

## INDEX

- activation agenda, 528–532  
 AFSJ. *See* Area of Freedom, Security, and Justice  
 Allott, Philip, 37, 42, 79  
 Altman, Dennis, 436  
 anarchy, 173  
 ancient citizenship, excluded groups and, 417, 432  
 Aneiros, Ray, 600  
 anthropocentric tradition, in EU, 16–22  
 anti-discrimination legislation, 437–440  
   gender equality and, 434  
 apartheid, 34  
   Bantu Homelands Citizenship Act and, 34  
   judicial function of, 153–154  
 Area of Freedom, Security, and Justice (AFSJ), 561–563  
   establishment of, 564–567  
   freedom of movement and, 566–567  
   minimum rules established by, 569–572  
   *Ruiz Zambrano* case and, 580–581  
 aspirational citizenship, 710–716, 729  
 ambiguity of, 712–715  
   citizenship logic and, 712  
   constitutional theory and, 712–713  
   equal treatment as part of, 711–712  
   social inclusion as part of, 711–712  
   supranational features of, 713–714  
   third-country nationals and, 715–716  
 attitudinal model, of disability rights, 510–511, 512–534, 536  
   by EU Member States, 528–534  
 Austria  
   disability rights in, 526  
   family reunification rights in, 459  
   autonomy. *See also* citizen autonomy of EU citizenship law, 22  
   in federalising process theory, 132  
 ‘bad’ citizens, 199–201  
 Balibar, Étienne, 33–34  
 Balkin, Jack, 43  
 Bantu Homelands Citizenship Act, 34  
 Bartl, Marija, 37  
 Belgium. *See also* *Ruiz Zambrano* case  
   citizenship in, 216  
   EU citizenship in, 687–690  
   family reunification rights in, 458–459  
   Nationality Code in, 287  
   voting rights in, 287–288  
 benefit traps, 529–530  
 Berlin, Isaiah, 43  
 Bill of Rights, in US Constitution, 136–138, 463–464, 770–771  
   symbolism of, 137  
 bioethics, 310–315  
 biological citizenship, 308  
 biopolitics, 308  
 biosociality, 309  
 bisexuality. *See* lesbian, gay, bisexual and transgender rights  
 Bogdandy, Armin von, 239–240, 709–710  
 Brandwell, Myra, 432–433  
*Brandwell v. Illinois*, 432–433  
 Brink, Martijn van den, 31, 656  
 British Overseas Territories Act, 179  
*Bundesverfassungsgericht* (BVerfG). *See* German Federal Constitutional Court

- Cambien, Nathan, 528
- Canada  
 social model of disability rights  
 in, 535  
 subnational citizenship in, 20
- carers, in right to care  
 under ECHR, 504–505  
 establishment as, 503–506  
 multiple, 505–506  
 other than parents, 503–505  
 primary, 490, 491, 503
- Caro de Sousa, Pedro, 43
- Carpenter case*, 491–493
- centralisation, of EU criminal law  
 regulations, 582
- Charter of Fundamental Rights of the  
 European Union (CFR), 102,  
 158–159, 266–267, 644–645  
 citizenship as right under, 231–235,  
 651–652  
 consular and diplomatic protection  
 under, 584–585, 586  
 data privacy rights under, 542,  
 543–544, 555  
 disability rights under, 513–514  
 EU criminal law under, 580  
 EU exit under, 738–739  
 family reunification rights under,  
 444–445  
 freedom of movement under, 230  
 fundamental rights under, 464–465,  
 671–672  
 political rights and, 274–275  
 under public health governance, 296  
 right to healthcare services  
 under, 332  
 right to stay under, 390–391  
 secession from EU under, 738–739  
 sexual rights under, 439
- children  
 right to care and, 494, 500–502  
 parental relationships and, 500  
 right to travel without, 481–487  
 legal context for, 481–484  
 limitations of, 484–485  
 for married parents, 486  
 reverse dependency and, 486–487  
 shared custody and, 485–486
- citizen autonomy, 347
- citizen participation, in public health  
 governance, 295, 301–307  
 bioethics and, 313–314  
 bottom-up engagement for, 308–310  
 deficit model for, 307  
 foundations of, 304–307  
 human rights law and, 313–314  
 limitations of, 304–305  
 through non-binding policies,  
 305–307
- citizens. *See also* citizenship, in EU;  
 citizenship rights  
 exit options for, 93  
 inactive, 206–209  
 individual assessments of, 193–201  
 social integration of  
 for ‘bad’ citizens, 199–201  
 through freedom of movement,  
 182–193  
 for ‘good’ citizens, 194–199  
 in Union territories, 193–201  
 therapeutic, 308
- citizenship. *See also* aspirational  
 citizenship; sexual citizenship;  
 social citizenship; supranational  
 citizenship  
 ambiguity of, 712–715  
 ancient, excluded groups and, 417, 432  
 as legal creation, 717–723, 729  
 alternative constitutional  
 frameworks, 722–723  
 comparative federalism and, 721  
 federal balance of power, 719–722  
 fundamental status of, 717–719  
 textual foundations of, 717–719  
 the other and, 418–419  
 paradoxes of, 417–418  
 political legitimacy of, 726–728  
 post-national, 636–641  
 beyond rights, 724–726  
 as social fact, 724–728, 729–730  
 identification of, 726–728  
 solidarity in, 726–728  
 supranational approach to,  
 726–727  
 in US  
 discourse on, 619–622, 625–631

- citizenship (cont.)  
 horizontal, 631–632, 639–640  
 vertical approach to, 631–632, 701  
 citizenship, in EU. *See also* European Union citizenship law;  
 personhood; sexual citizenship;  
 social citizenship; substance of rights, for citizenship;  
 supranational citizenship;  
 transnational social citizenship  
 for ‘bad’ citizens, 199–201  
 in Belgium, 216, 687–690  
 biological, 308  
 as collective identity, 110  
 common good and, 36  
 consolidation phase, 208  
 constituent phase of, 207–208  
 constitutional balance of, 762–779  
 constitutional elements of, 174–176  
 as constitutional process, 140  
 court analysis of, 687–693  
 cultural, 250  
 defined, 4–5, 23, 43  
 democracy and, 235–238  
 development of, 226  
 under Directive 2004/38, 619  
 discourse on, 622–631  
 earned, 219–221  
 ECJ cases and, 629, 751–752  
 equality as part of, 5, 35–38, 127, 156  
 EU citizenship law and, 687–693  
 under rule of law, 742  
 EU exit and, 740–750  
 Directive 2004/38 and, 741  
 as non-legal consideration, 747–749  
 relevance of, 740–747  
 under TFEU, 740–741  
 European Parliament’s influence on, 237  
 exit options as part of, 93  
 as federal citizenship, 155–158, 168–176  
 equal treatment of citizens, 156  
 free movement between states, 156  
 structural, 169  
 substantive, 169  
 federalism and, 12, 15–18, 92–93, 407–413, 617–625  
 democracy as influence on, 281–285  
 discourse on, 622–625  
 loss of sovereignty through, 409–411  
 process theory for, 128–133  
 temporal context of, 412–413  
 as fifth freedom, 41  
 four concepts of, 110  
 fragmentation of, 261–262  
 freedom of movement and, 112, 156, 371–372, 394–397, 627, 687–690  
 cross-order equality and, 629–631  
 in ECJ case-law, 629  
 frontiers of, 706–707  
 fundamental rights of, 102–105, 126–128, 643–647  
 federalisation of, 104  
 protection of, 671–676  
 scope of, 136  
 future predictions for, 78–82  
 for ‘good’ citizens, 39–41, 194–199  
 horizontal, 93, 615–616, 631–636  
 legitimacy of, 640–641  
 post-national citizenship and, 636–641  
 supranational citizenship and, 632–633  
 human rights and, 722  
 incorporation of other rights, 770–775  
 in individual nation states, diversity of approaches to, 107–108  
 integration through law tradition for, 707–708  
 as legal process, 140  
 as legal status, 110  
 legal systems as negative influence on, 9  
 liberty and, 8–9  
 under Maastricht Treaty, 245–247, 619, 687  
 market citizenship compared to, 35–44  
 dignity under, 38–41  
 for economically active persons, 38–39

- equality under, 35–38
- humanity under, 38–41
- self-governance under, 35–38
- methodological background for, 707–710
  - analytical approach in, 708–709
  - doctrinal constructivist approach in, 709–710
- modern forms of, 256
- nationality in EU Member States and, 110–123
  - distinctions between, 271
  - freedom of movement and, 112, 156
  - national identity and, 114–115
  - under treaties, 111–114
- passport policy package for, 247–248, 253
- phases of, 206–209
  - as political activity, 110
  - political elements of, 174–176
  - post-national, 636–641
  - as post-national citizenship, 636–641
  - protections through, 114
  - public health governance and, 308–315
  - public opinion on, 243, 250, 251
  - public order and, 394–397, 407
  - public policy future with, 413–416
  - in public space, 226–227
  - reactionary phase, 208–209, 222–223
  - reconstituted normativity of, 259–267
  - as right, 110
  - rights of, 11, 23. *See also* substance of rights
    - ECJ and, 11–13
  - under rule of law, 227
  - rule of law and, 174–176, 238–241
  - secession from EU and, 740–750
    - Directive 2004/38, 741
    - as non-legal consideration, 747–749
    - relevance of, 740–747
    - under TFEU, 740–741
  - securitised, 250
  - security derogation for, 413–416
  - self-governance and, 35–38
  - shared values for, 171–174
  - special rights policy package for, 247–248
  - status of, 11
  - structural role of, 6, 10–14, 49–51
  - subnational, 20–21
    - under TEU, 253, 273
    - under TFEU, 752–753, 762–779
  - unfinished nature of, 411–412
  - Union territories and, 179
  - vertical dimensions of, 92–95, 631–632, 701
    - voting rights as part of, 157
  - Citizenship Directive. *See* Directive 2004/38
  - citizenship exhaustion, 229
  - Citizenship Free Movement Directive. *See* Directive 2004/38
  - citizenship logic, 712
  - citizenship of rights, 141–142
  - citizenship practice theory, 249–258
    - defined, 255–258
    - development of, 252–255
    - fragmentation of rights in, 252–253
    - individual citizens and polity, links between, 252
    - triad of rights in, 257–258
  - citizenship rights, within EU, 11, 23, 27–33. *See also* substance of rights; Treaty on the Functioning of the European Union
    - under CFR, 231–235, 651–652
    - criminal law and, 573–581
      - under Dutch law, 574–575
      - nationality as factor in, 573–577
    - principle of non-discrimination, 573–577
  - data privacy rights and, 556–559
  - ECJ case-law and, 11–13, 44–51, 106, 179, 231–235
  - equality and, 28
  - under EU citizenship law
    - defined under, 4–5, 23, 43
    - disenfranchisement of, 693–695
    - establishing links between, 687–693

- citizenship rights (cont.)  
 European Commission and, 701–702  
 exercising of, 697–700  
 federalism and, 700  
 implementation of, 703–704  
 institutional role in, 700–704  
 national measures for, 696–697  
 negative effects on, 693–700  
 restrictive effects of, 699  
 federalism and, 700–701  
 moral imperatives through, 221–223  
 for non-citizens, 33–35  
 non-refoulement clause, 215  
 normative justifications for, 221–223  
 principles compared to, 232–233  
 protective potential of, 650–656  
 right to care and, 495–498, 506–508  
   in *Ruiz Zambrano* case, 495  
   welfare states and, 497  
 scope of, 27–28, 231–235  
 Sharpston on, 29–31, 126–127  
 substance of, 652–656  
 surrogate, 31  
 under TFEU, 28–33, 47, 652–656  
   determination of citizenship, 32  
   equality and, 28  
   free movement between nations and, 31, 228  
   historical argument for, 31–33  
   legal-theoretical framing of, 29–31  
   limitations of, 155  
   textual arguments for, 28–29  
   for third-country nationals, 34  
   in Union territories, 179  
*civis europeus sum*, 238  
 climate change, 300–301  
 collective identity, citizenship as, 110  
 common good, 36  
 communicable diseases, privileging of, 301–302  
 community  
   in federalising process theory, 132–133  
   fundamental rights and, 136–142  
   citizenship of rights, 141–142  
 comparative federalism, 462–466, 721
- competences  
 conflicts of, 142–145  
   delimitation, 145  
   overlapping, 142–145  
 delimitation of, throughout EU, 133–136, 138–142  
 direct taxation, 325–329  
   discrimination-based approach, 326  
   in Germany, 326–327  
 Directive 2004/38, 408–409  
 of EU criminal law, 565, 582–583  
 federal model of, 134  
 federalism and, 133–136, 138–142  
 functionalist model of, 133–134  
 fundamental rights and, 138–142  
 loyal cooperation principle for, 145  
 multilevel constitutionalism and, 135  
 primacy rule and, 142–143  
 Sharpston on, 136  
 Treaty of Lisbon and, distribution under, 133, 134  
 consolidation phase, of citizenship, 208  
 Constant, Benjamin, 538  
 constituent phase, of citizenship, 207  
 Constitution, US  
   Bill of Rights in, 136–138, 463–464, 770–771  
   symbolism of, 137  
   Due Process Clause, 770–771  
   Fourteenth Amendment, 104, 558, 770  
   Fourth Amendment, 557  
   Privileges or Immunities Clause, 770–771  
 constitutional citizenship, 241–242  
 constitutional pluralism, 130  
 constitutional rights, membership theory of, 557  
 constitutional social states, 344–345  
 constitutional theory, 712–713  
 constitutionalism, European, 130  
   interconstitutional theory for, 130  
   multilevel, 130, 135  
 constitutions. *See also* Constitution, US  
   voting rights as influence on, 275–276  
 consular and diplomatic protection, right to, 586–604

- agency relationship between states,  
 602–603  
 under CFR, 584–585, 586  
 consular assistance as distinct  
 from, 587  
 defined, 600  
 under Directive 2004/38, 599  
 in ECJ case-law, 584–585  
 EEAS and, 590  
 essential foundation of, 593–604  
 ICJ and, 588–589  
 international interventions in,  
 604–610  
   accountability in, 609–610  
   under international law, 592  
   ‘justiciability’ rights and, 594  
   under Lisbon Treaty, 600  
   under Maastricht Treaty, 602  
   nationality as influence on, 601, 602  
   through reimbursement of financial  
   costs, 591  
 scope of, 586–593  
 under TEC, 589  
 under TEU, 605–606  
 under TFEU, 584–593, 594–604, 610  
 VCCR and, 587, 588–589, 592
- contestation of citizenship  
 under Lisbon Treaty, 266  
 under Maastricht Treaty, 259–267  
   cycles of contestation, 259–261  
   normativity through, 261–266  
   state role in, 263–264
- Convention on Certain Questions  
 Relating to the Conflict of  
 Nationality Law, 109
- cooperative federalism, 149
- Craig, Paul, 78
- criminal history, EU Member State  
 nationality influenced by, 117
- criminal law  
 AFSJ and, 561–563  
   establishment of, 564–567  
   freedom of movement and,  
   566–567  
   minimum rules established by,  
   569–572  
   *Ruiz Zambrano* case and, 580–581  
 centralisation of, 582  
 under CFR, 580  
 citizen’s rights and, 573–581  
   under Dutch law, 574–575  
   nationality as factor in, 573–577  
   principle of non-discrimination,  
   573–577  
 competence of, 565, 582–583  
 EAW and, 569, 574–575  
 under ECHR, 579  
 freedom of movement in conflict  
 with, 565–567, 577–579  
 principle of mutual recognition and,  
 564, 568–572  
 scope of, 568–569  
 protection from expulsion under,  
 577–578  
 under TEU, 564–567  
 under TFEU, 565, 570  
 under Treaty of Lisbon, 569, 571–572
- cultural citizenship, 250
- Cunha Rodrigues, José, 127
- custody issues. *See* shared custody
- Cyprus, Republic of, 178
- data privacy rights  
 under CFR, 542, 543–544, 555  
 citizenship rights and, 556–559  
 under Data Retention Directive,  
 545–549  
 Early Warning Mechanism and, 550  
 under ECHR, 542, 543–544  
 in ECJ case-law, 542–543, 544–545,  
 559–560  
   *Digital Rights Ireland* case,  
   547–549, 559–560  
   *Google Spain*, 542–543, 559–560  
 under European Data Protection  
 Directive, 542–543  
 federalism as influence on, 545–556,  
 559–560  
   through Member State  
   institutions, 550–551  
   through privacy laboratories,  
   551–556  
 GDPR and, 550, 551–556  
 German Federal Constitutional  
 Court and, 546, 547, 548–549  
 in Germany, 546

- data privacy rights (cont.)  
 harmonisation of, 552  
 judiciary systems and, 545–549  
 under Lisbon Treaty, 540–541  
 pre-emption doctrines and, 551–556  
 under TEU, 540–541  
 in US, 551–556, 557  
   doctrine of selective  
     incorporation, 558
- Data Retention Directive, 545–549
- Davies, Gareth, 9, 37
- decentralisation, of EU  
 under Lisbon Treaty, 148, 158–160  
 under TEU, 159–160  
 under TFEU, 159–160
- deficit model, for citizen  
 participation, 307
- Delvigne* case, 775–779, 780–781
- democracy  
*Delvigne* case and, 775–779  
 in EU  
   conceptual development of,  
     780–781  
   deficit in, 753–755  
   dual structure of, 755–756  
   input democracy, 753  
   output democracy, 753  
 EU citizenship and, 235–238,  
   281–285  
 federalism and, 281–285  
 sexual citizenship in, 419–420  
 democracy logic, 19–20  
 democratic governance. *See also* liberal  
   democracies  
   EU citizenship law and, 7  
*demoicracy*, 756–762  
   under Directive 2004/38, 760  
   lack of inner-political checks in,  
     757–758  
   for national EU citizens, 759–762  
   right to move in, 757–762
- Denmark, Directive 2004/38 in, 399
- deportation, 215  
 under Swiss Constitution, 413
- deprivation effect, 767–768
- devolutionary federalism, 149
- Diamond, Martin, 46
- digital life, right to, 233–234
- Digital Rights Ireland* case, 547–549,  
 559–560
- dignity  
 citizenship and, 38–41  
 under EU citizenship law, 44–51  
 market citizenship and, 38–41
- diplomacy logic, 19–20
- diplomatic protection, 588. *See also*  
 consular and diplomatic  
 protection
- diplomatic protection and petition, 99
- direct effect, in EU citizenship law,  
 19–20
- direct taxation, 325–329  
 discrimination-based approach, 326  
 in Germany, 326–327
- Directive 2000/78, 236–237
- Directive 2004/38, 39, 212, 216–219,  
 397–407, 446, 449–450,  
 451–452, 741  
 adoption of, 399–402  
 case-law for EU citizenship, 217–218  
 consular and diplomatic protection  
   under, 599  
 consular and diplomatic relations  
   under, 599  
*demoicracy* under, 760  
 in Denmark, 399  
 EU citizenship law and, 217–218  
 EU citizenship practice under, 619  
 family reunification rights  
   under, 453  
 immigration control under, 333–334  
 in Italy, 399  
 judicial response to, 402–407  
   material safeguards, 402–403  
   procedural safeguards, 403–404  
   recent case-law in, 404–407  
 legislative response to, 398–402  
   by European Commission, 398  
   by European Council, 399  
   by European Parliament, 399  
 loss of sovereignty under, 409–411  
 preamble to, 405  
 protections against expulsion  
   under, 402  
 restrictive interpretations of,  
 218, 237

- same-sex relationships, 323–324  
 as shared competence, 408–409  
 Directive 2006/54, 236–237  
 disability benefit culture, 529–530  
 disability equality, 514–515  
 disability rights  
   activation agenda for, 528–532  
   attitudinal model of, 510–511,  
     512–534, 536  
   by EU Member States, 528–534  
   under CFR, 513–514  
   defined, 510  
   equal treatment for, 535–536  
   under Equal Treatment Framework  
     Directive, 512  
   under European Disability Strategy,  
     514–515  
 market citizenship and, 509, 536  
   in Austria, 526  
   exclusion from freedom of  
     movement, 524–528, 537  
   exportable benefits and, 524–528  
   protections from discrimination  
     and, 512–524  
   SNCBs and, 525–526  
   social model of, 509–511, 535–537  
   in Canada, 535  
   under welfare reforms, 528–529, 532  
 discrimination. *See also* principle of  
   non-discrimination; reverse  
   discrimination  
   in direct taxation cases, 326  
   disability rights and, 512–524  
   within EU, based on nationality, 21, 22  
   sexual citizenship and, 425–426  
   in voting rights, 279–280  
 displacement. *See* right against  
   displacement  
 doctrinal constructivism, 709–710  
 doctrine of selective incorporation, 558  
 dual federalism, 149  
 dual nationality, 116, 122–123  
   as right, 100  
 Due Process Clause, in  
   US Constitution, 770–771  
 Early Warning Mechanism, 550  
 earned citizenship, 219–221  
 EAW. *See* European Arrest Warrant  
 ECHR. *See* European Convention on  
   Human Rights  
 ECI. *See* European Citizens Initiative  
 ECJ. *See* European Court of Justice  
 economically active persons, 38–39  
 economics. *See also* political economy  
   EU citizenship law influenced by, 7  
 ECtHR. *See* European Court of Human  
   Rights  
*Edwards v. California*, 412  
 EEAS. *See* European External Action  
   Service  
 EEC. *See* European Economic  
   Community  
*effet utile* of free movement provisions,  
   491–493, 503, 505–506  
 elections. *See* municipal elections  
 electoral rights, 277–281  
   identity and, 282–285  
   in Ireland, 278  
   limitations of, 277–278  
   municipal elections and, 278–279  
   state identity and, 282–285  
   under TFEU, 277–278  
   in US, 281–282  
*Eman and Sevinger*, 285–286  
 Equal Treatment Framework  
   Directive, 512  
 equality  
   disability, 514–515  
   EU citizenship and, 5, 35–38,  
     127, 156  
   gender, 432–435  
     anti-discrimination  
       judgments, 434  
     in *Brandwell v. Illinois*, 432–433  
     legal directives for, 433–434  
     secondary legislation for, 434  
     for transsexuals, 434–435  
   market citizenship and, 35–38  
   philosophical justification of, 43  
   under TFEU, 28  
 EU. *See* European Union  
 EU citizenship law. *See* European  
   Union citizenship law  
 EU exit. *See* European Union  
   (EU) exit



- EU Member States. *See also* nationality,  
 in EU Member States  
 data privacy rights in, 550–551  
 disability rights and, attitudinal  
 model of, 528–534  
 ECJ case-law and, 115–120  
 fundamental rights and, 647–650  
 mandating rules, 649  
 optioning rules, 649, 658  
 remedial rules, 649  
 fundamental rights violations by,  
 667–670  
 under Maastricht Treaty, 111–113  
 nationality in, citizenship influenced  
 by, 110–123  
 distinctions between, 271  
 freedom of movement and,  
 112, 156  
 national identity through,  
 114–115  
 under treaties, 111–114  
 voting rights in, 280  
 European Arrest Warrant (EAW), 569,  
 574–575  
 European Citizens Initiative (ECI),  
 290–292  
 European Coal and Steel  
 Community, 665  
 European Commission  
 Directive 2004/38, 398  
 EU citizenship rights and, 701–702  
 European Community Treaty (TEC),  
 429–430  
 consular and diplomatic protection  
 under, 589  
 fundamental rights under, 671–672  
 European constitutionalism. *See*  
 constitutionalism  
 European Convention on Human  
 Rights (ECHR)  
 criminal law under, 579  
 data privacy rights under, 542,  
 543–544  
 family reunification rights under,  
 444–445  
 freedom of movement and, 230  
 public health governance and, 296  
 right to stay under, 374–375  
 supranational citizenship under,  
 24–25  
 TEU and, 160  
 European Court of Human Rights  
 (ECtHR)  
 right to respect for family life under,  
 499–500  
 same-sex relationships, 323  
 supranational citizenship and, 25  
 European Court of Justice (ECJ), 9. *See also*  
 substance of rights  
 citizenship rights and, 11–13, 44–51,  
 106, 179  
 consular and diplomatic protection  
 and, 584–585  
 cross-border issues and, 11–13  
 data privacy rights, 544–545  
*Digital Rights Ireland* case,  
 547–549, 559–560  
*Google Spain*, 542–543, 559–560  
 direct taxation cases, 325–329  
 discrimination-based  
 approach, 326  
 in Germany, 326–327  
 EU citizenship and, 751–752  
 EU citizenship rights and, 11–13,  
 44–51, 106, 179, 231–235  
 EU exit and, 731–732  
 family reunification rights and,  
 333–337, 443–444  
 under TFEU, 335–337  
 freedom of movement law and,  
 182–193, 228–231, 629  
 fundamental rights and, 677  
 immigration control, 333–337  
 under Directive 2004/38, 333–334  
 immigration control and, 333–337  
 market freedoms and, 316–317,  
 337–340  
 morality issues and, 319–325  
 abortion, 320–321  
 gambling, 324–325  
 pornography, 319–320  
 same-sex relationships, 322–324  
 nationality in EU Member States  
 and, 115–120  
 political rights and, 272, 285–289  
 right to care and, 490–491, 498–500

- right to healthcare services under,
  - 329–333
  - CFR and, 332
  - extramural cases, 331–333
  - Patients' Rights Directive, 330–331
- secession referendums and, 731–732
- sexual rights and, 436–437
  - anti-discrimination legislation, 437–440
  - for sexual orientation, 436–438
- social citizenship cases
  - commonality of, 365–368
  - Laval* case, 362–364
  - transnational, 358–368
  - Viking* case, 364–365
- supranational citizenship and,
  - 24–25, 26–27
- European Data Protection Directive, 542–543
- European Disability Strategy, 514–515
- European Economic Community (EEC), 227, 665. *See also* market freedoms
  - sexual citizenship and, 421
- European External Action Service (EEAS), 590
- European Parliament, citizenship and, 237
- European Union (EU). *See also* citizenship; citizenship rights; nation states; nationality; Treaty on the Functioning of the European Union
  - anarchy and, 173
  - anthropocentric nature and, 16–22
  - constitutionalism and, 130
    - interconstitutional theory for, 130
    - multilevel, 130, 135
  - decentralisation of
    - under Lisbon Treaty, 148, 158–160
    - under TEU, 159–160
    - under TFEU, 159–160
  - delimitation of competences
    - throughout, 133–136
  - democracy in
    - conceptual development of, 780–781
    - deficit in, 753–755
  - dual structure of, 755–756
    - input, 753
    - output, 753
  - demoicracy* in, 756–762
    - under Directive 2004/38, 760
    - lack of inner-political checks in, 757–758
    - for Member State citizens, 759–762
    - right to move in, 757–762
    - in *Ruiz Zambrano*, 760–762
  - discrimination based on nationality
    - within, 21, 22
  - draft accession agreements of, 233
  - as federal polity, 149–160
    - central authority in, 150
    - components of, 149
    - federal citizenship, 155–158
    - territorial integrity, 151
  - federalism in, 617–625
    - discourse on, 622–631
    - formation influenced by, 16–18
    - process theory for, 128–133
  - as federation of states, 16–35
  - as human rights organisation, 171
  - Maastricht Treaty
    - changing nature of EU, 227
    - nationality in Member States under, 111–113
  - as multilevel governance model, 129, 134
  - national identity within, 114–115
  - Outermost Regions and, 178–179
  - Overseas Countries and Territories, 178–179
    - under British Overseas Territories Act, 179
  - re-humanization of, 79
  - Schuman Declaration and, 16, 129
  - Southern Enlargement, 357
  - sovereignty of states in, 173
  - subnational citizenship in, 20–21
  - supranational citizenship and, 20–21
  - territories in, establishment of, 178–182
  - Union territories and, 178–182
    - under British Overseas Territories Act, 179

- European Union (EU) (cont.)  
 citizenship rights in, 179  
 in EU case-law, 181–182  
 free movement policies for, 180–181  
 social integration in, 193–201  
 under TEU, 178  
 vertical citizenship in, 631–632  
 vertical redistribution of power in, 416
- European Union (EU) citizenship law.  
*See also* market citizenship; personhood  
 in academic doctrine, 5–6  
 autonomy of, 22  
 citizenship rights under  
 defined under, 4–5, 23, 43  
 links between, 687–693  
 core principles of, 19–20, 48  
*Delvigne* case, 775–779  
 democracy logic and, 19–20  
 democratic governance and, 7  
 dignity under, 44–51  
 diplomacy logic and, 19–20  
 direct effect in, 19–20  
 drawbacks of, 7–9  
 economics as factor in, 7  
 federal citizenship case-law for, 160–168  
 Directive 2004/38 and, 217–218  
 expansionist dynamic in, 161–163  
 imperative grounds for public security in, 164–165, 216  
 permanent residence rights in, 165–167  
 self-correction through, 167  
 future predictions for, 78–82  
 nationality under, 120  
 non-citizens under, 33–35  
 normative assumptions of, 44–47  
 rule of law and, 174–176, 227, 238–241  
 scope of, 772  
 status quo and  
 critique of, 5, 47–49  
 justification of, 13  
 substance of, 44–47  
 supremacy in, 19–20  
 third-country nationals under, 34
- European Union (EU) exit  
 under CFR, 738–739  
 ECJ and, 731–732  
 EU citizenship and, 740–750  
 Directive 2004/38 and, 741  
 as non-legal consideration, 747–749  
 relevance of, 740–747  
 under rule of law, 742  
 under TFEU, 740–741  
 legal arguments for, 732  
 loss of nationality through, 744–745  
 national referendums on, 731–732, 737, 746  
 of part of Member State territory, 735–739  
 exceptions to, 737  
 public international law and, 735–739  
 under TEU, 733–735  
 total withdrawal in, 733–735
- EU-Turkey Association Agreement, 448
- EU-US Umbrella Agreement, 550
- Evans, David T., 420–421
- Everling, Ulrich, 22, 34–35
- exit options, for EU citizens, 93. *See also* European Union exit; secession
- expulsion protections  
 under Directive 2004/38, 402  
 under EU criminal law, 577–578
- extradition, 383
- fallacy of labour theory, 348
- family life, right to, 233–235
- Family Reunification Directive, 439–440, 456  
 flexibility of, 447–449  
 legal scope of, 447  
 for third-country nationals in EU, 446–449
- family reunification rights. *See also* Ruiz Zambrano case  
 in Austria, 459  
 in Belgium, 458–459  
 under CFR, 444–445  
 for citizens within EU, 449–452

- comparative federalism and, 462–466
- under Directive 2004/38, 446, 449–450, 451–452, 453
- under ECHR, 444–445
- ECJ case-law and, 443–444
- under EU-Turkey Association Agreement, 448
- in Finland, 455, 456
- genuine enjoyment test and, 451
- language requirements and, 448
- legal frameworks for, 444–445
  - fragmentation of, 446–456
- under Maastricht Treaty, 443–444
- for migrant citizens, 333–337
  - under TFEU, 335–337
- reverse discrimination with, 456–462
  - through national remedies, 457–460
  - through right to private and family life, 460–462
- under TFEU, 444–445
  - for migrant citizens, 335–337
  - for third-country nationals in EU, 446–449, 450
- federal balance of power, 719–722
- federal case-law, in EU citizenship law, 160–168
  - Directive 2004/38 and, 217–218
  - expansionist dynamic in, 161–163
  - imperative grounds for public security in, 164–165, 216
  - permanent residence rights in, 165–167
  - self-correction through, 167
- federal model of competences, 134
- federalising process theory, 128–133
  - autonomy in, 132
  - community in, 132–133
- federalism. *See also* competences
  - comparative, 462–466, 721
  - cooperative, 149
  - data privacy rights influenced by, 545–556, 559–560
    - through Member State institutions, 550–551
    - through privacy laboratories, 551–556
  - defined, 149, 318
  - delimitation of competences with, 133–136, 138–142
  - devolutionary, 149
  - dual, 149
  - in EU, 16–18, 617–625
    - discourse on, 622–625
    - formation influenced by, 16–18
    - process theory for, 128–133
  - EU citizenship and, 12, 15–18, 92–93, 407–413, 617–625
  - democracy as influence on, 281–285
  - discourse on, 622–625
  - loss of sovereignty through, 409–411
    - process theory for, 128–133
    - temporal context of, 412–413
  - EU citizenship rights and, 700–701
  - integrative, 149
  - political balance with, 133–136
  - political value of, 542
  - substance of rights for citizenship and, 85–86, 94
  - in US, 463–464, 617–625
    - discourse on, 619–622, 625–631
    - fundamental rights and, 104
- Finland, family reunification rights in, 455, 456
- Fligstein, Neil, 355
- foreigners. *See* non-citizens
- Fourteenth Amendment,
  - US Constitution, 104, 558, 770
- Fourth Amendment,
  - US Constitution, 557
- France
  - French Revolution, 271
  - voting rights in, 274
- Free Movement of Citizens Directive. *See* Directive 2004/38
- freedom. *See* liberty
- freedom of movement, right to. *See also* Directive 2004/38; right to stay
  - AFSJ and, 566–567
  - under CFR, 230
  - disability rights and, exclusion from, 524–528, 537
  - ECHR and, 230

- freedom of movement (cont.)  
 ECJ and, 182–193, 228–231, 629  
*effet utile*, 491–493, 503, 505–506  
 EU citizenship and, 112, 156,  
 371–372, 394–397, 627,  
 687–690  
 cross-order equality and, 629–631  
 in ECJ case-law, 629  
 EU criminal law in conflict with,  
 565–567, 577–579  
 as law  
 ambiguity of, 187–193  
 cases for, 184–185  
 ECJ and, 182–193  
 through public policy, 188–189  
 territoriality in, 184–187  
 limitations of, 228–231  
 under Lisbon Treaty, 230  
 loss of sovereignty through, 409–411  
 under Maastricht Treaty, 228–231  
*Ruiz Zambrano* case and, 209–219,  
 229  
 social integration through, 182–193  
 in Union Territory, 193–201  
 under TFEU, 31, 95–97, 101–102,  
 228, 371–372, 395–396  
 transnational social citizenship and,  
 354–357  
 in Union territories, 180–181,  
 193–201  
 French Revolution, 271  
 Friedrich, Carl, 131  
 on autonomy, 132  
 on community, 132–133  
 functionalist model of competences,  
 133–134  
 fundamental rights. *See also* Charter of  
 Fundamental Rights of the  
 European Union; substance of  
 rights  
 under CFR, 464–465  
 community and, 136–142  
 citizenship of rights, 141–142  
 competence limitations and,  
 138–142  
 in ECJ case-law, 677  
 of EU citizenship, 102–105, 126–128,  
 643–647  
 federalisation of, 104  
 protection of rights as part of,  
 671–676  
 scope of, 136  
 EU Member State action and,  
 647–650  
 mandating rules, 649  
 optioning rules, 649, 658  
 remedial rules, 649  
 under German Basic Law, 644–645  
 judicial review of, 138  
 against Member State violations,  
 667–670  
 migration law and, 645  
 in national settings, 665–666  
 privacy rights as, 542  
 reverse *Solange* proposal, 670,  
 676–683, 771  
 dangers of, 680–683  
 legal theoretical foundations for,  
 677–679  
 political context for, 679–680  
 right to stay as, 389–391  
 Sharpston on, 140  
 under TEC, 671–672  
 under TEU, 464–465, 618–619,  
 647–649, 672–673  
 under TFEU, 644–645, 646–647,  
 671–672  
 in US, 104  
 gambling, 324–325  
 GDPR. *See* General Data Protection  
 Regulation  
 gender, sexual citizenship and, 422–426  
 gender equality, 432–435  
 anti-discrimination judgments, 434  
 in *Brandwell v. Illinois*, 432–433  
 legal directives for, 433–434  
 secondary legislation for, 434  
 for transsexuals, 434–435  
 General Data Protection Regulation  
 (GDPR), 550  
 genetic citizens, 308  
 genetic mothers, social rights of,  
 234–235  
 genuine enjoyment test, 451, 489,  
 500, 504

- German Basic Law, 644–645  
 German Federal Constitutional Court, 88, 265–267, 546, 547, 548–549  
 Germany  
   data privacy rights in, 546  
   direct taxation in, 326–327  
   right to a name in, 191  
   self-determination tradition for, 743  
   substance of rights for citizenship in, 91–92  
   voting rights in, 274  
   welfare rights in, 351–352  
 Ghent system, 349  
 Global Health Security Initiative, 294–295  
 globalisation  
   nationality in EU Member States  
     influenced by, 108–110  
   nationality influenced by, 108–110  
   sovereignty of nation states  
     influenced by, 109–110  
 ‘good’ citizens, 39–41, 194–199  
*Google Spain*, 542–543, 559–560  
 governance. *See also* public health governance  
   democratic, 7  
   under Directive 2004/38, 39  
   multilevel model, 129, 134  
   self-governance, 35–38  
   White Paper on Governance, 37  
 Greenland, secession referendum in, 737  
*Griswold v. Connecticut*, 553  
 Gutiérrez-Fons, José, 7  
  
 Hailbronner, Kay, 719  
*Hainsworth v. Ministry of Defence*, 522–524  
 Haltern, Ulrich, 41  
 Hamilton, Alexander, 137  
 healthcare services, as right, 329–333  
   under CFR, 332  
   extramural cases, 331–333  
   Patients’ Rights Directive, 330–331  
   in UK, 352  
*Henn and Darby*, 319–320  
 HIV/AIDS, 302–303  
 homonationalism, 422  
 homosexuality, 422, 436. *See also* same-sex relationships  
 horizontal citizenship  
   cross-border requirements for, 634, 635–636  
   in EU, 93, 615–616, 631–636  
   legitimacy of, 640–641  
   post-national citizenship and, 636–641  
   supranational citizenship and, 632–633  
   extension of, 633  
   in US, 631–632  
   legitimacy of, 639–640  
 human rights law  
   EU citizenship and, 722  
   migration and, 722–723  
   public health governance and, 310–315  
 humanity, citizenship and, 38–41  
  
 IA tools. *See* impact assessment tools  
 ICCPR. *See* International Covenant on Civil and Political Rights  
 ICJ. *See* International Court of Justice  
 IGC. *See* Intergovernmental Conference  
 Iglesias Sánchez, Sara, 45  
 immigration control, 333–337  
   under Directive 2004/38, 333–334  
 impact assessment (IA) tools, 303  
 imperative grounds of public security, 164–165, 216  
 inactive citizens, 206–209  
 input democracy, 753  
 integrative federalism, 149  
 interconstitutional theory, 130  
 Intergovernmental Conference (IGC), 247–248  
 International Court of Justice (ICJ), 588–589  
 International Covenant on Civil and Political Rights (ICCPR), 374–375  
 International Health Regulations (IHR), 294–295  
 international law  
   consular and diplomatic protection under, 592

- international law (cont.)  
 EU exit and, 735–739  
 secession from EU and, 735–739
- Ireland  
 abortion laws in, 320–321  
 data privacy rights in, 547–549,  
 559–560  
 electoral rights in, 278
- Italy  
 Constitutional Court in, 677–678  
 Directive 2004/38 in, 399
- Jackson, Vicky, 20  
 Jacobs, Francis (Sir), 394  
 Jarabo Colomer (AG), 623–624  
 Jefferson, Thomas, 137  
 Joerges, Christian, 45  
 ‘justiciability’ rights, 594
- Kelsen, Hans, 131
- labour markets, social citizenship  
 and, 348
- Lardy, Heather, 283–284  
*Laval* case, 362–364  
 legal cases. *See also Ruiz Zambrano*  
 case  
 consular and diplomatic protection  
 rights, 584–585  
 data privacy rights, 544–545  
*Digital Rights Ireland* case,  
 547–549, 559–560  
*Google Spain*, 542–543, 559–560  
*Delvigne* case, 775–779, 780–781  
 Directive 2004/38, 404–407  
 EU citizenship and, 629, 751–752  
 EU citizenship law, 160–168  
 Directive 2004/38 and, 217–218  
 expansionist dynamic in, 161–163  
 imperative grounds for public  
 security in, 164–165, 216  
 permanent residence rights in,  
 165–167  
 self-correction through, 167  
 EU citizenship rights, 11–13, 44–51,  
 106, 179, 231–235  
 EU Member States and, 115–120  
 EU territories, 181–182
- family reunification rights, 443–444  
 freedom of movement rights,  
 184–185, 629  
 fundamental rights, 677  
*Laval* case, 362–364  
 reverse *Solange* proposal, 670,  
 676–683, 771  
 dangers of, 680–683  
 legal theoretical foundations for,  
 677–679  
 political context for, 679–680  
 right to care, 490–491, 498–500  
 sexual rights, 436–437  
 anti-discrimination legislation,  
 437–440  
 for sexual orientation, 436–438  
 social citizenship  
 commonality of cases, 365–368  
*Laval* case, 362–364  
 transnational citizenship in,  
 358–368  
*Viking* case, 364–365  
 Union territories in, 181–182  
*Wauchauf* cases, 657–659
- legal creation, citizenship as,  
 717–723, 729  
 alternative constitutional  
 frameworks, 722–723  
 comparative federalism and, 721  
 federal balance of power, 719–722  
 fundamental status of, 717–719  
 textual foundations of, 717–719
- legal systems, citizenship negatively  
 influenced by, 9
- legitimacy, of citizenship, 726–728  
 horizontal, 640–641  
 in US, 639–640
- Lenaerts, Koen, 7, 41
- lesbian, gay, bisexual and transgender  
 (LGBT) rights, 420–421, 422,  
 436–438. *See also* same-sex  
 relationships  
 transnational application of,  
 440–441
- liberal democracies, sexual citizenship  
 in, 419–420
- liberty, citizenship and, 8–9  
 Lisbon Treaty, 113–114, 125

- consular and diplomatic protection
  - under, 600
- contestation of citizenship
  - under, 266
- data privacy rights under, 540–541
- decentralisation of EU under, 148, 158–160
- democratic principles in, 775–776
- distribution of competences under, 133, 134
- EU criminal law under, 569, 571–572
- freedom of movement under, 230
- sovereignty under, 265
- logic
  - citizenship, 712
  - democracy, 19–20
  - diplomacy, 19–20
- loyal cooperation principle, 145
- Maastricht Treaty, 14, 20. *See also* citizenship rights
- citizenship practice theory and, 249–258
- defined, 255–258
- development of, 252–255
- fragmentation of rights in, 252–253
- individual citizens and polity, links between, 252
- triad of rights in, 257–258
- consular and diplomatic protection under, 602
- contestation of citizenship under, 259–267
  - cycles of, 259–261
  - normativity through, 261–266
  - state role in, 263–264
- EU and
  - changing nature of, 227
  - nationality in Member States, 111–113
- EU citizenship practice under, 245–247, 619, 687
- family reunification rights under, 443–444
- fragmentation of citizenship and, 261–262
- freedom of movement under, 228–231
- IGC and, 247–248
  - market citizenship under, 206–207
- passport policy package in, 247–248, 253
- political rights and, 276, 292–293
- reform of, 289–292
- special rights policy package in, 247–248
- MacRae, Heather, 430–431
- Madison, James, 137
- mandating rules, by EU Member States, 649
- market citizenship, 35–44
  - constitutional citizenship and, transition to, 241–242
  - dignity and, 38–41
  - disability rights and, 509, 512–524, 536
    - in Austria, 526
    - exclusion from freedom of movement, 524–528, 537
    - exportable benefits and, 524–528
    - through protections from discrimination, 512–524
  - SNCBs and, 525–526
- for economically active persons, 38–39
- equality and, 35–38
- EU citizenship compared to, 35–44
  - dignity under, 38–41
  - for economically active persons, 38–39
  - equality under, 35–38
  - humanity under, 38–41
  - self-governance under, 35–38
- humanity and, 38–41
- under Maastricht Treaty, 206–207
- for migrants, 206–207
- self-governance and, 35–38
- social citizenship as transition from, 720–721
- social model of disability and, 509
- market freedoms, 316–317, 337–340
  - direct taxation cases, 325–329
  - discrimination-based approach, 326
  - in Germany, 326–327
- family reunification rights, for migrant citizens, 333–337



- market freedoms (cont.)  
 under TFEU, 335–337  
 immigration control, 333–337  
 under Directive 2004/38, 333–334  
 metamorphosis of, 317  
 for morality issues, 319–325  
 abortion, 320–321  
 gambling, 324–325  
 pornography, 319–320  
 same-sex relationships, 322–324  
 right to healthcare services, 329–333  
 under CFR, 332  
 extramural cases, 331–333  
 Patients' Rights Directive, 330–331  
 as source of economic rights, 340  
 marriage. *See also* same-sex  
 relationships  
 nationality influenced by, 116  
 Marshall, T. H., 252, 257–258, 343–344  
 McFadden, Patrick, 375  
 medieval personhood, 45  
 membership theory, of constitutional  
 rights, 557  
 migrant workers  
 family reunification rights for,  
 333–337  
 under TFEU, 335–337  
 market citizenship for, 206–207  
 right to stay for, 375, 376–377  
 transnational social citizenship for,  
 352–353  
 migration law  
 fundamental rights and, 645  
 human rights law and, 722–723  
 modern citizenship, 256  
 moral pioneers, 308  
 morality issues, 319–325  
 abortion, 320–321  
 gambling, 324–325  
 pornography, 319–320, 428  
 same-sex relationships, 322–324  
 sexual rights and, 427–428  
 TFEU and, 428  
 multilevel constitutionalism, 130, 135  
 multilevel governance model, 129, 134  
 municipal elections, 278–279  
 mutual recognition. *See* principle of  
 mutual recognition  
 name, right to, 40  
 in Germany, 191  
 nation states, in EU  
 citizenship in, diversity of  
 approaches to, 107–108  
 constitutional social, 344–345  
 global transformation of, 107–108  
 sovereignty of, globalisation as  
 influence on, 109–110  
 national belonging, 215–219  
 nationality, in EU Member States  
 citizens' origins and, 122–123  
 citizenship as distinct from, 271  
 citizenship as influence on, 110–123  
 conceptual development of,  
 111–113  
 freedom of movement and,  
 112, 156  
 national identity and, 114–115  
 under treaties, 111–114  
 consular and diplomatic protection  
 influenced by, 601, 602  
 under Convention on Certain  
 Questions Relating to the  
 Conflict of Nationality Law, 109  
 criminal history as factor in, 117  
 criminal law and, application of,  
 573–577  
*demoicracy* and, 759–762  
 under Directive 2004/38, 212, 216–219  
 dual, 116, 122–123  
 as right, 100  
 ECJ as influence on, 115–120  
 under EU citizenship law, 120  
 after EU exit, 744–745  
 globalisation as influence on,  
 108–110  
 loss of, 123  
 marriage as influence on, 116  
 renunciation of, 123  
 reverse discrimination based on,  
 120–122  
 after secession from EU, 744–745  
 supranational institutions and, 110  
 under TFEU, 112–113  
 Nationality Code, in Belgium, 287  
 the Netherlands, EU criminal law in,  
 574–575

- NGOs. *See* non-governmental organisations
- Nic Shuibhne, Niamh, 223
- non-citizens  
 citizenship rights for, within EU, 33–35  
 under EU citizenship law, 33–35
- non-discrimination. *See* principle of non-discrimination
- non-governmental organisations (NGOs), sexual citizenship and, 419–420
- Northern Cyprus, secession referendums in, 737
- Onuekwere* case, 193, 199–201
- optioning rules, by EU Member States, 649, 658
- the other, 418–419
- Outermost Regions, of EU, 178–179
- output democracy, 753
- Overseas Countries and Territories, of EU, 178–179  
 under British Overseas Territories Act, 179
- P. I.* case, 193
- pandemics, 300–301
- participatory solidarity, 362–368
- passport policy package, 247–248, 253
- Patients' Rights Directive, 330–331
- permanent residence rights, 165–167
- personhood  
 decommodification of, 3–16  
 during medieval era, 45
- Pickup, David, 5
- Plan Schuman. *See* Schuman Declaration
- Plender, Richard, 50
- Poiaras Maduro, Miguel, 130, 140, 239, 254, 627
- political economy, 79
- political rights, 273–276, 292–293  
 CFR and, 274–275  
 ECJ rulings and, 272, 285–289  
*Eman and Sevinger*, 285–286  
 Maastricht Treaty and, 276, 292–293  
*Ruiz Zambrano* case and, 287–288  
*Spain v. United Kingdom*, 286
- Poor Laws of Elizabethan Britain, 344
- pornography, 319–320, 428, 431. *See also* sexual citizenship; sexual rights
- Portugal, European constitutionalism in, 130
- Posner, Richard, 421
- post-national citizenship, 636–641
- pre-emption doctrines, 551–556
- primacy rule, 142–143
- primary carers, 490, 491, 503
- principle of mutual recognition, 564, 568–572
- principle of non-discrimination, 573–577  
 through anti-discrimination legislation, 437–440
- principle of subsidiarity. *See* subsidiarity
- principles, rights compared to, 232–233
- privacy rights  
 EU legal order as influence on, 542–545  
 as fundamental rights, 542
- private life, right to, 233–234
- Privileges or Immunities Clause, in US Constitution, 770–771
- property rights  
 right to stay and, 375–376  
 substance of rights and, 89
- proportionality doctrine, substance of rights and, 88–89, 91  
 in German Federal Constitutional Court, 88
- public health governance. *See also* citizen participation, in public health governance; risk framework, for public health governance  
 bioethics, 310–315  
 biopolitics, 308  
 CFR and, 296  
 ECHR and, 296  
 EU citizenship and, 308–315  
 human rights law and, 310–315  
 under TEU, 298–299  
 under TFEU, 294–295, 297–301

- public opinion, on EU citizenship, 243, 250, 251
- public order, EU citizenship and, 394–397, 407
- public security. *See* imperative grounds for public security
- public space, EU citizenship in, 226–227
- reactionary phase, of citizenship, 208–209, 222–223
- receptive solidarity, 358–362
- Reding, Viviane, 140–141, 530
- remedial rules, by EU Member States, 649
- reverse dependency, 486–487
- reverse discrimination, 120–122  
 with family reunification rights, 456–462  
 through national remedies, 457–460  
 through right to private and family life, 460–462
- reverse *Solange* proposal, 670, 676–683, 771  
 dangers of, 680–683  
 legal theoretical foundations for, 677–679  
 Italian Constitutional Court and, 677–678  
 political context for, 679–680
- right against displacement, 376
- right to care  
 carers  
 under ECHR, 504–505  
 establishment as, 503–506  
 multiple, 505–506  
 other than parents, 503–505  
 primary, 490, 491, 503  
 children's interests under, 494, 500–502  
 parental relationships and, 500  
 dependency assessment as part of, 498–499  
 under ECJ case-law, 490–491, 498–500  
 economic activity as factor in, 502–503
- effet utile* of free movement provisions and, 491–493, 503, 505–506
- EU citizenship rights and, 495–498, 506–508  
 in *Ruiz Zambrano* case, 495  
 welfare states and, 497
- genuine enjoyment test, 451, 489, 500, 504
- legal foundations of, 491–498  
 limitations of, 498–506  
 meaning of, 498–500
- right to respect for family life and, 493–494  
 under ECtHR, 499–500  
 scope of, 498–503
- right to healthcare services. *See* healthcare services
- right to life. *See* digital life; family life; private life
- right to move, in *demoicracy*, 757–762
- right to names. *See* names, right to
- right to privacy. *See also* data privacy rights  
 in US, 553
- right to private and family life, 460–462.  
*See also* right to stay at home
- right to reside, within EU Member States, 95–97, 101–102, 219
- right to respect for family life, 493–494  
 under ECtHR, 499–500
- right to run for office, 97–99
- right to stay, 373–377, 387–392  
 under ECHR, 374–375  
 extradition and, 383  
 as fundamental right, 389–391  
 legal recognition of, 374–375  
 EU law developments as influence on, 382–383  
 long-term implications of, 391–392  
 for migrant workers, 375, 376–377  
 mobility and, as value, 388–389  
 property rights and, 375–376  
 reinforcement of, 378–380  
 right against displacement and, 376  
*Ruiz Zambrano* case and, 385–386  
 social cohesion policy and, 391

- supranational, 383–387
- taxation policy and, 381
- under TEU, 390–391
- under TFEU, 390–391
- transformation of, 377–387
- weakening of, 380–383
- right to stay at home, 469–474
  - forced departures and, 474–481
  - as human right, 476–478
  - under TFEU, 473–474
- right to travel. *See also* freedom of movement
  - without children, 481–487
    - legal context for, 481–484
    - limitations of, 484–485
    - for married parents, 486
    - reverse dependency and, 486–487
    - shared custody and, 485–486
  - in US, 625–627
- rights of citizenship. *See* citizenship rights
- risk framework, for public health governance, 294, 297–307
- citizen participation as part of, 295, 301–307
  - deficit model for, 307
  - foundations of, 304–307
  - limitations of, 304–305
  - through non-binding policies, 305–307
- for climate change, 300–301
- communicable diseases in,
  - privileging of, 301–302
- for cross-border threats, 299, 300–301
- dialogue and collaboration approach in, 303–304
- IA tools for, 303
- legal competence in, 297–301
- through marginalisation of specific groups and individuals, 302–303
- for pandemics, 300–301
- responsibility as part of, 297–307
- Risse, Thomas, 355
- Ritter-Coulais*, 326–329
- Ruiz Zambrano* case, 193, 194–199, 501.
  - See also* right to stay at home AFSJ and, 580–581
- democracy* in EU and, 760–762
- deportation punishment in, 215
- deprivation effect and, 767–768
- earned citizenship and, 219–221
- freedom of movement and, 209–219, 229
- judicial legacy of, 765–770, 779–780
- national belonging and, 215–219
- political rights and, 287–288
- right to stay and, 385–386
- substance of rights and, 209–219, 652–656
- supranational citizenship and, 215–219
- rule of law
  - EU citizenship and, 174–176, 227, 238–241
  - secession from EU and, 742
  - under TEU, 238–241
- same-sex relationships, 322–324, 439
  - Directive 2004/38 and, 323–324
  - ECtHR, 323
  - under Family Reunification Directive, 439–440
- Sarmiento, Daniel, 4, 649
- Schengen Agreement, 228
- Schuman Declaration, 16, 129
- Schütze, Robert, 558–559
- Scotland, secession referendums in, 731–732, 737, 746
- secession, from EU
  - under CFR, 738–739
  - defined, 735
  - ECJ and, 731–732
  - EU citizenship and, 740–750
    - Directive 2004/38 and, 741
    - as non-legal consideration, 747–749
    - relevance of, 740–747
    - under rule of law, 742
    - under TFEU, 740–741
  - legal arguments for, 732
  - loss of nationality through, 744–745
  - national referendums on, 731–732, 737, 746
  - of part of Member State territory, 735–739

- secession, from EU (cont.)  
 exceptions to, 737  
 public international law and,  
 735–739  
 under TEU, 733–735  
 total withdrawal in, 733–735
- securitised citizenship, 250
- self-correction, EU citizenship law  
 and, 167
- self-employed non-citizens, 89–90
- self-governance, citizenship and, 35–38
- sexual citizenship, 419–426  
 discrimination and, 425–426  
 EEC and, 421  
 under EU citizenship law, 441–442  
 evolution of, 418–419  
 as concept, 419–422  
 gender and, 422–426  
 homonationalism and, 422  
 homosexuality and, 422  
 LGBT rights and, 420–421, 422  
 in liberal democracies, 419–420  
 mobility of, 441–442  
 NGOs and, 419–420  
 scholarship on, 418, 419  
 sexuality and, 422–426  
 under TFEU, 424  
 transnational social citizenship  
 and, 421  
 under Treaty of Rome, 424
- sexual rights, 427–441. *See also* gender  
 equality; same-sex relationships  
 under CFR, 439  
 in ECJ case-law, 436–437  
 anti-discrimination legislation,  
 437–440  
 for sexual orientation, 436–438  
 economic mobility and, 427–431  
 internal markets and, 427–431  
 for goods and services, 429–430  
 legal narratives for, 430–431  
 LGBT rights, 420–421, 422,  
 436–438  
 transnational application of,  
 440–441  
 morality, 427–428  
 under TEC, 429–430  
 under TFEU, 435–441  
 under Treaty of Amsterdam, 437
- sexuality, 422–426, 436–438. *See also*  
 homosexuality; lesbian, gay,  
 bisexual and transgender rights;  
 same-sex relationships  
 anti-discrimination legislation,  
 437–440
- shared custody, right to stay at home  
 and, 485–486
- Sharpston, Eleanor, 4, 12  
 on EU citizenship rights, 29–31,  
 126–127  
 on EU competences, 136  
 on fundamental rights, 140
- Shaw, Jo, 287, 627
- SNCBs. *See* special non-contributory  
 benefits
- social citizenship. *See also* transnational  
 social citizenship  
 in constitutional social states,  
 344–345
- ECJ case-law  
 commonality of cases, 365–368  
*Laval* case, 362–364  
 transnational citizenship in,  
 358–368  
*Viking* case, 364–365
- historical development of, 341–342
- labour markets and, 348
- as metaphor, 343–344
- social insurance and, 349
- social rights and, 345–346, 358–362  
 citizen autonomy, 347  
 statuses in, 346–350  
 transformation of, 368–370  
 as transition from market  
 citizenship, 720–721
- welfare rights and, 342–343, 344  
 in constitutional social states,  
 344–345  
 in Germany, 351–352  
 Ghent system, 349
- social cohesion policy, 391
- social fact, citizenship as, 724–728,  
 729–730
- identification of, 726–728
- solidarity in, 726–728
- supranational approach to, 726–727

- social insurance, social citizenship and, 349
- social integration  
 for 'bad' citizens, 199–201  
 through freedom of movement, 182–193  
 for 'good' citizens, 194–199  
 in Union territories, 193–201
- social model, of disability rights, 509–511, 535–537  
 in Canada, 535
- social rights, 345–346, 358–362  
 citizen autonomy, 347  
 of genetic mothers, 234–235
- Somek, Alexander, 19, 42
- South Africa, Bantu Homelands Citizenship Act in, 34
- Southern Enlargement, 357
- sovereignty, of nation states  
 in EU, 173  
 fragmentation of, 261–262  
 German Federal Constitutional Court and, 265–266  
 globalisation as influence on, 109–110  
 under Lisbon Treaty, 265  
 loss of, federalism and, 409–411  
 under Treaty Establishing a Constitution for Europe, 265
- Soviet Union, dissolution of, 736
- Spain, secession referendums in, 731–732
- Spain v. United Kingdom*, 286
- special non-contributory benefits (SNCBs), 525–526
- special rights policy package, 247–248
- statehood, 9
- status quo  
 EU citizenship law and, 5, 13, 47–49  
 justification of, 13  
 participatory solidarity and, 362–368
- structural federal citizenship, 169
- subnational citizenship, 20–21
- subsidiarity, principle of, 139
- substance of rights, for citizenship, 11, 85–87, 90–92. *See also Ruiz Zambrano case*  
 as conceptual term, 87
- derogation cases, 659–661  
 under Directive 2004/38, 212, 216–219
- as federalising device, 85–86, 94
- fundamental rights and, 102–105, 126–128  
 federalisation of, 104
- in Germany, 91–92
- national belonging and, 215–219
- property rights and, 89
- proportionality doctrine and, 88–89, 91  
 in German Federal Constitutional Court, 88
- protections of, in ECJ case-law, 87–90
- for self-employed non-citizens, 89–90
- supranational citizenship and, 215–219
- under TFEU, 95–102  
 under Article 20(2), 95–96, 99–100  
 under Article 22(2), 97–99  
 for diplomatic protection and petition, 99  
 for dual nationality, 100  
 for freedom of movement, 95–97, 101–102  
 right to reside, 95–97, 101–102, 219  
 right to run for office, 97–99  
 voting rights, 97–99
- under treaties, limits of  
 interpretation for, 661–664  
*Wauchauf case*, 657–659
- substantive federal citizenship, 169
- supranational citizenship, 14–15, 19–20. *See also* citizenship rights  
 aspirational citizenship and, 713–714  
 citizenship as social fact and, 726–727
- development of, 616–617  
 under ECHR law, 24–25  
 ECJ and, 24–25, 26–27  
 under ECtHR, 25  
 within EU, 20–21

- supranational citizenship (cont.)  
 horizontal citizenship and, 632–633  
 rights of, 23–27  
 substance of rights and, 215–219  
 under TEU, 24–25, 252  
 voting rights and, 280–281  
 supranational institutions, 110  
 supranational right to stay, 383–387  
 supremacy, in EU citizenship law,  
 19–20  
 Supreme Court, US, primacy rule and,  
 142–143  
 Switzerland, deportation from, 413
- taxation policies. *See also* direct  
 taxation  
 right to stay and, 381  
 TEC. *See* European Community Treaty  
 territorial rights. *See* right to stay  
 TEU. *See* Treaty on European Union  
 TFEU. *See* Treaty on the Functioning of  
 the European Union  
 therapeutic citizens, 308  
 third-country nationals, 34  
 Tilly, Charles, 252  
 Tocqueville, Alexis de, 457–458  
 transgender individuals. *See* lesbian,  
 gay, bisexual and transgender  
 rights  
 transnational social citizenship,  
 354–368  
 conceptualisation of, 342, 343–354  
 defined, 350–354  
 in ECJ case-law, 358–368  
 equal treatment under law, 354–357  
 freedom of movement and, 354–357  
 for migrant workers, 352–353  
 sexual citizenship, 421  
 transsexuals, 434–435  
 Treaty Establishing a Constitution for  
 Europe, 265  
 Treaty of Accession, 178  
 Treaty of Amsterdam, 437  
 Treaty of Lisbon. *See* Lisbon Treaty  
 Treaty on European Union (TEU), 9  
 Article 5, 125  
 consular and diplomatic protection  
 under, 605–606  
 criminal law under, 564–567  
 data privacy rights under, 540–541  
 decentralisation of EU under,  
 159–160  
 ECHR and, 160  
 EU citizenship under, 253, 273  
 EU exit under, 733–735  
 federal commitments under,  
 recognition of, 147  
 fundamental rights under, 464–465,  
 618–619, 647–649, 672–673  
 public health governance under,  
 298–299  
 reform of, 290–291  
 right to stay under, 390–391  
 rule of law under, 238–241  
 secession from EU under, 733–735  
 supranational citizenship under,  
 24–25, 252  
 Union territory under, 178  
 Treaty on the Functioning of the  
 European Union (TFEU)  
 consular and diplomatic protection  
 under, 584–593, 594–604, 610  
 criminal law under, 565, 570  
 decentralisation of EU under,  
 159–160  
 distribution of competences  
 under, 133  
 ECI and, 290–292  
 electoral rights under, 277–278  
 EU citizenship and, 752–753,  
 762–779  
 EU citizenship rights under, 28–33,  
 47, 50, 253–254, 652–656  
 determination of citizenship, 32  
 equality and, 28  
 free movement and, 31, 228  
 historical argument for, 31–33  
 legal-theoretical framing of, 29–31  
 limits of, 155  
 textual arguments for, 28–29  
 EU exit under, 740–741  
 family reunification rights under,  
 444–445  
 for migrant citizens, 335–337  
 freedom of movement under, 31,  
 228, 371–372, 395–396

- fundamental rights under, 644–645,  
 646–647, 671–672  
 morality issues and, 428  
 nationality under, 112–113  
 public health governance under,  
 294–295, 297–301  
 right to healthcare services under,  
 329–333  
     Patients' Rights Directive,  
     330–331  
 right to stay at home under, 473–474  
 right to stay under, 390–391  
 secession from EU under, 740–741  
 sexual rights under, 435–441  
 tyranny of majority, 457–458
- UK. *See* United Kingdom
- Union territories, 178–182  
     under British Overseas Territories  
     Act, 179  
     citizenship rights in, 179  
     in EU case-law, 181–182  
     freedom of movement in, 180–181,  
     193–201  
     social integration in, 193–201  
     under TEU, 178
- United Kingdom (UK)  
     healthcare services in, 352  
     secession referendums in, 731–732
- United States (US)  
     citizenship in  
         discourse on, 619–622, 625–631  
         horizontal, 631–632, 639–640  
     citizenship rights in, 93  
     Constitution. *See* Constitution, US  
     data privacy rights in, 551–556, 557  
         doctrine of selective  
         incorporation, 558  
     electoral rights in, 281–282  
     federalism in, 463–464, 617–625  
         discourse on, 619–622, 625–631  
         fundamental rights and, 104  
     Fourteenth Amendment, 104  
     fundamental rights in, federalisation  
         of, 104  
     right to privacy in, 553  
     right to travel in, 625–627  
     *US v. Verdugo-Urquidez*, 557
- VCCR. *See* Vienna Convention on  
 Consular Relations
- vertical approach, to citizenship,  
 631–632, 701
- Vienna Convention on Consular  
 Relations (VCCR), 587,  
 588–589, 592
- Vignon, Jérôme, 525
- Viking* case, 364–365
- voter fraud, 285
- voting rights. *See also* electoral rights  
 in Belgium, 287–288  
 constitutional systems influenced by,  
 275–276  
 discrimination in, 279–280  
 under ECI, 290–292  
 EU Member State legislation on, 280  
 in France, 274  
 in Germany, 274  
 as part of EU citizenship, 157  
 at supranational level, 280–281  
 under TFEU, 97–99
- Wauchauf* case, 657–659
- Wechsler, Herbert, 50–51
- Weiler, Joseph, 48, 638, 640
- Weimer, Maria, 45
- welfare reforms, disability rights and,  
 528–529, 532
- welfare rights, 342–343, 344  
     in constitutional social states, 344–345  
     in Germany, 351–352  
     Ghent system, 349
- welfare states, right to care in, 497
- White Paper on Governance, 37
- WHO. *See* World Health Organisation
- women. *See also* lesbian, gay, bisexual  
 and transgender rights  
 gender equality and, 432–435  
     anti-discrimination  
     judgments, 434  
     in *Brandwell v. Illinois*, 432–433  
     legal directives for, 433–434  
     secondary legislation for, 434
- World Health Organisation (WHO),  
 294–295
- Ymeraga* case, 454