
CONTENTS

<i>Acknowledgements</i>	v
<i>Abbreviations</i>	xiii
<i>Table of Cases</i>	xv
1. Introduction.....	1
I. EU Citizenship: The Legal Space Between Status and Rights.....	1
A. EU Citizenship in the 2010s: Hardships and Reinvention	1
B. Core Analytical Findings of the Book.....	3
C. Purpose of the Book	4
II. Method and Delimitations	4
III. Outline	5
2. EU Citizenship: Historical Backdrop and Debate	7
I. The Legal Origins of EU Citizenship	7
II. Free Movement of Persons: The Creationist Bone of EU Citizenship.....	10
III. Freedom of Movement Based Directly on the Status of EU Citizenship.....	13
IV. Debating the ‘Promise’ and ‘Threat’ of Equal Treatment	14
A. EU Citizenship: A Vehicle for Transnational Equality or a Humiliation of the State?.....	15
B. The Court’s Final(?) Assertion: Equal Treatment is Only for the Economically Active or Resourceful.....	17
V. The Constitutional Impact of EU Citizenship	18
A. EU Citizenship and Purely Internal Situations: The Issue of Reverse Discrimination	19
B. EU Citizenship and Fundamental Rights Review.....	20
VI. The 2010s: Has EU Citizenship Reached its Limits in Free Movement Law?	21
VII. Where to Go from Here?	24
3. The Right to Move and Reside Freely: Article 21(1) TFEU and Directive 2004/38	26
I. Directive 2004/38: The Right to Integrate as a Union Citizen.....	27
A. The Purpose of Directive 2004/38	28

B.	The Directive's Personal Scope: The Family Members of a Union Citizen.....	29
C.	Limiting Residence Rights on Economic Grounds	30
II.	Exit from a Home Member State and Entry into a Host Member State	32
A.	The Right to Exit: Removing Restrictions on the Freedom to Move Under Article 21(1) TFEU	32
B.	Entry and Initial Three-Month Stay in a Host Member State: Directive 2004/38.....	34
III.	A Right to Reside Beyond Three Months in a Host Member State.....	35
IV.	Retaining a Right to Reside and Obtaining Permanent Residence.....	37
A.	Protecting the Continuity of Residence Under Directive 2004/38.....	38
B.	Making Article 7 of Directive 2004/38 into the Litmus Test of Integration.....	40
V.	The Right of Permanent Residence Status.....	43
A.	The Meaning of Permanent Residence Status	44
B.	The Implicit Behavioural Elements to Genuine 'Integration' in Directive 2004/38	46
VI.	Withdrawing Residence Rights on Public Interest Grounds	48
A.	Public Interest Grounds Neutralising the Individual's Economic Status.....	49
B.	Expulsion Measures Against Permanent Residents: A Criticised Jurisprudence	51
VII.	Conclusion.....	54
4.	Residence and Family Reunification Rights.....	56
I.	The Right to Return as a Family to the Union Citizen's Home Member State	57
A.	The Right to Return with Family Reunification Rights: Economically Active Persons	57
B.	The Right to Return with Family Reunification Rights: Non-Economic but 'Genuine' Use of Freedom of Movement.....	58
C.	The Right to Return and the Legal Nuances of Directive 2004/38	60
D.	The Effect of Naturalisation on Family Reunification Rights in Directive 2004/38	61
II.	Retained Residence Rights of Family Members	62
A.	The Independence of the Individual Union Citizen in Directive 2004/38.....	63
B.	The Vulnerability of the TCN Spouse in Directive 2004/38.....	64

C.	Deriving Residence Rights from a Child of a Worker	65
D.	Enabling a Child's Enjoyment of Residence Rights Under Article 21(1) TFEU	68
E.	The Territorial Aspect of Residence Rights: Within Host or Home Member State	70
III.	The Right to Reside Within the EU: Article 20 TFEU	71
A.	The Right to Reside Without Exercising Freedom of Movement	72
B.	Protecting the Existential Dimension of EU Citizenship	73
C.	The Genuine Enjoyment Test: A Right to Reside Somewhere in the Union	74
D.	The Intrinsic Connection between Freedom of Movement and the Genuine Enjoyment Doctrine	75
E.	The Legal Space between Article 21(1) TFEU and Article 20 TFEU	77
IV.	Conclusion	78
5.	The Right to Equal Treatment	80
I.	The Right to Equal Treatment and EU Citizenship	81
A.	From Workers and Tourists to Citizens: Equal Treatment as a Fundamental Right	83
i.	The Tourist's Right to Equal Treatment: <i>Cowan</i> and <i>Bickel and Franz</i>	84
B.	Equal Treatment as the Gateway to Social Rights in a Member State	86
C.	Differentiating between the Visitor and the Resident	89
II.	Demanding Genuine Use of Freedom of Movement	90
A.	The Prohibition of Abuse of Free Movement of Persons Law	91
B.	From Accusations of Abuse to Demands of Genuine Use	93
III.	Establishing the Edges to Equal Treatment	96
A.	First Development: 'Legal' Residence as the Basis for Equal Treatment	97
i.	<i>Sala and Trojani</i> : When Lawful Meant Integrated	97
ii.	An Obligation of Solidarity: <i>Grzelczyk</i>	98
B.	Second Development: Demanding Sufficient Integration and Genuine Links	101
i.	Jobseekers and Genuine Links: <i>Collins</i> and <i>D'Hoop</i>	101
ii.	Students and Genuine Links: Strengthening the Bond of Nationality	103
iii.	Protecting an Important Bond or Welfare Nationalism?	104
iv.	A Certain Degree of Integration for Equal Treatment: <i>Bidar</i>	105

C.	The Third Development: Directive 2004/38 Dissolving the Direct Link between the Status of EU Citizenship and a Right to Equal Treatment.....	107
i.	Durational Lawful Residence as Integration: <i>Förster</i>	108
IV.	Article 7 of Directive 2004/38 as the Sole Test of Integration.....	110
A.	The Narrow Ground for Expulsion Measures for Economic Reasons: <i>Brey</i>	111
B.	Three Legal Edges of Equal Treatment: <i>Dano</i> , <i>Alimanovic</i> and <i>García-Nieto</i>	114
i.	The Inactive Union Citizen and Article 24(1) of Directive 2004/38: <i>Dano</i>	114
ii.	The Jobseeker and Article 24(2) of Directive 2004/38: <i>Alimanovic</i> and <i>García-Nieto</i>	118
V.	The Legal Space between Directive 2004/38 and Article 18 TFEU.....	120
A.	A Right to Reside in Social Exclusion.....	121
B.	The Rationale of Directive 2004/38 Transposed to Regulation 883/2004: <i>Commission v United Kingdom</i>	123
C.	A New Type of ‘Purely Internal Situations’	124
VI.	Conclusion.....	125
6.	EU Citizenship and Political Free Movement Rights.....	127
I.	Political EU Citizenship Rights as Free Movement Rights.....	128
A.	Political Rights as Free Movement Rights.....	129
B.	The Municipal-Levelled Right to Political Equal Treatment	130
C.	The European-Levelled Right to Political Equal Treatment	131
D.	The ‘Voting Directives’ and the Concept of Residence.....	132
II.	Extending the Jurisdictional Scope of Political EU Citizenship Rights.....	135
A.	Case C-300/04 <i>Eman and Sevinger</i>	135
B.	Case C-145/04 <i>Spain v United Kingdom</i>	136
C.	Towards a Substantive EU Citizenship Voting Right.....	137
III.	A Fundamental EU Citizenship Right to Vote in Elections to the European Parliament.....	138
A.	Political EU Citizenship After the Treaty of Lisbon	138
B.	Case C-650/13 <i>Delvigne</i>	140
C.	Fortifying the Idea of ‘Substance of Rights’ in EU Citizenship Law	142
D.	Would the <i>Delvigne</i> Principle Apply in a Free Movement Context?.....	144
IV.	National Disenfranchisement and Non-Enfranchisement as a Result of Exercising Free Movement	145
A.	Inclusion and Exclusion in a National Franchise.....	146
B.	The Insufficiencies of EU Citizenship as a Political Status.....	148
V.	Conclusion.....	149

7. EU Citizenship and the Charter.....	151
I. The Place of Human Rights in Union Law.....	153
A. The Gradual Introduction of Fundamental Rights in Union Law.....	154
B. The Charter: A Catalogue of Fundamental Rights in the EU Legal Order.....	156
II. The Charter and EU Citizenship Rights.....	157
A. Are Fundamental Rights EU Citizenship Rights – And Should They Be?.....	158
B. Understanding the Treaty Twins: The EU Citizenship Rights in the Charter.....	161
III. The Charter and Article 21 TFEU.....	164
A. The Cross-Border Requirement Under Pressure from EU Citizenship.....	165
B. Restrictions on Movement and EU Fundamental Rights Review.....	167
C. Separating Fundamental Rights Guarantees from Equal Treatment.....	169
D. When are the Member States Implementing EU Law?.....	170
IV. The Charter and Directive 2004/38: An Unsettled Relationship.....	171
A. Limits and Conditions in Directive 2004/38: Beyond Charter Review?.....	172
B. Sanctioned Member State Restrictions versus Individual Failures of Integration.....	173
V. The Charter and the Right to Equal Treatment.....	175
A. To Demand Integration of the Individual: Not an Act of Implementing EU Law.....	176
B. The Interest of Preventing Financial Burdens on the Host Member State.....	177
C. Genuine Use of Freedom of Movement as a Test of Jurisdiction.....	179
VI. The Charter and Article 20 TFEU.....	181
A. Article 20 TFEU as a Test of EU Jurisdiction.....	182
B. The Legal Distance Between the Status of EU Citizenship and the Charter’s Rights.....	183
C. Fundamental Rights Review Becoming Part of the Genuine Enjoyment Doctrine.....	185
D. Problems with the Genuine Enjoyment Doctrine.....	186
VII. Conclusion.....	190

8. Conclusion.....	192
I. The Legal Edges of Personal Free Movement Rights	193
A. The Incentive to Stay, Integrate and Naturalise.....	194
B. A Purely Internal Situation in a Host Member State.....	195
II. EU Citizenship: The Legal Space Between Status and Rights	196
III. Perspectives for Future Developments.....	197
<i>Bibliography</i>	199
<i>Index</i>	211