sufficient language skills. But the integration requirements as for example knowledge of history or the anthem are not examined like in Latvia. In the end, dual citizenship is tolerated and accepted for the Czech citizens.

Like the other two post-communist countries Slovakia was under the occupation of the Soviet Union. However, Slovakia only became an independent country after the fall of the Communist regime. Before it the country was part of the Czechoslovakia and without facing separation of Czech and Slovakian identity. The desire to self-determination already increased in the 1960s but became only true with the separation of the Czechoslovakia in 1993, although there was introduced a separation of Czech and Slovak citizenship on republic level before. That is why the ethnic citizenship plays an important role in Slovakia. However, comparing the naturalisation legislation in Romania and Latvia it is obvious that Slovakia is more open minded to immigrants.

## **4.2 Is there a Difference between East and West?**

First of all I will introduce the answer the three sub-questions above which were an essential framework for my analysis. The first sub-question focused on the historical background of each country's citizenship legislation since 1989. The two Western countries had different developments in their nationality law. Germany was at the end of the 80s confronted with the reunification of the GDR and FRG. But for all of that the citizenship law was not affected because the government adopted the nationality legislation of the FRG. During the 1990s, it had strict regulations concerning the acquisition for immigrants. There was no *jus soli* element only *jus sanguinis* at birth. Beyond that, the naturalisation procedure was also tough. The applicant had to reside for at least 15 years in Germany and had to renounce the previous nationality. As against Germany, Spain's citizenship legislation has not changed a lot since the end of the Franco regime, it remained mainly constant. Thereto belongs the *jus soli* principle which allows immigrant children to acquire citizenship if one of the parents was also born in Spain, or the acquisition after one year. Moreover, the dual citizenship was allowed for those countries with which Spain has a bilateral agreement. Otherwise the Eastern member states were affected by the Communist regimes. In most of the Eastern countries the

pre-communist citizenship law was abolished and replaced with the Soviet citizenship. Thus, after the fall of the Soviet regime the countries had two options for rebuild, namely either the zero option or the state continuity principle. (Kruma, 2009) Latvia and Romania followed the state continuity principle while Slovakia followed the zero option. In general it can be said that the Eastern countries are more likely to follow demanding citizenship legislation, for example the only way to acquire citizenship at birth, is the *jus sanguinis* principle. In the case of Slovakia the requirements are looser. The only integration requirement is to know sufficient Slovakian language. Unlike in Latvia and Romania it is not necessary to renounce the previous citizenship.

The second sub-questions asks how the countries developed after becoming a EU member state, in the case of Eastern member states, or how they developed after the introduction of Maastricht Treaty, for Western member states. Here as well, the Western member states developed differently. While Germany introduced a big reform in 2000 which facilitated the process for immigrants to acquire German nationality, Spain had not conducted any significant amendments concerning naturalisation law. The 2000 reform in Germany introduced the *jus soli* element so that an immigrant child at birth received the German nationality and was allowed to hold the nationality of his parents. But this is also linked to the optional model which demands the child to decide at the 18<sup>th</sup> birthday which nationality to hold and which to announce. Above all, it simplifies the resident requirement and dual citizenship, especially for EU citizens. In the Eastern member states the development proceeded slightly diverse. On the contrary to Latvia, Slovakia and Romania had to increase their resident requirement from five to eight years. Romania also demands the applicant to fulfil integration requirements, language and history. Within the range of dual citizenship, in Romania additional dual citizenship is only allowed for Romanian citizens. But Slovakia allowed dual citizenship for Czech citizens.

And finally the third sub-question aims to identify what kind of citizenship type the selected countries follow. Therefore, I summarized in table 2 the important elements to facilitate the identification. Regarding those outcomes I come to the end that Germany and Spain can be considered to fit within the civic citizenship type because both include *jus soli* principle as well as dual citizenship for some countries in their legislation. Both Western countries today show a more civic approach which is favoured by the EU citizenship. The countries became with the years more liberal regarding their naturalisation law on the grounds of the increasing numbers of immigrants and the settlement of second- and third generation immigrations. In particular, this is the case in Germany. The Eastern countries are more likely to be



characterized as ethnic types. Apparently, it seems that Eastern member states are stricter regarding the acquisition of citizenship because they do not include the principle of *jus soli* and are strict in relation to dual citizenship. Except Slovakia, Latvia and Romania do not allow dual citizenship for naturalized people at all. The same is true when regarding the naturalisation requirements. Slovakia has rather loose criteria, only language knowledge, while the other two demand in addition to language, knowledge of history, anthem and constitution.

*Table 2: Summary of the significant factors for defining the Citizenship type*

	<b>At birth</b>	<b>Residence</b>	<b>Integration requirements</b>	<b>Renouncement of previous cs</b>	<b>Dual citizenship</b>
<b>Germany</b>	Jus sanguinis + jus soli since	8 years since 2000	Since 2004 integration test	Yes	only EU and Optinal model
<b>Spain</b>	Jus sanguinis + double jus soli + jus soli after 1 year of residence	General: 10 years  Some groups special regulated	Good civic conduct	Yes	Bilateral agreements
<b>Romania</b>	Jus sanguinis	5 to 8 years	Integration proof, clean criminal record	Yes	Only Romanians
<b>Latvia</b>	Jus sanguinis	16 years decreased to 5 years in	Language, history, constiution	Yes	Not for naturalized
<b>Slovakia</b>	Jus sanguinis	5 to 8 years	Only language	Not necessary	Tolerated; Czechs citizens

The comparison of the five countries shows that there is a certain difference within the citizenship law of Western and Eastern member states. The outcome shows that there is indeed a difference in the naturalisation law of Eastern and Western member states. To be able to argument why a country is based on an ethnic or a civic citizenship type I have outlined in section three what kind of elements support each type. The main evidences to state that a country is presenting a civic citizenship type are the jus soli principle and dual citizenship. Basically, I come to the conclusion that German and Spain base on the civic citizenship type and Romania, Latvia and Slovakia base on the ethnic citizenship type. On the

one hand the Western countries both imply the *jus soli* principle in their citizenship laws. In addition both countries also include the principle of dual citizenship, even if it is limited to some countries. On the other hand, the three Eastern countries are more related to the ethnic citizenship type because their citizenship legislation is based on *jus sanguinis*. Furthermore only Slovakia tolerates dual citizenship for foreigners who want to naturalize. However, regarding the integration requirements the Eastern member states are not stricter than the Western. Romania and Slovakia even had to increase the resident period for applicants. One reason for the reduction is the international pressure, e.g. EU, those countries had encountered. Spain and Germany are countries that turned into immigration countries while Romania, Slovakia and Latvia are emigration countries. Since the EU accession the Eastern citizens are more likely to immigrate to the Western member states as the free movement of citizens facilitates the migration. Hence, the Eastern member states are following the ethnic citizenship. After the fall of the Communist regime all post-communist countries had to reconstruct or re-establish a new national identity what is also linked to citizenship.

All in all, this chapter has demonstrated that there is a difference between Eastern and Western member states. After analyzing the naturalisation laws and its recent development it becomes clear that the citizenship law of Western member states is more likely to integrate not only the first generation immigrants but also the second-generation immigrants. This difference may be due to the different migration flows Eastern and Western member states are facing. However, the theory of ethnic and civic citizenship does not fit one-to-one into reality. This becomes clear regarding the naturalisation requirements. Even though Germany and Spain introduced the *jus soli* principle; they still have a high residence period that immigrants have to face before naturalizing (eight and ten years). Moreover, both countries demand integration requirements like an integration test where the knowledge of the language and of the country is examined. However, the same trend can be observed in the Eastern countries. What is the most difficult to identify for the two ideal-types is the naturalisation requirements because it is not explicitly laid down. Another aspect is that the element of *jus soli* in theory is not an addition to the *jus sanguinis* principle. In the same way none of the countries admits dual citizenship for all its citizens. Instead one group is favoured more than the other. So the identification in reality deviates from theory. Anyhow, summing up, one can conclude that Western member states are more likely to follow the civic citizenship and the Eastern ones are more likely to follow the ethnic type.

## 5. Conclusion

In this final chapter I will give a final answer to my main research question. After evaluating and analyzing the naturalization laws in the selected countries, hence assign a type discussed in the theoretical framework, I will reflect on what meaning citizenship has today. I will deliberate how important the EU has become for development of citizenship policies within its member states and in how far one can say that there is an approximation between Eastern and Western member states.

The main research question that I focused to answer during this thesis was: *To what extent can a convergence towards the Union citizenship type be observed between Eastern and Western member states?* My intention during this work was to compare selected Eastern and Western member states particularly with regard to naturalization. After conducting the comparative case study I come to the conclusion that there is indeed a difference between Eastern and Western member states regarding the naturalization laws. My results coincide with Kohn's (Kuzio, 2002) argumentation that it exists a differentiation of an ethnic East and a civic West. In his article Kuzio goes further than Kohn's argument by highlighting that most of the Western countries had been ethnic countries before they converted into civic ones by being inclusive towards immigrants. This applies to the German case which before the big reform of 2000 followed an ethnic citizenship type being restrictive in the integration of immigrants (high residence period, *jus sanguinis*). In contrast to the Western member states, the post-communist states are dealing with rebuilding of nation- and statehood and the restitution of former citizens. So the final answer to the main research question is with regard to the EU citizenship type ,which resembles more the civic citizenship, it seems that the Western member states, Germany and Spain, are more likely to move towards the EU type than the Eastern countries Latvia, Romania and Slovakia. I figured out that there are two reasons for this result. First of all, the occupation in the Eastern European countries had an impact on the citizenship legislation. In the theoretical framework I stated that the intention of the Soviet citizenship was to create a Communist nation with a citizenry consisting of the working class. Most of the countries had little experience as regard to democratic citizenship before the Soviet regime. That is why after '89 the post-communist countries faced a period of fragile national identity which according to Kuzio (2001) had to be resolved by a quadruple transition. Thus, one way to establish this identity was to strengthen the country's citizenship regulation. The main concern during that time was to create a citizenry within the countries mostly by granting citizenship to all former citizens who had lost their citizen status due to the Communist rule. So in comparison to the most Western European countries, Germany, who

during the 1990 were preoccupied with the integration of immigrants, the Eastern member states were concerned with the restitution of citizenship and the reintegration of former citizens. The Western member states had a long tradition of statehood. The second important outcome why Eastern countries are more likely to resemble the ethnic type and the Western more the civic one, is whether a country can be considered as immigration or emigration country. Sievers (2009) argued that the Western countries changed its citizenship legislation to integrate the immigrants better. While Germany and Spain clearly fall into the category of an immigration country, the Eastern cases, Romania, Latvia and Slovakia, can be identified as emigration countries. Immigration is especially today a relevant issue in the countries policies. In the face of the EU enlargement migration flows are increasing due to the introduction of the element of free movement of persons which is an essential criterion in the EU citizenship. The Western European member states have since the 1980s faced increasing immigration numbers, in particular labour migration lasting till today. With the immigration of persons also the matter of the second and third generation immigrants becomes also more relevant today. That is why the citizenship concept had to be revised in most Western countries, like Germany, with the result to become more liberal.

Beyond that the development of the Western member states shows that there is space for the Eastern member states to move towards a more civic approach of citizenship. This contradicts with Kohn's (Kuzio, 2002) reasoning that Western countries always had been and will be civic and the Eastern ethnic. I already pointed out the ideal types cannot be applied one-to-one in reality because there are circumstances that may complicate this. Also the Western countries are more likely to follow a civic type of citizenship. They still compromise elements of the ethnic type, e.g. *jus sanguinis*. Nearly all countries stick to the idea of maintaining the feeling of nationality and thus, they would not become a purely civic type of citizenship, because this implies that all the other ethnicities represented in the country would be put on a par with the home nationality. But what is remarkable is that in the beginnings of the countries' history, it mostly followed a strict ethnic citizenship. When having a closer look to the German development of the citizenship legislation, we see that it only became more liberal in the end of the 1990s by introducing the *jus soli* principle. This has been changed because of the increasing numbers of immigrants, especially of the second- and third-generation immigrants which might also have increased due to the EU political integration and the extending rights to EU citizens. Above all, this alteration can be seen as indication for the future development of Eastern European citizenship policy. As time passes by they may

develop to a more civic type like in the Western member states, maybe even faster with the pressure of the EU and international organization.

Another relevant issue here is the introduction of dual citizenship. Within this aspect Western and Eastern countries seem to approach in their citizenship regulation. Both sides introduced dual citizenship in their legislation. However, Germany and Spain extended it to naturalizing immigrants and Romania and Latvia extended it to its emigrants. This can be explained through the industrial development of the member states. The Western European member states are more industrialized and hence more developed than the most Eastern. On account of this many Eastern European citizens are moving west to find better job and live opportunities. So dual citizenship is not only an important issue in the immigration countries, Western member states but is also in the emigration countries, Eastern member states. (Ostergaard-Nielson, 2008)

For this reason dual citizenship should become an important issue on EU level. The EU citizenship allows its citizens to move, reside, study and work in every EU country. There they should be treated like the own nationals by given them nearly the same rights. Even the fact that a European citizen can demand for help in all EU embassies when residing in a non EU member state, shows that there is a kind of acceptance of dual citizenship within the EU member states. For these reasons I think that dual citizenship for EU citizens should not be an obstacle like in Latvia but be more or less regulated on EU level. This might increase the political participation within the EU member states.

All in all taking into account the results of my analysis, it can be concluded that there is a certain convergence towards the EU citizenship type, strongly from Western member states. However, we have to keep in mind that this case selection was rather small and did not include all EU member states. This is in particular relevant for the EU-15 because these countries differ more in the citizenship development than the new Eastern European member states. To see whether the member states converge towards the EU citizenship it would be interesting for example to analyze countries like France or Netherlands who are immigration countries, too.

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## **7. Appendix**

### **7.1 European Union Citizenship (articles 18-22 of TEC)**

- Move and reside freely within the territory of a Member State
- Every EU citizen residing in a Member State of whom he is not a national has the right to vote and to stand as a candidate at municipal elections in the Member States and for the European Parliament
- Protection by the diplomatic or consular authorities of any Member State on the same conditions as nationals in third countries territory
- Right to petition the European Parliament, may apply to the Ombudsman, to write to any of this institutions

### **7.2 Exception for holding dual nationality in Germany**

Section 87 Naturalisation where multiple nationality is accepted (Alien Act 1990)

(1) The requirement set out in section 85 subsection 1 no. 4 shall be dispensed with where the foreigner cannot give up his previous citizenship or can only do so under particularly difficult conditions. This shall be presumed where

1. the law of the foreign state does not make provision for giving up its citizenship;
2. the foreign state regularly refuses release and the foreigner has given the competent authority an application for release for forwarding to the foreign state;
3. the foreign state has refused release from citizenship for reasons beyond the control of the foreigner or has attached unreasonable conditions to it or has not decided within an appropriate period on a complete and formally correct application for release;
4. the naturalisation of older persons is barred by the sole obstacle of resulting multiple nationality, release is meeting with disproportionate difficulties and refusal of naturalisation would create a particular hardship; Shall be dispensed when the foreigner possesses the citizenship of another member state of the European Union and there is a reciprocal agreement.
5. giving up the foreign citizenship would bring considerable disadvantages to the foreigner, in particular of an economic or financial kind, going beyond the loss of his rights as a citizen;
6. the foreigner is suffering political persecution within the meaning of section 51 or is being treated as a refugee under the Act to regulate measures for refugees admitted as part of humanitarian aid.