# DUAL CITIZENSHIP AND TRANSNATIONALISM IN EUROPE

**ABSTRACT**

This article introduces a Canadian audience to the varied and changing ways in which dual citizenship is debated and legally processed in Europe, with a focus on the 15 pre-enlargement member states of the European Union.

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In contrast to Canada, where the costly evacuation of 15,000 "Canadians of convenience" from war-ravaged Lebanon in 2006 stirred a major debate over dual citizenship (Kaplan 2006), there is no comparable debate in Europe. One could even argue that all Europeans hold dual citizenship, that is, a European citizenship in addition to their national one. While European citizenship is not a nationality, Europe, with its own passport and naturalization rules, is a space of multiple loyalties and affiliations, so that the notion of "divided loyalties" proffered by Canadian opponents of dual citizenship would appear rather anachronistic – to have "undivided loyalties" would be very un-European indeed.

Occasionally there are debates about dual citizenship. These debates take place with respect to either moving borders or moving people, the two diametrically opposed contexts in which dual citizenship may become relevant. With respect to moving borders, Hungary rejected dual citizenship for its sizeable national minority in Romania through a referendum in December 2004. As for moving people, the Christian Democratic Party in Germany organized a signature campaign against dual citizenship for Turkish immigrants, a campaign that partially derailed an ambitious reform project of a Socialist-Green coalition government in 1999. But these debates are highly nation-specific. They don't add up to a general sense of "Hotel Europe" showing too much largess to country-shopping transnational migrants.

## Liberalization of European citizenship laws

The European master trend in the past three decades has been a thorough liberalization of citizenship laws. This is the result of migration in the human rights era, a migration that cannot be stopped or reversed at the discretion of states but one that carries claims for permanent settlement and eventual citizenship.

This liberalization has three components. First, the hurdles to naturalization have been lowered significantly: less residence time is required, no cultural assimilation is required and there is less discretion on the part of the state and more entitlements on the part of citizenship applicants. Secondly, conditional *jus soli* citizenship has been added to the classic *jus sanguinis* citizenship. Except in Portugal and Britain, the European standard for citizenship attribution at birth was *jus sanguinis* – Napoleonic, post-revolutionary France had pioneered this in 1804 as the quintessentially modern way of attributing birth citizenship, handed on individually like a person's name. Immigration has led to a positive revaluation of the originally feudal *jus soli* principle: with a few exceptions, the pre-enlargement European states now have something akin to quasi-automatic as-of-right citizenship for second generation immigrants. Notably, the European preference is for "conditional" *jus soli* citizenship in that it is tied to legal residence requirements for a parent or child; this greatly prevents something akin to "Hotel Canada," in that mere birth on the territory is nowhere sufficient for being granted the lifelong good of citizenship. The third component is the increased acceptance of dual nationality. The 1997 European Nationality Convention (ENC) explicitly endorses it, in a complete turnaround of its 1963 predecessor, which was all about preventing it.

Certainly since 2001 there has been a counter-trend toward new restrictions. But they don't amount to a wholesale "restrictive turn" (Joppke 2008). Generally, the dual citizenship and conditional *jus soli* components have not been affected by the restrictions. The restrictive emphasis has been, first, on making naturalization more demanding through explicit language and civic integration tests and through greater behavioural and economic requirements such as the absence of a criminal record and welfare dependency. Secondly, the powers of states to revoke citizenship acquired through

naturalization because of fraud or terrorist activities have increased. One should note here that dual citizenship is an asset, not a liability, in the fight against terrorism: it is easier for a state to revoke a second nationality than a single one, the latter being protected by a strong international regime to prevent statelessness.

### The inevitability of dual citizenship

Dual nationality is inevitable and its existence cannot but grow with a further increase of international migration. There are at least two reasons for this. The first is the coexistence of *jus soli* and *jus sanguinis* regimes in the world, something that is unlikely to ever disappear. It cannot but generate dual nationality because a child born to foreign parents in a *jus soli* country will get the citizenship of this country, *jure soli*, and the citizenship of its parents, *jure sanguinis*. The second, gender equality, which has become a feature of all Western states' nationality laws since the 1960s, inevitably generates dual citizenship in the case of mixed couples since husband and wife now equally transmit their nationality to their children, *jure sanguinis*. If continued immigration is added to this, the existence of dual nationality cannot but grow and grow. The main possibility for containing dual nationality is through constraints on naturalization: renunciation requirements for immigrants and automatic loss provisions for emigrants. When discussing the pros and cons of dual nationality, one is talking about a small subset of the total immigrant and ethnic minority population: first generation immigrants who are unlikely to change flags quickly, but who are likely to carry forward dual nationality through the birth citizenships of their children. Conversely, those migrants who are most likely to naturalize quickly, i.e. refugees, generally have the right to retain their origin nationality, even in a country like Germany that is sternly opposed to dual nationality.

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European stances on dual nationality are highly diverse, ranging from full acceptance to pragmatic toleration to rejection. There is only one country that philosophically endorses dual nationality: Sweden (but only since 2001). Countries like Britain and France pragmatically tolerate dual nationality. Generally, countries with long democratic traditions and that were once empires are the countries with the most liberal nationality laws, and this includes toleration of dual nationality. Finally, there is a core of pre-enlargement states that sternly rejects dual nationality: the Germanic states, Germany and Austria; and two small Western and Nordic states that are in the grip of strong right-wing populist movements, the Netherlands and Denmark. That makes only four out of 15 pre-enlargement states that reject dual nationality, and even these four naysayers are required by article 16 of the European Nationality Convention to make exceptions where the renunciation of the first citizenship is legally impossible, the conditions for release are unacceptable, or in the case of refugees. Accordingly, about 40% of naturalizations in these four countries entail dual nationality (in the Netherlands, which makes even wider exceptions, the *de facto* acceptance reaches 80%) (Faist et al. 2007: 927).

What are the reasons for the increased acceptance of dual nationality? Ultimately, the reasons are related to equality and human rights considerations combined with giving in to the inevitable. By probing deeper, however, one discovers there are two diametrically opposed reasons, which often vary according to country and political ideology. The first reason is that dual nationality facilitates the integration of immigrants; the second reason is that it helps retain ties with co-nationals abroad. Thus, there are two different types of dual nationality: immigrant and emigrant dual nationality. Both are tied to two fundamentally different ideas of what constitutes a state – a territorial entity or an ethnic association. These two types of dual nationality line up with two fundamentally different political projects: de-ethnicization, which tends to be a project of the left, and re-ethnicization, a project of the political right (Joppke 2003). Both projects are equally engendered by contemporary globalization and transnationalism, and moments of nationality reform in Europe tend to be moments where these two projects compete or clash with one another.

With respect to immigrant dual nationality, there are two opposing views of the role of citizenship in the integration process. The view underlying liberalization is that citizenship is a tool of integration, which is conceived of as an open-ended process. Conversely, opponents of dual nationality say that citizenship is the endpoint of integration, which is understood as a finite process. Currently, a number of European countries are rethinking the role of citizenship, with views of citizenship ranging from it being a tool to being the end-point of integration. This shift has been most drastic in the Netherlands, which has recently reintroduced a renunciation requirement for second generation immigrants. The rhetoric is that citizenship should be the "first prize," something that is not learned but "felt" ("one cannot learn to be Dutch, one has to feel Dutch") and, accordingly, something for which one is willing to pay a price (renounce previous nationality). Only, why should a person pay this price if the added value is limited? The value of citizenship can be increased only if the status of legal residence is diminished; but by doing this (no European state actually does) people will be coerced into citizenship for the wrong (instrumental) reasons. This leads to the conclusion that the state-engineered upgrading of citizenship is really an impossibility. If one assumes such a campaign to be rational, the true target group is not immigrants but the native-born population, who must reconcile with immigration. Citizenship policy, then, is symbolic politics where it is not the effect but the medium that is the message.

With respect to emigrant dual nationality, the trend of classic emigrant-sending states, (e.g. Turkey and Mexico) fostering ties with expatriates abroad by permitting dual

nationality or even the recovery of nationality for their descendants is well known. Not as well known is the fact that the same trend can be observed in Europe, most visibly in Italy, which even reserves seats in both houses of parliament for their *co-nazionali* abroad.[1] Some recent advances in dual citizenship, like in Finland (2003), do not target immigrants but emigrants, and the advances often occur in the context of overall restrictive nationality law reforms.

Is there symmetry in dealing with immigrant *and* emigrant dual nationality? Most European states have taken symmetric stances on both, either tolerating or rejecting immigrant and emigrant dual nationality (as did Finland in 2003, which tolerated immigrant along with the much desired emigrant nationality). There are exceptions: Germany is still lenient on emigrant dual citizenship, while being tough on dual citizenship of the immigrant; Belgium (the European country with the most liberal nationality law), curiously, until most recently was soft on immigrants but tough on emigrants ("soft" symmetry was established in 2003). But in the current populist climate, the odds are really against immigrant dual nationality. A drastic case, again, is the Netherlands. It abolished an admittedly harsh rule that foresaw the loss of Dutch nationality after spending only ten years abroad; at the same time, it tightened the renunciation requirement for immigrants in 2003. The asymmetric treatment of immigrant and emigrant dual nationality was deliberate. Because immigrants, not emigrants, posed "integration problems," their – and only their – dual nationality stood to be restricted.

The European experience shows transnationalism is not a privilege of the immigrant. There is a state-level transnationalism taking hold in Europe today, and it is unfailingly a project of the political right.

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### The "pros" beat the "cons"

In balancing the reasons for and against dual nationality, one presupposes that there is choice in this. In reality, however, choice is largely absent. And to the limited degree that it may exist, one must ask: why bother? Luckily, all recent accounts of the pros and cons of dual nationality, even if penned by sceptical minds (Martin 2003, Hansen and Weil 2004), see the pros winning over the cons by a wide margin. Let us consider only the three major objections to dual nationality: disloyalty, unfairness and unwieldiness.

***Disloyalty:*** In the public mind, dual nationality is often associated with divided loyalty. One might reasonably argue that "undivided loyalty" is a good deal more worrisome than "divided loyalty." In a differentiated society, all individuals are charged with multiple roles, allegiances and expectations (family, work, political, creedal). Unless one surrounds the nation-state with the aura of the transcendent and the religious, which of course is the historical root of nationalism, there is no intrinsic reason why the state should stay unaffected by the pluralist logic of functional differentiation. As even a French "Republican" sociologist concedes (Schnapper 2006), the loss of state transcendence is inevitable in a liberal society, and with it goes the entire "undivided loyalty" discourse.

***Unfairness***: This objection is more serious. Dual nationals have an "exit" option to fall back on, seducing them to irresponsible or no "voice" behaviour, which may damage the state of those who have no other state. But this makes strange psychological assumptions about "torched earth" behaviour, also vastly exaggerating the possible aggregate impact of such action by dual nationals. Further, there is the possibility of benefit shopping, from cashing-in welfare to parachuting one's children into free public universities. However, such behaviour can be restricted through simple residence requirements. Overall, most objections that dual nationality is unfair are academic and "constructed," and they are curiously silent about the possible benefits that dual nationality may have for mono-nationals (as customers, producers, clients, etc.).

***Unwieldiness***: This is clearly a less academic objection. Dual nationality generates conflicting laws regarding civil status, inheritance and taxation, among many others. This objection is the most serious of the objections to dual nationality, although one that may again be countered by the residence principle. One may naively ask: what is the purpose of the state? is it to operate as a Hegelian overlord? or is it to be at the service of the people who pay for it (dual nationals pay taxes)? If the latter is the case, "unwieldiness" is no knock-out against dual nationality.

### Managing the risks

Finally, what is to be done to contain some of the negative aspects that arise from dual nationality? First, citizenship benefits, such as diplomatic protection, should be tied more stringently to residence. As the International Court of Justice ruled in the famous *Nottebohm* case, citizenship should reflect a "genuine link" between an individual and a state. Evacuating, at great cost, "Canadians of convenience" is frivolous and damaging to liberal citizenship, as is the practice of voting or holding office in a second country. It may be time to rethink unconditional *jus soli* that produces lifelong, "by-chance" Canadians and that is out of tune with a world of global mobility.

Second, some dual nationalities are less pernicious than others. To be French and German is not like having "two wives," as George Bancroft puts it – it is being European.

Conversely, to be Canadian and Lebanese links one of the most desirable places on earth to a place that, one must fear, is locked into war and poverty. Such uneven couplings are really the spring of most of the problems surrounding dual nationality, especially with respect to Islamic terrorism (Caldwell 2004). Creative thinking on containing the vices of dual nationality should consider that the second country matters.

Third, to worry is unnecessary because transnationalism, which is the sociological basis of dual nationality, is not a self-reproducing force that will wash away the nation-state. The literature on transnationalism gets at least four things quite wrong (Joppke and Morawska 2003: 20-29). First, it is not as "new" as often claimed, as the early 20th century world was every bit as "transnational" as ours. Second, as examples from Italy to Mexico show, states are not victims of transnationalism. There is the possibility of state-level transnationalism, in which the state conceives of itself as a border- and generation-transcending ethnic association. Third, the alternative "assimilation" versus "transnationalism" is flawed: the sociological evidence shows that both processes are happening simultaneously. Last, and most importantly, transnationalism is mostly a first generation phenomenon. It is much weaker in second and third generation immigrants (Fitzgerald 2008). So, if transnationalism is the force that is driving the proliferation of dual citizenship, it is a force whose subversive potential has been greatly exaggerated. Most people in the world do not move, but stay put (97% at latest count), and, short of a planetary catastrophe, this is unlikely to change.

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## Note

[1] Since 2006, Gino Bucchino, a Canadian with dual nationality, is an elected member of the Italian parliament, representing the Italians of North America.