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The right of blood: ‘ethnically’ selective citizenship policies in Europe

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ABSTRACT

This paper explores citizenship policies in Europe with the aim of testing the salience of the ethnic–civic binary distinction. The paper starts with an overview of the existing typologies of citizenship regimes, with a special emphasis on the civic–ethnic dichotomy. After a brief assessment of different types of selective acquisition policies in the EU, the paper discusses the emerging normative legal framework of citizenship attribution in Europe. The paper shows that the Europeanization of citizenship acquisition norms legitimizes, if not encourages, selectivity in the case of non-resident ethnic kin populations. It is also argued that due to the ambiguous international legal coding, preferential naturalization allows ethnonationalist governments to strengthen the symbolic claims of the titular national groups over the state. But quite paradoxically, these ethnically framed policies in practice often open up the possibility of the facilitated naturalization for individuals who can hardly be considered ‘co-ethnics’ in the thick sociocultural sense of the word. Therefore, ethnonationalist political projects that emphasize the importance the ‘right of blood’ may lead to the naturalization of individuals who have very weak cultural or linguistic ties to their putative ‘homelands’. Thus, ethnically framed citizenship policies may water down ethnic homogeneity rather than strengthening it.

KEYWORDS

Ethnic nationalism;
citizenship; civic nationalism;
kin-states; non-resident
citizenship

‘Ethnic’ and ‘civic’ citizenship regimes in Europe

As scholarly attention in the second half of the twentieth century shifted to nationalist ideology and movements, one of the first comparative tool academics used in the conceptualization of different types of nationalisms was the civic–ethnic distinction. The salience of the two types of nationalisms which goes back to Meinecke’s 1907 distinction of political and cultural nations (Meinecke, 2015) has been intensively discussed ever since nationalism became an important political issue. After the Second World War, many categorized German national socialism as an extreme variant of ethnic nationalism. In the 1950s and 1960s, the resurgence of national independence movements made even more urgent the systematic analysis of different types of nationalist movements. The

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scholarly understanding of social phenomena requires analytical tools and methods through which correlations, typologies and patterns can be hypothesized and tested. By identifying qualitatively different forms of nationalist politics, scholars hoped that they can predict the nature and intensity of future conflicts. Scholarly analyses comparing and explaining variations in nationalisms relied on the 'ethnic' versus 'civic' typology in order to explain two qualitatively different modalities of nationalist mobilization and sentiments. The bifurcation of nationalist politics into civic and ethnic branches was originally intended to contrast ethnic, violence prone 'Eastern' nationalisms with civic, integrationist and progressive 'Western' nationalisms (Kennedy & Ginderachter, n.d.).

More recently, the binary opposition of ethnic and civic nationalism has received ample criticism. Scholars have argued that social organization based on conceived ethnic proximity is no less constructed than civic types of association, and ethnic nations that seem pristine are often recent constructs (Anderson, 2006; Deutsch, 1953; E. Hobsbawm, 1992). In line with Max Weber's ideas, it has been argued that ethnic identity is not natural. As Weber put it, the belief in common ethnic descent is itself the result of political action (Weber, 1978). *Ethnos*, understood as a putative blood community, is a 'political artefact' created and sustained by memories of joint political action in the past. Ethno-symbolist interpretations, on the other hand, claim that even Western 'civic' nations had ethnic cores (Smith, 1991), and therefore, to some extent, all nations are 'ethnic'. It has also been pointed out by various scholars that civic identity is an inherited cultural artifact, as much as ethnic identity. The idea that Western' nations are constructed along a 'civic' model of statehood has also been contested (Kuzio, 2002). In seminal essays, Bernard Yack (Beiner & Yack, 1999), Will Kymlicka (Kymlicka, 1999) and Rogers Brubaker (Brubaker, 2004) have pointed out that the civic–ethnic dichotomy is often used in order to distinguish 'good' and 'bad' nationalisms. Thus, the civic–ethnic distinction serves normative, ideological and political purposes rather than informing analytical thinking.

Despite its conceptual and semantic ambiguity, the civic–ethnic distinction is still widely considered as the most important comparative tool in contemporary citizenship studies. In a groundbreaking early analysis that grounded contemporary comparative citizenship studies Brubaker showed how historical path dependencies impact citizenship attribution policies (Brubaker, 1992). Brubaker pointed out that the German citizenship model defined citizenship by ethnocultural terms, while in France, citizenship was defined in territorial terms and was marked by civic incorporation rules. Following this distinction, the civic–ethnic binary opposition has been broadly applied to highlight the different patterns of specific citizenship acquisition policies as well as the normatively distinct types of citizenship regimes (Bauböck et al., 2006, 2007; Brubaker, 1992; Howard, 2009; Pogonyi et al., 2010; Vink & Bauböck, 2013). In this conceptual framework, ethnic citizenship is marked by *jus sanguinis* citizenship legislation. According to this classification, in ethnic regimes citizenship is inherited, and belonging to the political community is conditional upon membership in the core ethnocultural group. Civic or territorial citizenship, on the other hand, links legal membership to genuine political and social ties, and, at least, in its ideal type, assigns citizenship to those who can be considered as 'stakeholders' (Bauböck, 2007) – those individuals whose well-being is inherently linked to the specific political community (Bauböck, 2019). Thus, in civic citizenship regimes, citizenship at birth is attributed through the *jus soli* principle, and naturalization is conditional on the acceptance of basic political norms rather than putative ethnic

belonging to the nation (Goodman, 2015; Michalowski, 2011). While ethnic regimes want to strengthen the ethnocultural homogeneity of the political community by maintaining the congruence of ethnocultural (national) and legal (citizenship) membership, in civic/territorial regimes there is no such link assumed between ethnicity and citizenship.

More nuanced approaches that goes beyond the above one-dimensional conceptualization acknowledges that ethnic citizenship regimes may use overinclusive acquisition rules to strengthen national homogeneity. Such regimes make it difficult for individuals who do not belong to the titular majority to obtain citizenship, while at the same time they offer fast-track facilitated citizenship to co-ethnic who live abroad (Dumbrava, 2014; Vink & Bauböck, 2013). In general, ethnic citizenship regimes tend to have more restrictive acquisition policies making naturalization more complicated for individuals outside the titular ethnic group. Strict language requirements and complicated citizenship tests are broadly considered as examples of ethnically restrictive acquisition measures. In contrast with ethnic regimes, civic citizenship frameworks are associated with acquisition policies that are less focused on the maintenance of putative ethnocultural homogeneity. These typologies go beyond the traditional understanding of the civic–ethnic distinction by highlighting that not only ethnically restrictive policies, but also overinclusive citizenship based on ethnic preferentialism may serve illiberal political aims. The comparative analysis of citizenship policies along the two-dimensional (ethnic v. civic/territorial; inclusive v. exclusive) also shows that most countries have both civic and ethnic citizenship laws, and due to the convergence of these laws (at least in the EU (Vink & de Groot, 2010)), there is only a gradational variation rather than clear-cut categorical difference between ethnic or civic types (Brubaker, 2016, p. 103).

Similarly to nationalism studies, in comparative citizenship studies, the civic–ethnic distinction is a normatively loaded typology. As mentioned above, the civic v. ethnic label is often used as a synonym for inclusive/liberal and exclusive/illiberal citizenship regimes (Goodman, 2014; Oers, 2014). In this interpretation, liberal civic citizenship policies are intended to restore the congruence of territorial boundaries and membership (regardless of the ethnic background of citizens), while ethnic acquisition policies prioritize the creation of an ethnoculturally homogeneous political community. Such ethnically – or even racially – tinted citizenship acquisition policies in most immigration countries that offered preferential treatment for specific, mostly white immigrants. For example, in Australia, Canada and New Zealand such measures were in place to maintain British domination by offering membership to British citizens and, at the same time, excluding non-white immigrants as well as members of indigenous minorities (Mann, 2017, 2019). In post-Communist Central and Eastern Europe as well as in Southeast Europe, citizenship policies were used for ethnic engineering through the exclusion of resident ethnic minorities and the inclusion of non-resident ethnic kin-populations (Agarin & Karolewski, 2015; Bauböck et al., 2007; Liebich, 2009). The denial of citizenship from territorially present ethnic minorities resulted in the creation of large stateless individuals in the Baltics as well as Southeast Europe after the dissolution of the Soviet Union and Yugoslavia (Pogonyi et al., 2010; Stiks, 2015). The newly restored states launched nation building projects that aimed at strengthening the political and social dominance of titular majorities that, in some cases, were only in slight majority. The exclusion of ethnic minorities present in the territory is normatively even more problematic than the exclusion of settled immigrants and their descendants from citizenship in Western European and North American immigration states.

One may wonder how it is possible that Central and Eastern European regimes could implement ethnically selective citizenship policies that seem to be in stark contrast with European principles of non-discrimination without the intervention of the international community. It may seem particularly puzzling that even those CEE states that joined the EU introduced citizenship policies with the clear purpose of ‘ethnic engineering’. The main reason for this is that European citizenship norms have for long focused only on immigration. Until the dissolution of the Soviet Union and Yugoslavia, the unavailability of citizenship was a problem of Western European states that were unwilling to offer membership for immigrants. Concerning state succession, very few international norms and precedents existed. Thus, newly independent, restored and new states in the post-Communist space enjoyed broad sovereignty in whom to attribute citizenship to and whom to deny it to.

More recently, the Council of Europe as well as the European Union could pressure many of the new states and demand more inclusive citizenship policies that make membership available for parts of the resident non-citizen populations that were denied citizenship at independence (Kelley, 2010; Kochenov, 2004; Krasniqi, 2015; Kruma, 2013). As a result, citizenship attribution and naturalization laws have become more inclusive in the post-Communist region, although statelessness is still an issue in Latvia and Estonia. But internally more inclusive citizenship policies have not fully resolved the issue of ethnic engineering. As mentioned earlier, ethnic citizenship regimes are marked not only by internally restrictive, but also by internally overinclusive regulations. As part of ethnic nation building projects, former Socialist bloc countries introduced facilitated citizenship policies targeting non-resident ethnic kin in order to strengthen the domination of the titular ethnic group. As Peters has noted in his work on selective citizenship policies, there is a very fine line between legitimate preferential admission policies available for non-resident co-ethnics, on the one hand, and prohibited racial and ethnic discrimination on the other (Peters, 2010, p. 666).

In terms of expansive kin-citizenship, the EU and other international organizations have been even less successful than in the case of stateless persons. The primary aim of international law on citizenship attribution is to prevent statelessness. International regulations thus try to facilitate the naturalization of resident individuals, but not much attention is given to over-expansive citizenship attribution. Though international human right documents also emphasize the importance of non-discrimination standards, the principle of equality concerns citizens only, and does not rule out the legal possibility of preferential treatment of co-ethnics in the acquisition of citizenship.

Ethnic selectivity: the normative problem

Taking into account the normative problems of ethnic selectivity in citizenship, it is quite peculiar that such policies are still in place in countries where citizenship attribution regulations are subject not only to national, but also international norms. In terms of citizenship policy, the European Union is inevitably the best example of international legal harmonization. Nonetheless, as the above examples illustrate, citizenship is still used as a means of ethnic engineering in several European states. This seems a puzzle, bearing in mind that determining membership in a political community through ethnic criteria appears to be a blatant violation of basic liberal and democratic norms. And the

application of ethnically selective regulations has indeed served ethnically discriminatory political projects. How come that in the European Union such policies are still present?

The answer for this lies in the controversial legal formulations regulating membership in the European Union. While citizenship attribution is still a *domain réservé* of European states, national citizenship regulations are subject to international treaties. The international regulations in Europe can have only a limited impact on national policies. But even then, ethnic discrimination is in clear violation of the most basic membership norms outlined in the European citizenship framework. The most important document regulating citizenship attribution in Europe, the Council of Europe's 1997 European Convention of Nationality (hereafter ECN), makes a very clear case against ethnic discrimination. The Convention stipulates 'rules of a State Party on nationality shall not contain distinctions or include any practice which amounts to discrimination on the grounds of sex, religion, race, color or national or ethnic origin' (Council of Europe – ETS No. 166 – European Convention on Nationality, n.d., pt. art. 5. para. 1.). This formulation, however, was never intended to rule out membership rules that give preference to 'ethnic' kin populations living beyond their homeland. The guiding principle of the ECN is to ban signatories from denying citizenship to members of ethnic and national minorities residing within their territories. As mentioned above, successor states of the Soviet Union as well as Yugoslavia denied citizenship to minorities. While such exclusion clearly targeted undesired ethnic and national minorities, the discriminatory laws avoided ethnically discriminatory formulations. Successor states of the Soviet Union and Yugoslavia attributed citizenship on the grounds of republican level membership, and curtailed the access of national minorities to citizenship. The ECN was designed to rule out such discriminatory policies by stipulating that in the case of state succession, all residents (rather than formal republic level citizens) of the successor states should be eligible for citizenship in the successor states (see article 20). The Explanatory Report also specifies what illegitimate discrimination on the grounds of 'national or ethnic origin' entails. The Explanatory Report explains that preferential treatment of non-resident ethnic kin-minorities does not necessarily amount to ethnic discrimination on the grounds of knowledge of the national language, descent, or place of birth (Council of Europe – Explanatory Report to the European Convention on Nationality (ETS No. 166), n.d., para. 40). The ECN also finds it normatively legitimate to offer facilitated citizenship for descendants of former citizens, noting that national origin defined as having ancestors with citizenship is not an indication of one's ethnic origin (Council of Europe – ETS No. 166 – European Convention on Nationality, n.d., pt. art. 2 (a).) This would be hard to deny. Ethnic origin, or rather, as Max Weber defined it, the belief in common ethnic descent has little to do with ancestry defined in terms of citizenship.

European soft law is even less restrictive with regard to the preferential citizenship policies facilitating the inclusion of 'ethnic kin' populations. The OSCE High Commissioner on National Minorities in the 2008 Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations outlining best practices as well as perils of non-resident citizenship points out that extraterritorial citizenship¹ legislation may have severe negative effects, including the extension of sovereignty over the territory of other states. The HCNM contends that the preferential treatment of external kin minorities may create discrimination if the inclusion of non-resident ethnic kin is accompanied by the exclusion of resident aliens. At the same time, however, the Bolzano

Recommendations acknowledge that states 'may take preferred linguistic competencies and cultural, historical or familial ties into account in their decision to grant citizenship to individuals abroad', unless non-resident citizenship is issued *en masse* (Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations | OSCE, n.d., pt. art. III. para. 11). As a novelty, the Explanatory Report citing (and overstressing) the Nottebohm case explains that states should 'refrain from granting citizenship without the existence of a genuine link between the State and the individual upon whom it is conferred' (Nottebohm Case (Liechtenstein v. Guatemala); I.C.J. 1955. 4. No. 18., n.d.; Peters, 2010; Sloane, 2008).

In the HCNM's 2012 Ljubljana Guidelines on Integration of Diverse Societies, the requirement of a genuine link recurs in a somewhat different context. According to this document, 'citizenship should be based on a genuine link of the individual to the State' (Ljubljana Guidelines on Integration of Diverse Societies | OSCE, n.d., para. 33.). It is also mentioned that international law limits states' discretionary powers in citizenship policies, 'including prohibiting discrimination when conferring citizenship' (Ljubljana Guidelines on Integration of Diverse Societies | OSCE, n.d., para. 33.). While in the Bolzano Recommendations there was no indication of the possible interpretation of the normative principle, the Ljubljana Guidelines suggest that identity or residency can be regarded as legitimate proof of a genuine link between an individual and a state (Ljubljana Guidelines on Integration of Diverse Societies | OSCE, n.d., para. 32.). It is acknowledged that in addition to the 'social dimension', citizenship has an important symbolic value both for the state and the individual: '[i]t is a tangible signal of common belonging and of shared core values for both the holder of citizenship and the State granting it' (Ljubljana Guidelines on Integration of Diverse Societies | OSCE, n.d., para. 32.). All of this suggests that genuine links entail either social bonds or symbolic ties between a citizen and the state.

The Ljubljana Guidelines thus encourage states to facilitate the naturalization of individuals who have only symbolic, identitarian ties to the state. 'The integration of society is facilitated by inclusive citizenship policies and rules that aim to welcome rather than exclude those who have a sense of belonging to that society.' (Ljubljana Guidelines on Integration of Diverse Societies | OSCE, n.d., para. 32.) Due to this recognition of the subjective 'sense of belonging' as valid proof of genuine links, the Ljubljana document, probably contrary to its initial aims, opens up further possibilities for the naturalizing of individuals who have only symbolic ties rather than meaningful and tangible social attachments to the state. In line with the formulations of the ECN, the Ljubljana Guidelines stress the importance of non-discrimination, but add that the 'facilitated acquisition of citizenship due to descent or place of birth' should be considered a justified distinction. (Ljubljana Guidelines on Integration of Diverse Societies | OSCE, n.d., para. 32.). The Guidelines further expand legitimate favorable admission policies which can be used to include non-resident ethnic kin populations. In the document, the importance of non-discriminatory practices is mentioned only in connection with resident minorities. In the case of non-resident ethnic kin, however, preferential treatment is left unchallenged. The Ljubljana Guidelines state that the naturalization of non-resident individuals may be grounded not only in 'preferred linguistic competencies' but also in 'cultural, historical or familial ties' (Ljubljana Guidelines on Integration of Diverse Societies | OSCE, n.d., para. 36.). One can speculate that if the Europeanization of citizenship laws proceeds along the

principles set out in the Bolzano and Ljubljana Guidelines, it will become even easier to design ethnically preferential over-inclusive citizenship acquisition laws.

Examples of ‘ethnic’ preferentialism in European citizenship regimes

The European Convention on Nationality, the most important citizenship policy harmonization document in Europe and beyond, reflects the citizenship attribution realities of European countries. As I have explained above, the ECN on the one hand bans discrimination on the grounds of ethnic and national origin, without clearly defining what ‘ethnic’ and ‘national’ mean. The ECN, on the other hand, finds it legitimate that countries offer facilitated citizenship for specific groups.

One example of such preferentialism mentioned by the ECN is fast track naturalization of citizens of a specific country. A brief survey of the citizenship framework in Europe shows that several countries implement policies in order to assist targeted groups of resident individuals in becoming full members of the host society. As I have shown elsewhere (Pogonyi, 2017), European Union member states often offer simpler naturalization for individuals with citizenship in other EU countries or even in the European Economic Area. The Nordic states as well as Latvia introduced favorable naturalization laws for immigrants from the same region. Former republics of dissolved federations ease the requirements for applicants who are citizens of countries that used to be part of the same federation. In the case of former colonial powers, preferential laws are extended for citizens of former colonies outside the European Union. Such practices are not uncommon in traditionally ‘civic’ citizenship regimes, either. Turkey too requires less years of residence in Turkey at naturalization if the applicant has citizenship in the Turkish Republic of Northern Cyprus. In all these cases, eligibility for facilitated citizenship is determined by territorial criteria and/or formal citizenship status. Therefore, these laws do not formally qualify as ‘ethnic’ as they legally codify belonging to the core national group either in terms of culture or ancestry. Individuals from the targeted countries are all eligible to fast track citizenship, regardless of their ‘ethnic’ background.

Socialization-based preferential acquisition is another broadly used distinction in acquisition policies. These special rules target individuals whose integration into the country is presumed on the basis of socialization. Typically, minors who attend school and have resided for several years within the country are also offered easier access to citizenship. Such preferential acquisition policies serve the formal inclusion of individuals whose life circumstances clearly prove factual integration, and therefore they are also in line with basic liberal democratic norms. These naturalization rules are grounded in the assumption that those residents who are eligible for fast-track naturalization are already familiar with the national language as well as the national culture, and so there is no need for further tests of their social and cultural integration. In France, discretionary naturalization is available for persons who belong to the cultural and linguistic French entity, while graduates of French schools are eligible for citizenship after two years of residence in France – three years earlier than regular applicants.² Similarly to preferential treatment of citizens of specific countries, socialization-based preferentialism targets resident populations who have genuine ties to the respective countries. One may criticize these laws for linking membership to the completion of integration and knowledge of the national language, but as long as similar requirements are part of standard

naturalization policies, the socialization-based preferential treatment of individuals cannot be considered unfair – or ethnically selective.

But in addition to the preferential policies that target resident populations, many European countries offer citizenship for individuals who do not habitually reside and have never resided within their territories. Most countries in the world (including all member states of the EU), with some limitations, offer citizenship for descendants of citizens born abroad. In most European countries, even descendants of deceased citizens are eligible for citizenship in their ancestor's country of origin even if they have never lived there and do not speak the national language. Moreover, most countries do not restrict the transmission of citizenship. In practice, this means that successive generations of expatriates may without limitation retain the citizenship of their ancestors, regardless of the fact that they may have no actual ties to their ancestral 'homelands' and national culture. In a world marked by transnational migration, *jus sanguinis* citizenship attribution policies create large non-resident citizen populations.

One could argue, that these policies offer individuals born abroad the opportunity to restore their citizenship lineage even if their parents or grandparents did not register them as citizens at birth. The option to restore citizenship discontinued by ancestors can be seen as a logical extension of the *jus sanguinis* principle. If states can without any limitation issue citizenship for descendants of nationals born abroad, the restoration of citizenship should also be available for those foreign-born individuals whose parents missed or were illegitimately denied the opportunity to register them at birth. Citizenship is inevitably one of the most valuable assets in the modern world (Harpaz, 2019; Shachar, 2009), and as long as individuals have the right to pass it on to their descendants regardless of habitual residence, those whose parents failed to register them should not be in a disadvantaged position. And there are even more compelling normative arguments supporting the unconditional naturalization of individuals born abroad to citizen parents. In some cases, parents are illegitimately barred from registering their foreign born descendants at birth. To make things even more complicated, many of these parents were forced abroad by undemocratic regimes or the absence of decent life opportunities.

German citizenship law is a good illustration of the different types of normatively valid considerations. Article 116 of the Basic Law for the Federal Republic of Germany stipulates that those individuals whose ancestors were deprived of German citizenship on grounds of political, racial or religious grounds under the Nazi dictatorship of the Third Reich, should have the right to restore their citizenship. After the Brexit vote, thousands of individuals applied for German citizenship, claiming that their ancestors were deprived of German citizenship under Nazi rule. The German government recognized its moral duty to help these individuals, and revised the application of the restorative regulations so that even fifth generations of former citizens could apply for German citizenship ('Germany Eases Citizenship for WW2 Refugee Families', 2019). This legislation is a good example of citizenship restoration of individuals who (or whose parents) were unjustly denaturalized (and, in some cases, expelled thereafter). As many of the individuals eligible to this type of restorative citizenship are descendants of members of ethnic minorities (first and foremost, German Jews), this law cannot be seen as an ethnically exclusive measure. Germany, however, offered facilitated citizenship not only for descendants of persecuted ethnic, religious and political minorities, but also 'ethnic' Germans living abroad in Eastern and Central Europe (Hailbronner, 2013). These individuals who were

often targets of discrimination and persecution were offered citizenship and repatriation to Germany. While this so-called *Staatsangehörigkeitsgesetz* is often called an 'ethnic' policy, in practice, eligibility was dependent on German ancestry evidenced by ancestors with German citizenship, or the commitment to German culture and the knowledge of conversational German. While this law explicitly speaks of helping ethnic Germans abroad, ethnicity is again defined either through descent from former citizens and the knowledge of the national language – neither of which is an indicator of 'ethnicity' in the thick sense of the term.

As the above German example shows, the right to 'restore' citizenship status is seen as a restitutive measure designed to undo historical injustice. Such compensatory measures are commonly used by states in democratic transition and countries that were affected by the redrawing of international borders (Pogonyi, 2014). In some cases, restoration of citizenship is available for very distant descendants of nationals who were nonvoluntarily deprived of their membership status. One of the most recent (and probably also the most peculiar) example is the Spanish government's decision to open up fast-track naturalization for descendants of Sephardic Jews who were expelled from Spain in 1492 (Gladstone, 2014).

Extra-territorial aspects of citizenship acquisition are present in every country. Both from a normative and a practical point of view, the strict and exclusive application of the territorial *jus soli* principle would lead to absurd exclusionary practices and normatively undesirable complications. Without some *jus sanguinis* options, citizens born abroad would lose their right to become citizens in the homeland of their ancestors. It must, nonetheless, be acknowledged that preferential naturalization of descendants of former citizens who speak the national language creates opportunities for nationalist politicians who offer non-resident citizenship for external 'kin' populations. Such policies can be used for all kinds of normatively problematic political maneuvering. Non-resident citizenship may serve expansionist geopolitical calculations, irredentism or the alteration of electoral balances (Pogonyi, 2021). Quite often, right-wing politicians offer citizenship for non-resident 'kin' as part of ethno-nationalist strategies. In these cases, the inclusion of non-resident 'co-ethnics' is claimed to strengthen the overlap of demos and the dominant ethnocultural group. These claims, however, often fail to reflect sociological realities. As the above examples illustrate, non-resident, putatively 'ethnic kin' populations targeted by nationalist politicians are identified through their ancestors with citizenship, and/or the (some, often rather limited) knowledge of the national language. In extreme cases, ethnic kin belonging is evidenced primarily by declaration, as in the case of Bulgaria and Croatia. These cases are seen as the most blatant examples of ethnically selective kin citizenship policies. Both in the Croatian and the Bulgarian case, facilitated naturalization is available for any individuals who have some documented ancestry related to the respective countries, and declare themselves as members of the titular national group. In the case of Bulgaria, applicants of Bulgarian ethnic origin are eligible for fast-track naturalization if they can provide evidence – through birth certificates or membership in the Bulgarian Orthodox Church – of their ethnic ancestry (Jileva & Smilov, 2013, p. 13.). In Croatia, non-resident ethnic Croatians (until 2011, even descendants of migrants who left the country in the nineteenth century) are offered citizenship by declare that they 'accept the Croatian legal system, customs and culture'.

Inevitably, in both countries, nationalist right-wing governments introduced the inclusive kin citizenship policies in order to strengthen the titular ethnic group's symbolic claim over the state. But, paradoxically, the more governments facilitate the naturalization of non-resident putatively 'ethnic kin' populations, the easier they make it for non-resident individuals without deep sociological or cultural ties to become members of the nation. The Bulgarian case is instructive in this respect. In Bulgaria, the naturalization of putative external ethnic Bulgarians was facilitated through the introduction of a simplified language exam. But even this simplified language test proved too strict a barrier for alleged 'ethnic' Bulgarians living abroad. After exempting non-resident Bulgarians from the language test in 2001, the number of applications from ethnic Bulgarians rose significantly (Jileva & Smilov, 2013, p. 13). Since even the original language test was less than demanding, one wonders to what extent the putatively ethnic Bulgarian applicants for non-resident citizenship can be considered part of the Bulgarian ethnocultural nation. Under Bulgaria's rules on ethnic Bulgarians, around two-thirds of North-Macedonia's population of 2 million are eligible for Bulgarian citizenship on a preferential basis, though the number of North-Macedonian citizens who have acquired Bulgarian citizenship remained relatively low until 2010 (Hristova, 2010). For the period of 2002–2011, a total of 44,211 North-Macedonian citizens were granted Bulgarian citizenship on the grounds of Bulgarian origin, while another 20,668 individuals from Moldova were naturalized in the same period (Jileva & Smilov, 2013, p. 15).

A more recent example of 'ethnically' preferential naturalization policy is Hungary's 2011 citizenship law introduced by Viktor Orbán's right-wing government in the name of 'national reunification beyond the borders' (Pogonyi, 2017). As of today, the Orbán government naturalized more than 1,000,000 non-resident individuals who had ancestors with citizenship in Greater Hungary. Both the Hungarian government that introduced the law as well as scholars discussing it agree that the fast-track naturalization of descendants of former Hungarian citizens was an 'ethnic' nationalist policy. In practice, however, facilitated 'ethnic' citizenship was made available for anyone who had ancestors with Hungarian citizenship. In many cases, successful applicants did not at all see themselves as ethnic Hungarian, and have only a very basic knowledge of the Hungarian language (Harpaz, 2019; Pogonyi, 2017). In Serbia as well as Ukraine, descendants of non-Hungarians with citizenship in the Hungarian Kingdom started to learn Hungarian so that they can naturalize in Hungary – and, more importantly, obtain an EU passport (Harpaz, 2019) – through the 'ethnic' preferential citizenship law.

To illustrate the non-ethnic implications of the 'ethnically' preferential Hungarian naturalization regime, let me mention one of the examples that I encountered during my research on Hungarian naturalizations. Alim, a Macedonian citizen with Muslim background had a grandmother who was born in Vojvodina under the Hungarian Kingdom. After a long archival genealogy research process, Alim found out not only that his grandmother had Hungarian citizenship at birth, but also that she was of Jewish origin – quite a surprise even for his Macedonian Muslim parents. Despite the fact that his grandmother may not have spoken Hungarian, Alim became eligible for Hungarian citizenship. In order to get access to the European Union, he obtained all the necessary documents proving his grandmother's Hungarian citizenship and he also started to learn Hungarian. Thanks to the Orbán government's 'ethnic' citizenship policies and his Jewish grandmother who lived in territories that a century ago were part of the Hungarian Kingdom, Alim, the

Macedonian Muslim may soon become a member of the Hungarian nation that, according to the Fundamental Law enacted by the Orbán government, is marked by its Christian culture (The Fundamental Law of Hungary, [n.d.](#), p. Art. Q (4)).

Another example for the non-ethnic implications of Hungary's 'ethnic' citizenship is the case of Venezuelans with Hungarian descent who were offered Hungarian citizenship so that they could escape Venezuela. In 2018 and 2019, the Hungarian government offered refuge to more than 300 Venezuelans. According to reports, many of them did not even speak Hungarian, but they were nonetheless offered free airplane tickets to Hungary, as well as temporary accommodation, free integration and educational programs as well as work permits. This was quite surprising in light of the Orbán government's harsh nativist populist rhetoric that rejected immigration, and pledged that Hungary offers no refuge to any migrants. When the left-wing opposition accused the government of facilitating migration and spending public money on refugees from Venezuela, Gergely Gulyás, the Cabinet Minister in charge of the Prime Minister's office, told the press that Venezuelan Hungarians were no refugees, but received Hungarian citizenship through the 'right of blood' principle (Budapest [2019](#)). By this formulation, the Hungarian government wanted to assure their ethnonationalist base that the Venezuelan refugees were 'ethnic' Hungarians. In fact, they were dormant Hungarian citizens. They had ancestors with Hungarian citizenship who had not bothered to pass on citizenship to their descendants. Therefore, these Venezuelans were indeed eligible to Hungarian citizenship through Hungary's unrestricted *jus sanguinis* attribution policy even if they did not speak the Hungarian language and had no other cultural or symbolic (let alone sociopolitical) ties to Hungary. Even if the government used ethnonationalist arguments in the justification of their naturalization, most Venezuelans of Hungarian origin cannot be considered as 'ethnic' Hungarians in terms of culture, language or even blood, bearing in mind that all of them had only one distant Hungarian ancestor. Again, from a normative perspective, the implications of the 'restoration' of the citizenship status of Venezuelans with some distant Hungarian ancestry is similar to the consequences of unconstrained *jus sanguinis* rules which make citizenship available for non-resident individuals through the citizenship of their ancestors even if they have no effective political ties to their 'homelands' or 'national' culture.

It is important to note that the 'ethnic' content of these putatively ethnically selective rules is less than evident. Paradoxically, the more expansive preferential treatment is, the looser the putative ethnic implication becomes. No sociologically thick understanding of 'ethnic' belonging is presumed if non-resident, putatively 'coethnic' individuals with a single grandparent (or great-grandparent) are eligible for citizenship without having to evidence genuine sociological or cultural bonds to the national community/culture. Expansive external citizenship policies introduced as part of nationalizing projects may not in their actual content be 'ethnic'. Fast-track naturalization policies that are intended to strengthen national homogeneity by including presumed 'ethnic' kin abroad are not necessarily ethnic in their application. Quite the contrary, citizenship awarded on the basis of descent is available for descendants of citizens who belonged to ethnic minorities as well. In cases where the knowledge of the national language is waived (or not checked properly), there is nothing intrinsically 'ethnic' in ethnically framed fast-track naturalization. Expatriates living in ethnic communities in the diaspora may have a strong sense of belonging and may maintain their ethnic heritage, while in other cases ethnic belonging becomes purely symbolic – or disappears completely. Despite these sociological

ambiguities, the scholarship on citizenship often assumes that the over-inclusive citizenship policies which render membership available for non-resident descendants of former citizens, by definition strengthen an ethnic conception of the nation. This can be misleading and inaccurate. One may, of course, speculate that even without contributing to the maintenance of national heritage (or even speaking the language), members of the diaspora who reclaim citizenship symbolically commit themselves to a nationalist/nationalizing project which may initiate a process of renationalization (Brubaker, 2011). But this, at least from a sociological perspective, should not be seen as the outright re-ethnicization of citizenship, even if the inclusion of diasporas and transborder kin-minorities is a project of nationalist parties. Preferential naturalization available on the basis of language knowledge, residence in a specific transborder or overseas location or descent from former citizenship is not necessarily indicative of ethnic origin (Council of Europe – ETS No. 166 – European Convention on Nationality, n.d., pt. art. 2 (a); Ljubljana Guidelines on Integration of Diverse Societies | OSCE, n.d., para. 32.). Among others, descendants of ethnic and national minorities living outside the country are also eligible for preferential naturalization if they meet all other requirements. If ‘ethnic’ membership is legally codified as descent from former citizens, then preferential treatment is offered on the basis of links to a (historical) state rather than ethnic ancestry.³

Conclusion

The civic–ethnic binary opposition is still widely used in comparative citizenship studies, even though its analytical utility has been questioned in the social and political sciences. In comparative citizenship studies, the civic–ethnic binary opposition is often used to distinguish inclusive/liberal and exclusive/illiberal citizenship regimes. According to this classification, in ethnic, *jus sanguinis* regimes citizenship is inherited, and belonging to the political community is conditional upon membership in the core ethnic group. Ethnic citizenship regimes tend to have more restrictive acquisition policies, making naturalization more complicated for individuals outside of the titular ethnic group. Strict language requirements and complicated citizenship tests are often criticized for creating ethnically restrictive acquisition policies. By contrast, civic citizenship frameworks are associated with acquisition policies that are less focused on the maintenance of putative ethnocultural homogeneity. In a more nuanced approach, the binary opposition of civic versus ethnic acquisition rules is intended to highlight the level of ethnic preferentialism pursued by a state, including the overinclusion of co-ethnics living abroad (‘external inclusion’) and the exclusion of individuals who do not belong to the titular national majority (‘internal exclusion’).

This paper pointed out that despite the emerging norm of prohibiting ethnic discrimination in citizenship attribution, the current European legal framework does not rule out putatively ‘ethnic’ selectivity. On the contrary, the European norms intended to promote the de-ethnicization of citizenship through recommending internally inclusive acquisition rules in practice open up the possibility for the ethnicization of citizenship through externally overinclusive and expansionist preferential acquisition laws. The paper argued that this legal ambiguity is partly the result of the analytical vagueness of the ethnic–civic dichotomy. Unless we define ethnicity strictly as common ancestry through bloodline, there is no clear criteria of distinguishing ethnic and civic types of preferentialism in

citizenship attribution policies. As a result, ethnonationalist politicians can use descent, cultural proximity or the knowledge of the official language as formally civic tools in ethnic nation building projects.

The paper has also shown that cultural preferentialism is an inherent part of citizenship policy. Despite the normative dilemmas related to naturalization standards, selectivity on the basis of language and cultural knowledge is an integral part of citizenship attribution not only in putatively 'ethnic' citizenship regimes, but also in 'civic' ones. Similarly, unrestricted *jus sanguinis* citizenship acquisition is also legislated in all European states. As in the case of preferential naturalization on the grounds of cultural proximity, descent of former citizens is not a marker of thick ethnic belonging. Restoration of citizenship of descendants of former citizens is also available for individuals who cannot be considered as 'ethnic kin' in sociocultural terms.

The paper has pointed out that, paradoxically, the efforts of nationalist politicians to strengthen the ethnic homogeneity through offering fast-track citizenship for non-resident 'ethnic kin' often results in citizenship for individuals who do not see themselves as ethnic kin, and do not even speak the national language. Inevitably, the more simple and unconstrained the passing down of citizenship, and the less birthright citizenship is tied to territory, the less citizenship becomes a marker of factual, genuine stakeholding in a country. But at the same time, it may not necessarily become more 'ethnic' – on the contrary, unrestricted *jus sanguinis* makes citizenship available for foreign born individuals even if they have no genuine ties or even loose cultural ties to their 'homelands'. Therefore, policies which are often labeled as 'ethnic' in citizenship scholarship do not at all in practice facilitate the cultural homogeneity of nation-states, but rather water it down. To put it tersely, ethnically framed citizenship policies may not be 'ethnic' either in their legal operationalization or their social impact. Bearing all this in mind, one can agree with Max Weber that because of this conceptual ambiguity, ethnicity is not a salient category of analysis. As Weber put it, as soon as we approach the concept of ethnicity with analytical scrutiny, it becomes redundant and unnecessary – 'it dissolves if we define our terms exactly' (Weber, 1978, p. 62).

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Notes

1. In the literature, both 'external' and 'extraterritorial' citizenship is being used. I will use the latter throughout the text to refer to policies concerning citizens living outside the territory of a state.
2. (Bertossi & Hajjat, 2013, p. 22, 31; Koska et al., 2013, p. 7).
3. (Bauböck, 2007, p. 67).