Abstract

This article examines who qualified as a citizen in Roman law and who did not. It sets out Rome's three main groups regarding citizenship, the citizens, latins and peregrini, and the rights and obligations they carried. It then compares how EU citizenship today opens access to Union rights, such as free movement and residence, to the rights of early Romans. Nordic cases, including Johansen v. Denmark, illustrate how courts balance sovereignty, fairness and proportionality when granting or revoking citizenship. The comparison reveals recurring patterns of inclusion and exclusion, showeing how ancient concepts of civic belonging persists in contemporary European law.

Introduction

Roman law, the cornerstone of many modern legal systems, has shaped the concepts of citizenship, rights, and legal identity that continue to influence European law. In Rome, citizenship was not just a matter of residence, but a complex legal status that determined one's ability to participate in civic life, hold property, and enjoy protection under the law. The distinction between citizens, Latins, and peregrini established a clear hierarchy of rights and obligations, reflecting both inclusion and exclusion within the Roman state. Importantly, these categories evolved as Rome expanded, demonstrating the dynamic nature of the legal system, and citizenship gradually became a unifying status across the empire. This paper explores the structure and meaning of Roman citizenship and compares it with modern concepts of citizenship in the European Union and the Nordic countries. The analysis considers how rights, duties, and access to citizenship have developed, from the privileges of the cives Romani to the layered structure of the European Union and national citizenship today. By tracing these parallels, the paper highlights how ancient legal principles continue to inform modern debates about belonging, equality, and state sovereignty.

Who were the Roman cives?

The people who held the highest legal status in Rome were the cives, or citizens. A Roman citizen was a free person who was part of the Roman civic community, and because of that status, they enjoyed rights that non-citizens did not. Citizenship was usually acquired by

birth, either by taking their mothers status under *the ius gentium*, or by taking their fathers status at conception, but the latter was only possible in the case of a valid civil marriage.[1] Other ways included manumission, where a formally freed slave became a citizen, but it could also be granted by the state[2] to either individuals, groups or even whole communities.[3] The status of being a citizen was highly valued, but it wasn't guaranteed; in certain situations, a person, although legally free, could be placed under civil bondage (*mancipium)*. In this state, a person's rights as a free man were, for the most part, suspended. Also, if a citizen incurred *infamia* because of disreputable conduct, it could bring him some legal disabilities and social disgrace. The attraction of being a citizen lay in its privileges. An adult male citizen held the most rights, for he could enjoy, with full legal capacity, the key public rights. He could run for public office, vote in the assemblies and most importantly, he could appeal the death sentence. Women could also be citizens, but their rights were not as extensive as their male counterparts. They could appeal a death sentence, but they could not vote or hold office. In the eyes of the private law, women were also seen as inferior to men. Women usually needed to have a guardian, and in some forms of marriage, like *manus*, their ability to own property and make contracts was limited, unlike male citizens. In private law, the core rights were firstly the *commercium*[4], that is, the right to use the citizens' law (*ius civile)* for contracts, conveyances and lawsuits. Secondly, there was the *testamenti factio*,[5] which provided citizens with the capacity to make, witness and benefit under wills. Thirdly, the most important right at the time, *connubium*,[6] which was the right to enter a civil marriage capable of creating *potestas*, which created the legal power of a *paterfamilias* over his children. However, being a citizen wasn't all just advantages; they also carried some duties to fulfil, e.g. military service, although some viewed this obligation as a privilege, it was an obligation. Also, when imperial officials or the army passed through a citizen's town, the citizens in the area had to provide accommodation, food and other supplies. Some communities considered this obligation so heavy that they preferred to pay money to avoid it. Citizens were also expected to provide transport for animals, help maintain the roads, serve as guardians, judges or jurors when called upon.[7]

The Non-Roman Citizens

Not everyone living under Roman law was a citizen. Non-Roman citizens were divided mainly into two groups, the Latins and the peregrini (foreigners).[8] Among the Latins,

there were several subcategories. The Latini prisci, Rome's early allies in the Latin league, had most of the same rights as citizens, such as lawful marriage (conubium), trade (commercium), and the right to vote. Later, they gained full citizenship after the League dissolved in 338 BC.[9] The Colonial Latins, who lived in Roman colonies, could trade and vote locally but usually lacked full marriage and inheritance rights and could not hold office in Rome. However, Rome often rewarded loyal local service by granting them citizenship. The Junian Latins were mostly former slaves freed informally, and they had limited rights; they could trade and marry but could not make or inherit through wills, and upon death, their property returned to their former masters. Still, Junian Latins could become citizens by being properly re-freed, by proving a lawful marriage with a surviving child, or by showing a good-faith mistake about a spouse's status.[10]

Beyond the Latins were the peregrini, the largest group of free non-citizens.[11] They had no political rights but could trade and appear in court under general legal rules. Slaves, who had no legal personality at all, could also gain citizenship if they were lawfully freed through manumission. Over time, citizenship expanded, especially after Emperor Caracalla's Constitutio Antoniniana in 212 AD[12], which granted citizenship to nearly all free inhabitants of the empire.[13]

Citizenship then and now

EU citizenship today is layered on top of national citizenship. Anyone holding the nationality of an EU Member State is automatically a union citizen.[14] This status grants fundamental rights such as free movement, residence, and participation in local and European Parliament elections within any Member State (Article 21 TFEU). Non-EU nationals, by contrast, generally require visas or permits to live and work in the EU and lack these political rights. EFTA nationals, from Iceland, Liechtenstein, Norway, and Switzerland, enjoy free movement and employment rights through the EEA/Swiss arrangements but cannot vote or stand in EU or local elections abroad.[15] This structure closely resembles the Roman system of civic hierarchy. EU citizens mirror the *cives Romani*, possessing full political participation and legal protection. EFTA nationals resemble the *Latini*, integrated economically yet limited politically, while other third-country nationals parallel the *peregrini*,[16] allowed to reside and trade but outside the political community.[17]

The case *Genovese v. Malta*[18] further highlights the importance of equality in citizenship rights. The applicant had been denied a Maltese citizenship, but he was born out of wedlock to a British mother and a Maltese father. Although the paternity had been proven, both with a test and through the court, the applicant's request for Maltese citizenship was denied due to the father not recognising the applicant as his child on the applicant's birth certificate. The Court held that discrimination in granting citizenship violates Article 14 in conjunction with Article 8 of the European Convention on Human Rights. Thus, while modern citizenship still distinguishes insiders from outsiders, equality and non-discrimination now define its core values.

Nordic Judicial Practice

In *Johansen v Denmark* (ECtHR, 2022), the applicant, a dual Danish-Tunisian national, was convicted in 2017 for joining ISIS in Syria. Following his conviction, the Danish Supreme Court revoked his Danish citizenship and ordered his permanent expulsion in 2018. One of the contributing factors was that Johansen still retained his Tunisian nationality, so revoking his Danish citizenship did not result in him becoming stateless. When Johansen brought his case before the European Court of Human Rights, the Court found the application inadmissible, while emphasising the seriousness of the applicant's conduct, in a national security context, as well as his remaining Tunisian citizenship. This outcome closely parallels the Roman concept of status civitatis, where citizenship contained legal capacity, political rights and protection under Roman law. Grave offences could result in *capitis deminutio* and exclusion from the civic community. However, unlike Roman practice, contemporary European law strictly limits measures that lead to statelessness, recognising that a stateless person lacks not only political and legal rights, but also secure residence, diplomatic protection, and often access to basic services. International law therefore places strong safeguards around the deprivation of nationality where no alternative citizenship exists. Johansen´s case thus demonstrates a modern, moderated version of the ancient principle: citizenship may still be lost, but the individual cannot be reduced to statelessness, or civil non-existence.

During this research, two other cases were also highlighted. Firstly, a case by Althingi Ombudsman nr. 2848/1999, in which a person was denied an Icelandic citizenship, and secondly, the judgment of the EFTA court in which a Norwegian citizen was denied entry to

Iceland due to his relations with a supposed organised criminal association of motorcyclists. Both cases have commonalities with the State´s duties to act fairly and proportionately, as well as their duty to apply nationality laws with clarity, consistency, and support for applicants.

In short, modern citizenship balances state sovereignty with procedural fairness. Citizenship may be lost in extreme cases, such as Johansen´s case, but the path to gaining or retaining it must be governed by clear rules and proportional decision-making.

Conclusion

Roman law played a key role in establishing the basis for the legal and civic ideas that still influence modern understandings of citizenship. In Roman times, cives were the citizens of Rome who held the highest legal status. Roman citizenship represented a highly valued status that granted specific rights and privileges, while also imposing duties and responsibilities. However, these rights were not distributed equally. Though women could be citizens, they held fewer rights than men. Non-citizens, such as the Latins and *peregrini*, held limited rights but could, in certain cases, attain citizenship through service, loyalty, or manumission. Over time, the concept of citizenship evolved, and the laws regarding citizenship are more complex in modern Europe. Equality and non-discrimination now form the core values of citizenship, as illustrated by the case Genovese v. Malta (ECHR, 2011). However, citizenship has always and continues to define belonging and participation in a legal and political community. Nordic judicial practice today demonstrates that while citizenship provides strong rights, it can still be revoked in exceptional cases involving serious offences, as seen in the case Johansen v. Denmark (ECtHR, 2022). Yet, unlike ancient Roman law, modern European law protects individuals from statelessness, ensuring basic rights and legal security remain intact. From ancient Rome to the European Union, the concept of citizenship continues to balance rights and duties, belonging and exclusion, while also evolving with time. Hopefully, equality, fairness and non-discrimination will continue to be the most important values of citizenship.

References

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Legislation and Treaties

Treaty on the Functioning of the European Union (TFEU)

Agreement on the European Economic Area (EEA Agreement)

European Convention on Human Rights (ECHR, 1950)

Cases

Genovese v Malta App no 53124/09 (ECtHR, 11 October 2011)

Johansen v Denmark App no 27801/19 (ECtHR, 9 March 2022)

Alþingi Ombudsman, Case No 2848/1999

Endnotes

[1] Gaius, *Institutiones* 1.55.

[2] Gaius, *Institutiones 1.17.*

[3] Paul J. du Plessis, Borkowski's Textbook on Roman Law (6th edn, Oxford University Press 2020) 102.

[4] Gaius, *Institutiones* 1.119.

[5] Gaius, *Institutiones* 1.132-138.

[6] Gaius, *Institutiones* 1.56-57.

[7] Paul J. du Plessis (n. 3) 101-107.

[8] Gaius, *Institutiones* 1.5-6.

[9] Paul J. du Plessis (n. 3) 109-110.

[10] Paul J. du Plessis (n. 3) 109-110.

[11] Ulpian, *Regulae* 1.4 (definition of *peregrini*; status civitatis).

[12] Constitutio Antoniniana (212 CE), Papyrus Gissensis 40 I.

[13] Paul J. du Plessis (n. 3) 110-111.

Ulpian, *Regulae* 1.5.

[14] Art 20 TFEU.

[15] Arts 28, 31 and 36 EEA Agreement.

[16] Ulpian, *Regulae* 1.1–3 (status libertatis, civitatis, familiae).

[17] Paul J. du Plessis (n. 3) 101–111.

[18] *Genovese v Malta* App no 53124/09 (ECtHR, 11 October 2011).