

Dimensions of Citizenship Policy in the Post-Yugoslav Space: Divergent Paths

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The break-up of the former Yugoslavia resulted in the establishment of seven states with manifestly different citizenship regimes. Relating the politics of citizenship to the dominant nation-building projects, this paper argues that in the post-Yugoslav countries in which nation-building projects are consolidated (Croatia, Slovenia and Serbia) citizenship regimes converge around ethnic inclusiveness, while in those where nation building is contested (Macedonia and Montenegro) territorial rather than ethnic attachments are articulated in citizenship policies. In the case of Kosovo, and to a certain degree Bosnia and Herzegovina, policies emphasise territory due to international involvement in the shaping of their citizenship regimes. Even though all of these states have adopted ius sanguinis as the main mechanism of citizenship attribution at birth, the different approaches to naturalisation and dual citizenship indicate that the politics of citizenship are inextricably linked to the questions of nation building and statehood. To explore these issues, the paper first outlines the main traits of citizenship policies in contested and consolidated states. It proceeds by looking at different naturalisation requirements in the two groups of states. It argues that extension to ethnic kin occurs only in countries in which statehood and nation building are consolidated, where it serves to project an image of national unity. In states that are challenged by several competing nation-building projects, citizenship attribution through ethnic kinship is impossible due to lack of internal unity. The paper also analyses approaches to dual citizenship, identifying patterns of openness and restrictiveness. By doing so, it links the politics of citizenship to the interaction of foreign policy mechanisms in post-Yugoslav countries and identifies the points where these regimes overlap or conflict with each other.

Keywords: citizenship; nation building; statehood; former Yugoslavia

Introduction

Over the last three decades, the geographical and political space once occupied by the socialist Yugoslavia has been subject to fragmentation, which in turn has gradually yielded new sovereign states. The independence of Slovenia, Croatia and Macedonia in the early 1990s, followed by the constitution of post-war Bosnia and Herzegovina, and the gradual disintegration of the Federal Republic of Yugoslavia into Montenegro, Serbia and Kosovo constitute what is now known as the ‘post-Yugoslav space’. While rooted in the same political,

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constitutional and economic set-up as the socialist Yugoslavia, these states populating the ‘post-Yugoslav space’ have had different post-partition experiences, ranging from (relatively) peaceful secession, transition and European Union (EU) integration to conflict, protracted state transformation, and domestic and external contestation. These dissimilar experiences, driven largely by the interplay between national identities and statehood, have shaped the citizenship regimes of the seven new states in South-Eastern Europe.

The post-Yugoslav citizenship regimes need to be contextualised in light of ‘wider political settlement, reflecting, for example, contestations between, for instance, titular ‘national’ and minorities, among ‘constitutive peoples’, political and ideological groups or simply citizens over citizenship and related rights, especially rights of political participation’ (Shaw and Štiks 2013: 4–5). While acknowledging that the notions of belonging and rights are central to citizenship, the institution of citizenship is analysed here through the lenses of individuals’ legal status. This enables us to explore how particular policies that determine who is included as a member of a state and who is excluded have been shaped by broader developments of the politics of citizenship. In turn, the politics of citizenship have had divergent trajectories in states with manifestly different experiences of the link between statehood and nation building. Statehood is the institutional articulation of the link between individuals and the state, characterised by domestic legitimacy and external recognition (Buchanan 1999). It is intimately related to nation building, which has at its core the link between the national-emotional community and the political-territorial structure that encapsulates it.

As an expression of the relationship between individuals, nations and states, citizenship policies are dependent on whether nation building in a state is consolidated or whether there are several competing nation-building projects.¹ The key argument of this paper is that in the post-Yugoslav countries in which nation-building projects are stable (Croatia, Slovenia and Serbia) citizenship regimes converge around ethnic inclusiveness, while in those where nation building is more variable (Macedonia and Montenegro) citizenship policies reflect territorial attachments. In the case of Kosovo, and to a certain degree Bosnia and Herzegovina, policies emphasise territory due to international involvement in shaping their citizenship regimes. These trends are mirrored in various dimensions of citizenship policy, in that we can expect convergence on birthright citizenship and divergence on matters of admission on the basis of culture or residence.

While some of the dimensions of citizenship policy in the post-Yugoslav space have been explored in country reports from *The Europeanisation of Citizenship in the Successor States of the Former Yugoslavia* (CITSEE) project, there has not yet been a systematic differentiation among them. Building on the empirical material from the CITSEE project, this paper also takes into account the plurality of approaches to the status of citizenship. As such, it distinguishes between different categories of citizens on the basis of when and how they received (or lost) the status of citizenship, enabling cross-sectional comparison. Aleinikoff and Klusmeyer (2002) made a move in this direction when they proposed a departure from the conventional study of access to citizenship at birth based on *ius sanguinis* (descent) or *ius soli* (birth on the territory of the state) and the introduction of generations as a category of analysis. Their argument makes a significant contribution to the understanding of citizenship policies, reaffirming as it does the significance of the status of citizenship for the distribution of rights and duties in the community. Shachar (2009; 2011: 1) has complemented the work of Aleinikoff and Klusmeyer (2002) by referring to the functional grounds for the acquisition of citizenship after birth as *ius nexi*, defining it as ‘an auxiliary path for inclusion in the polity that could operate alongside the established principles of citizenship acquisition: by birth on the territory (*jus soli*) or birth to a citizen parent (*jus sanguinis*)’ (Shachar 2011: 1).² Hence in the context of citizenship policies we can make a systematic distinction between the different mechanisms for citizenship attribution at and after birth. While the attribution of citizenship at birth is based on descent or territory, in the context of attribution of citizenship after birth we can identify three broad categories of functional grounds for acquisition and loss of citizenship: link with

a person (e.g., descent, marriage); link with a country (residence, special achievements); links created through international norms and processes (refugees, security).

A look at the citizenship regimes of the post-Yugoslav states with reference to these policy elements indicates that all seven states under consideration in this paper have adopted *ius sanguinis* as the main mechanism of citizenship attribution at birth. However, their extremely divergent approaches to naturalisation on grounds of links with a person and link with the country, as well as issues related to openness, tolerance or resistance to dual citizenship indicate that the politics of citizenship are inextricably linked with the issues of statehood and nation building. That is, the more contested the nation-building process, the more demanding its citizenship policy for prospective applicants, who will have to prove extensive residence periods, socialise in the country, and renounce another citizenship as a sign of loyalty to the new nation. By extension, in countries where statehood and nation-building projects are consolidated, naturalisation policies will be more liberal for prospective citizens, whose cultural ties with the nation will be the dominant grounds for naturalisation. Due to the nature of such ties, loyalty will be presumed *ab initio* and individuals will be allowed to have dual citizenship.

To explore these issues, the paper starts with a discussion of the main features of citizenship policies in contested and consolidated states. It proceeds by looking at different naturalisation requirements in the two groups of states. It argues that extension to ethnic kin occurs only in countries that are consolidated, where it serves as a mechanism for the external projection of national unity. In the states challenged by several competing nation-building projects, citizenship attribution through ethnic kinship is impossible due to lack of internal unity. The paper subsequently analyses approaches to dual citizenship, identifying patterns of openness and restrictiveness in the two groups of countries. By doing so, it identifies the points where these regimes overlap or conflict with each other as the outcome of interaction among nation-building projects.

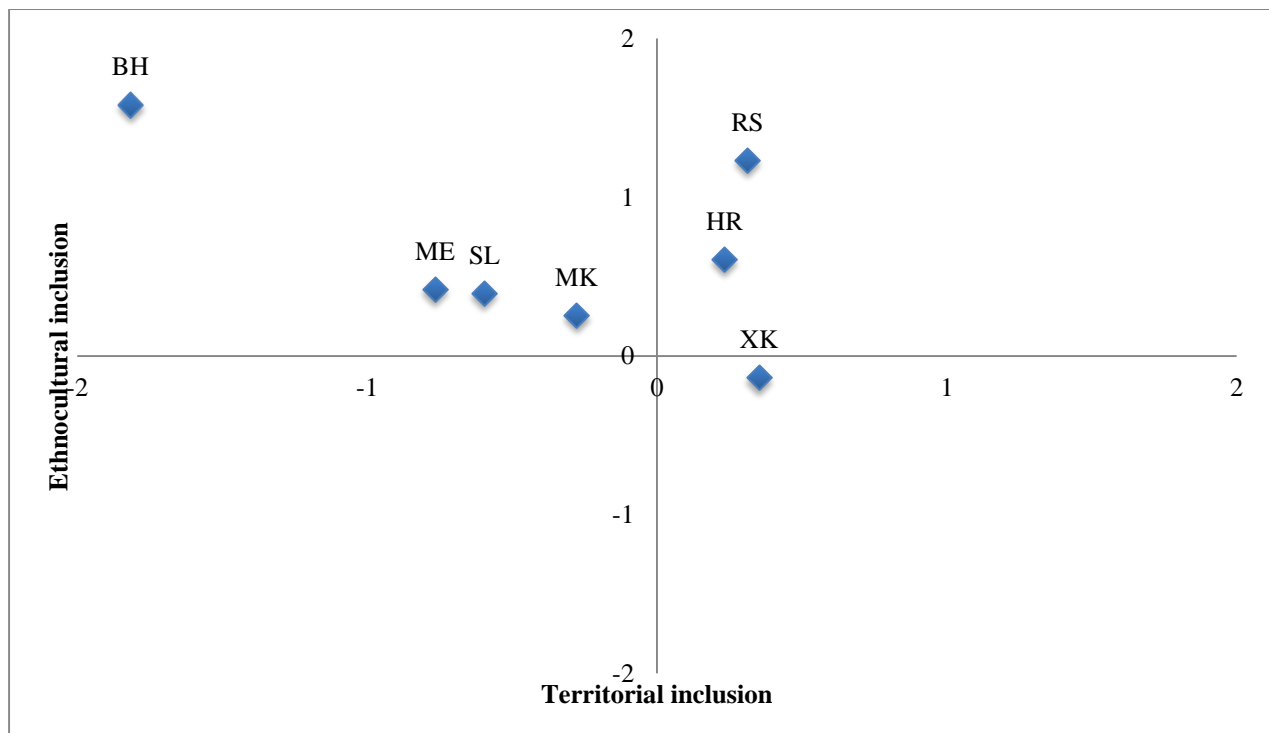
In terms of methodology, this paper relies on the methodological pluralism approach, as developed by Michael Keating and Donatella della Porta (2008). Keating and della Porta (2008: 112) maintain that methodological pluralism 'represents a normative view that in order for the social science to develop we need to promote diversity, rather than a single way of doing things... Unity comes from opening up the field rather than conforming to a single model'. Such an approach brings out linkages between the socio-political nature of politics and the specificities of their legal design because it avoids a single ('Manichean') ontological position (Becker 1996; Steinmetz 2005). In terms of method, the paper bases its distinction between contested and consolidated nation building on the results of *The Symbolic Nation-Building in the Western Balkans* project by the universities of Oslo and Rijeka. Under the aegis of the project, a survey with a sample size of approximately 1 500 respondents per country (adjusted slightly in each country to reflect its ethno-national composition) was conducted in each Western Balkan state to enable computation of loyalty to state-supported nation-building projects. The differentiation between the contested and consolidated nation-building projects will thus enable constitutional ethnography to be used as a framework for analysing legal change. Scheppele (2004: 395) defined constitutional ethnography as the 'study of the central legal elements of politics using methods that are capable of recovering the lived detail of the politico-legal landscape'. This approach will therefore entrench the understanding of different policy elements identified from the databases of the European Union Democracy Observatory (EUDO) on Citizenship. It will thus offer the first comparative, cross-sectional analysis of the politics of citizenship in the post-Yugoslav space composed of post-partition, post-conflict and post-communist states.

Citizenship configurations in contested and consolidated states

Citizenship is a relationship between an individual and the state. If we conceive of it as a legal status (nationality), citizenship represents a mechanism through which states regulate whom to recognise as their members. Explaining the emergence of different citizenship regimes, in the early 1990s, Rogers Brubaker (1992) differentiated between two models of conceiving citizenship – the German (ethnic) and the French (civic). In the former model, membership in the state is conceived largely through kinship ties; in the latter, through territory. Although widely used in studies of citizenship, Brubaker’s model has faced extensive criticism as most contemporary citizenship laws contain a mixture of ‘civic’ and ‘ethnic’ elements. Even though Brubaker (1999) himself questioned the conceptual consistency of these models and their usefulness for understanding citizenship in newly established states, Dumbrava’s (2015: 2) study of ethnic citizenship policies in 38 European countries showed that some crucial aspects of citizenship ‘remain linked with ethno-national conceptions on state membership’.

More recently, based on an empirical study of citizenship policies in the EU and its neighbourhood through the EUDO project, Vink and Bauböck (2013) have argued that rather than being fixed along the linear ‘civic’ or ‘ethnic’ pathway, citizenship regimes tend to be configured according to five different purposes: inter-generational continuity, territorial integrity, singularity, genuine link and special ties. In their study, the two authors propose a two-dimensional model through which they identify ‘four idealtypic citizenship regimes: those that emphasise either ethno cultural or territorial selection criteria and those that combine restrictions or inclusiveness on both dimensions’ (Vink and Bauböck 2013: 628). The four types of citizenship regimes are: 1) ethnoculturally selective; 2) ethnoculturally expansive; 3) territorially selective; and 4) territorially expansive. The analysis in this paper is broadly based on this typology and the position of the post-Yugoslav states in this model is illustrated in Figure 1.

Figure 1. Citizenship configurations in the post-Yugoslav space



Source: CITLAW. Based on categorical principal component analysis of all states included in CITLAW dataset. Country abbreviations: BH – Bosnia and Herzegovina; HR – Croatia; XK – Kosovo; MK – Macedonia; ME – Montenegro; RS – Serbia; SL – Slovenia.

The positioning of the post-Yugoslav citizenship regimes in the configurations model is based on the CITLAW indicators of the EUDO Citizenship Observatory, calculated for 2016 for the respective countries. These indicators capture the multiple purposes of citizenship laws and thus reflect different aspects and elements of citizenship policies such as birthright citizenship, ordinary and special naturalisation, and loss of citizenship (Jeffers, Honohan and Bauböck 2016).

To understand why the post-Yugoslav citizenship regimes are scattered in the configurations model requires us to explore the political context in post-communist, post-partition and post-conflict states. Unlike long-standing citizenship policies in Western Europe and their increasing focus on accommodating migration, the regulation of membership in post-communist states has centred around articulating nation-building projects (Bauböck, Perchinig and Sievers 2009). This includes policies intended to support the claims over the state by a dominant ethnic community by providing that community with status-related privileges. Such a 'constitutional and legal structure that privileges the members of one ethnically defined nation over other residents in a particular state' form the essence of what has been defined as constitutional nationalism (Hayden 1992: 655). This practice ensured the consolidation of new states around prevailing or majority ethnic communities, while marginalising or excluding others, as has been the case, for instance, in the Baltics or in Slovenia.

In the post-Yugoslav states, the convoluted issues of membership and belonging have led to constitutional nationalism, but only in cases when statehood and nation building were congruent. In other words, constitutional nationalism has shaped citizenship policies in those countries in which nation building was not challenged either by the domestic non-dominant communities or by an external factor (see Rava 2010; Koska 2011). It could not, however, be implemented in those countries in the post-Yugoslav space in which the trajectories of state and nation building were incongruent; that is, in countries in which the building of the state or the nation was challenged by domestic or external factors, such as minority or constituent communities, kin-states of national minorities or neighbouring countries.

Džankić (2015) highlighted some characteristics of the citizenship regimes in the post-Yugoslav states on grounds of congruence between the state- and nation-building projects. In consolidated states, citizenship regimes are generally stable, based on ethnic kinship internally and externally, and open in terms of dual nationality. By contrast, citizenship policies of contested states show attachments to territory along different dimensions as a primary determinant of membership. That is, contested states avoid references to ethnic kinship in their citizenship laws, are restrictive in terms of dual nationality, and due to the contestation of state or national identities do not extend membership on grounds of ethnic belonging. The manifold requirements and restrictions along different dimensions of citizenship are engrained in the regulation of citizenship attribution at birth and after birth. According to Džankić (2015: 34),

This is so, because naturalisation is related to the expansion of the state's populace, which in turn reflects upon the core elements of the state, such as its political and socio-economic systems. In other words, citizenship regimes not only mirror the political circumstances in their respective countries, but also are used as a tool of managing the institutional and societal dynamics in them.

The Survey (2013) of *The Symbolic Nation-Building in the Western Balkans: Intents and Results* indicated a high degree of loyalty to nation-building projects in Croatia, Serbia and Kosovo, while highlighting the effects of domestic and external challenges to such projects in Montenegro, Macedonia and Bosnia and Herzegovina.³ Table 1 presents a schematic overview of the contested and consolidated states in the Western Balkans in terms of their statehood and nation building. In classifying states in terms of statehood, this paper applies two basic conditions: 1) Do all ethnic communities recognise the state and its territory? (Yes – consolidated; No – contested); 2) Is the state recognised internationally? (Yes – consolidated; No

– contested). To qualify as a ‘consolidated’ state both conditions need to be met. In a similar vein, in classifying states in terms of nation building, the following condition has been applied: 1) Is there consensus among domestic ethnic communities on the constitutional set-up of the state? (Yes – consolidated; No – contested). For the purposes of this question, elements such as the approval ratings of the state’s institutions and symbols by different ethnic communities have been analysed (Survey 2013).

Table 1. Overview of contested and consolidated states in the post-Yugoslav space

Country	Statehood	Nation building
BH	Contested	Contested
HR	Consolidated	Consolidated
XK	Contested	Consolidated
MK	Consolidated	Contested
ME	Consolidated	Contested
RS	Consolidated	Consolidated
SL	Consolidated	Consolidated

Country abbreviations: BH – Bosnia and Herzegovina; HR – Croatia; XK – Kosovo; MK – Macedonia; ME – Montenegro; RS – Serbia; SL – Slovenia.

In addition to the distinction between contested and consolidated statehood and nation building, some additional regional specificities are reflected in the citizenship regimes of the post-Yugoslav states. Slovenia is largely an ethnically homogeneous state, which has implemented constitutional nationalism since its independence in the early 1990s, resulting in a segment of its population that belonged to ‘new minorities’ (Croat, Bosniak, Roma, Serb) being excluded from its citizenship (Medved 2009). Yet due to its small population of 2 million and policy-makers’ desire to maintain the balance between different groups, Slovenia’s citizenship policy is ethnic but not necessarily expansive externally. By contrast, Croatia and Serbia are also ethnically consolidated states with no manifest external challenges to statehood and at the same time kin-states to large ethnic communities in the neighbouring countries. Hence their citizenship policies are both ethnic and externally expansive. Bosnia and Herzegovina, with its three competing nation-building projects, and Kosovo, with a coherent nation-building project but contested statehood, do not have manifestly ethnic citizenship policies. This is attributable to the international influences that helped to shape these two countries’ citizenship regimes (Krasniqi 2013; Sarajlić 2013). Conversely, nation-building projects in Macedonia and Montenegro are not only domestically but also externally challenged by the neighbouring countries (Bulgaria, Greece and Serbia in the case of Macedonia; Serbia in the case of Montenegro). These countries are also at the receiving end of their neighbours’ external citizenship policies, which is viewed as expansion of the kin-state influence (Džankić 2015). As a result of this dynamic and the tendency not to destabilise ethnic composition, which would likely cause institutional and constitutional changes at the expense of communities that appropriated the state- and nation-building processes, citizenship policies are linked to territory. Unlike in the consolidated communities, loyalty is not assumed through belonging to an ethnic community, but needs to be proven through integration and socialisation. These dynamics are examined in the remainder of this paper, highlighting the convergence and divergence of policies along different dimensions.

Citizenship at birth

The attribution of citizenship at birth has been one of the key mechanisms for ensuring inter-generational continuity of population within a state (Vink and Bauböck 2013), and as such is the main dimension of citizenship policies. Birthright citizenship, however, can be acquired through descent (*ius sanguinis*) or birth on the state's territory (*ius soli*), or a combination of these two mechanisms depending on the condition of birth (in country, abroad, to known or unknown parents). Generally, a pure *ius soli* for anyone born in the country is uncommon in European countries (EUDO Citizenship 2016), but the practice exists in immigrant nations, such as the United States and Latin America. It is used, however, in line with general international norms, for foundlings (children of unknown parentage) and children at risk of statelessness. This has also been the case in both consolidated and contested post-Yugoslav states. Therefore, differences in the automatic acquisition of citizenship at birth in these countries are mirrored in the ways a newborn's presumed ties with the country are established.

The examination of citizenship laws in all seven post-Yugoslav states indicates that in all countries except Macedonia, all children born in the country's territory to parents either of whom is a citizen automatically acquire citizenship by birth (EUDO Citizenship 2016). Macedonia, however, has a further requirement, stipulating that in addition to being born in the country to a Macedonian national, the child should also not acquire the nationality of another state. This could potentially be the case for children born to one Macedonian and one foreign or dual national of a country that grants citizenship by descent extraterritorially. In the case of Macedonia, where both Serbia and Bulgaria, which contest different elements of the country's national identity, grant external citizenship, the policy has been underpinned by the contested dynamic between the state and the nation.

In cases of birth to citizens abroad, citizenship can be acquired either automatically or through registration. All countries grant citizenship through descent automatically to children born abroad to parents who are both nationals of the respective state. In Croatia, Kosovo, Macedonia, Serbia and Slovenia, a child born abroad 'to a parent who is a citizen and another parent who is stateless or of unknown citizenship' automatically acquires the respective country's citizenship. In Bosnia and Herzegovina and Montenegro, the child of a citizen and another national, or an unknown person or a stateless person, would only receive these countries' citizenship if it would otherwise remain stateless. This policy precludes children from obtaining dual citizenship at birth.

By contrast, rules for acquiring citizenship abroad through registration are slightly more divergent and point to differences between consolidated and contested post-Yugoslav states (Table 2).

Table 2 indicates that the post-Yugoslav states all make provision for admitting children born abroad to their nationals. However, there are small differences between the countries regarding registration age and the 'presumption of citizenship'. While all states except Kosovo require registration (by parents) before the child becomes of age, naturalisation through declaration is possible between the ages of 18 and 23 in Bosnia and Herzegovina, Montenegro and Serbia, and up until the age of 36 in Slovenia. Interestingly, in the cases of Serbia, Croatia and Macedonia a person who acquires citizenship through this mechanism is considered to have been a national from birth; that is, the law is applied retroactively. Such a policy might be an indication of an ethnic citizenship regime. Even though the citizenship policies of Macedonia generally show fewer ethnic elements than those of Serbia and Croatia (Spaskovska 2013), the retroactive application of law in this case creates 'presumed citizens' and corroborates the persistence of ethno-national elements in post-communist citizenship policies. Montenegro is the only country from among the former Yugoslav states that requires children born abroad to a national not to have acquired another citizenship, highlighting the restrictive approach of this country to membership.

Table 2. Naturalisation through birth abroad to a citizen

Country	Yrs	Language	Renounce	Income	Taxes	No crime	No threat	Born abroad to citizen	Other
BH	X	X	X	X	X	X	X	✓	Registration before the age of 23
HR	X	X	X	X	X	X	X	✓	Registration or residence before the age of 18 (retroactive to birth)
XK	X	X	X	X	X	X	X	✓	Consent by the age of 14 if at no risk of statelessness; if at risk, no consent required
MK	X	X	X	X	X	X	X	✓	Registration by parents or residence before the age of 18; declaration between 18 and 23 (retroactive to birth)
ME	X	X	✓	X	X	X	X	✓	Registration by parents or residence before the age of 18; declaration between 18 and 23
RS	X	X	X	X	X	X	X	✓	Registration by parents or residence before the age of 18; declaration between 18 and 23 (retroactive to birth)
SL	X	X	X	X	X	X	X	✓	Registration by parents or residence before the age of 18; declaration between 18 and 36

Source: Constructed by the author with reference to: EUDO Citizenship (2015). *Global Database on Modes of Acquisition of Citizenship*. San Domenico di Fiesole: European University Institute. Online: <http://eudo-citizenship.eu/databases/modes-of-acquisition>. Mode A01b (declaration/registration). Country abbreviations: BH – Bosnia and Herzegovina; HR – Croatia; XK – Kosovo; MK – Macedonia; ME – Montenegro; RS – Serbia; SL – Slovenia.

Although the differences are only minor, the acquisition of citizenship at birth is the first indicator of the divergence of legislative provisions between consolidated and contested post-Yugoslav states. Bosnia and Herzegovina, Macedonia and Montenegro, the three contested post-Yugoslav states, indicate this dynamic through barriers to dual nationality at birth for children born abroad or to one foreign national. The differences among countries for those who have not been granted citizenship at birth automatically are significantly greater.

Citizenship after birth

Unlike citizenship at birth, the regulation of citizenship after birth is not automatic, and as such is subject to registration of individuals in citizenship registries. The process of registration is premised on the existence of specific ties that attest to the person's relationship with the destination country. As mentioned previously, these

ties can take the form of links with the state through mandatory residence (ordinary naturalisation), cultural affinity (belonging to a particular ethnic community), or special contribution to the state (merit). They can also be links to individuals from the destination state through birth (children of citizens born abroad), descent (expatriates) or marriage (to a citizen). While all of these forms of admission after birth exist in the post-Yugoslav states, there are manifest differences in how they are regulated. With the caveats that Slovenia is small and that citizenship policies of post-war Bosnia and Herzegovina and Kosovo have been influenced by international factors, we can observe a divergence between states with coherent and contested nation-building projects. As a result of the interplay between statehood and nationhood dynamics, in the latter category, in general, naturalisation rules will be less stringent than in the former.

Links with the state

Due to the state's prerogative to regulate nationality matters, establishment of links for the purposes of naturalisation can take different forms. One of the common ways in which this link is established is through residence-based integration, also referred to as 'ordinary naturalisation'. Table 3 outlines the conditions for this naturalisation mechanism in the seven post-Yugoslav states.

Table 3. Ordinary naturalisation: a schematic overview

Country	Yrs	Language	Renounce	Income	Taxes	No crime	No threat	Other
BH	3	✓ ^a	✓ ^a	✓	✓	✓	✓	Constitutional order
HR	5	✓	✓ ^a	×	×	×	×	Legal order, customs, culture
XK	10	✓ ^a	×	✓	✓	×	×	Legal order, integration
MK	8	✓	✓	✓	×	✓	✓	No crime prohibiting residence
ME	10	✓	✓	✓	✓	✓	✓	n/a
RS	3	×	✓ ^a	×	×	×	×	Legal capacity, loyalty statement
SL	10	✓	✓ ^a	✓	✓	✓	✓	Oath of allegiance

^a Condition evidenced by declaration, not proof.

Source: Constructed by the author with reference to: EUDO Citizenship (2015). *Global Database on Modes of Acquisition of Citizenship*. San Domenico di Fiesole: European University Institute. Online: <http://eudo-citizenship.eu/databases/modes-of-acquisition>. Mode A06 (ordinary naturalisation). Country abbreviations: BH – Bosnia and Herzegovina; HR – Croatia; XK – Kosovo; MK – Macedonia; ME – Montenegro; RS – Serbia; SL – Slovenia.

Table 3 indicates significant differences between the post-Yugoslav countries in terms of residence-based naturalisation. Kosovo, Macedonia, Montenegro and Slovenia specify a high number of years of residence (eight to ten), while this condition in Croatia is five, and in Serbia and Bosnia and Herzegovina three years. However, the determination of lawful residence for the purpose of meeting the naturalisation conditions differs significantly across countries. In Kosovo (Kosovo Citizenship Act, art. 10), for instance, an individual is presumed to have met the residence condition if their absences from the country do not exceed ten months per year. This criterion is intended to balance the otherwise stringent condition of ten years' residence (five years after acquiring a permanent residence permit, obtained after five years of habitual residence). In Bosnia and Herzegovina, interestingly, the formal condition stipulated in the federal citizenship law indicates a low residence

requirement. However, naturalisation is administered through entities – the Federation of Bosnia and Herzegovina (FBiH) and the Republika Srpska (RS), which have separate residence conditions. According to Džankić (2015), due to the inconsistency between federal and entity legislation, the residence period prior to naturalisation in Bosnia and Herzegovina can thus increase to up to ten years. Montenegro requires ten years of ‘lawful and continuous’ residence, which in turn depends on the way an individual has registered his or her stay in the country and with what authority. As indicated in the case law of the administrative court (EUDO Citizenship: Montenegro Case Law 2016), registering with the wrong institution could result in the ‘effective’ stay in the country not being considered ‘lawful and continuous’ under the country’s laws. Equally, a residence period of eight years in Macedonia is extended through the request that this residence is ‘permanent’, thus requiring another five years prior to obtaining permanent resident status. Maintaining resident status also assumes the absence of a criminal history that would nullify an individual’s right to stay in Macedonia. In Serbia and Croatia, the conditions determining residence for the purposes of naturalisation are less stringent and lead to shorter periods of stay.

Similarly, while the schematic overview might indicate convergence over the condition for renunciation of another citizenship, the substance of the legal requirement varies significantly between the two groups of states. In particular, while Montenegro and Macedonia require the individual to submit evidence of renunciation, in Bosnia and Herzegovina, Croatia, Serbia and Slovenia, an individual is deemed to have renounced their citizenship of origin if they can attest that by naturalisation they would lose their citizenship of origin *ex lege*. In practice, this implies a reference to the legal provision in the country of origin rather than the act of renunciation. Loyalty to the state and culture is explicitly required by Serbia, Slovenia and Croatia, whose citizenship regimes are manifestly ethnic.

Table 4. Naturalisation through cultural links with the state

Country	Yrs	Language	Renounce	Income	Taxes	No crime	No threat	Nation	Other
BH	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
HR	×	×	×	×	×	×	×	✓	Legal order, customs, culture
XK	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
MK	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
ME	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
RS	×	×	×	×	×	×	×	✓	Legal capacity, loyalty statement, former Yugoslavia/Serbia
SL	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Source: Constructed by the author with reference to: EUDO Citizenship (2015). *Global Database on Modes of Acquisition of Citizenship*. San Domenico di Fiesole: European University Institute. Online: <http://eudo-citizenship.eu/databases/modes-of-acquisition>. Mode A19 (cultural affinity). Country abbreviations: BH – Bosnia and Herzegovina; HR – Croatia; XK – Kosovo; MK – Macedonia; ME – Montenegro; RS – Serbia; SL – Slovenia.

The difference between the post-Yugoslav countries is most manifest in the case of naturalisation after birth on grounds of cultural affinity (presumed links with the state, not a former citizen), with only Croatia and Serbia offering external citizenship to ethnic kin (EUDO Citizenship 2016). In these two states, nation-building projects are not contested, which explains the expansiveness of the citizenship regime on grounds of cultural affinity. Table 4 indicates that apart from requirements for cultural links and allegiance to the state, conditions including residence, integration and renunciation are waived in this type of naturalisation. Moreover, Serbia

specifically targets presumed Serb ethnics from the post-Yugoslav space who live in the territories of Croatia, Bosnia and Herzegovina, Kosovo and Montenegro. As argued by Waterbury (2014), policy-makers opt for this type of naturalisation in order to project power onto the neighbouring countries and use co-ethnics to increase their state's political influence there. Similar policies can be found in other post-communist countries whose ethnic and national identities are unchallenged domestically, such as Bulgaria, Romania, and Hungary (Pogonyi, Kovács and Körtvélyesi 2010; Dumbrava 2014). Yet in the cases of Croatia and Serbia, these policies target the neighbouring countries, such as Bosnia and Herzegovina, Macedonia and Montenegro, or countries where there are political stakes in having a significant minority (e.g., between Croatia and Serbia). Such citizenship politics, as we shall see in the section on dual citizenship, have an adverse effect on states with challenged nation-building projects, because they adopt restrictive citizenship policies as a mechanism for preventing kin-state influence on their ethnic composition.

Links with persons

In addition to the types of naturalisation described above, naturalisation after birth can be acquired through familial links with a citizen of a country. The main mechanisms for the attribution of citizenship in this way are marriage or descent from former citizens.

Table 5. Naturalisation through marriage

Country	Yrs	Language	Renounce	Income	Taxes	No crime	No threat	Married to citizen (Yrs)	Other
BH	PR ^a	X	✓ ^b	X	X	X	✓	✓	5 years of marriage
HR	PR	X	X	X	X	X	X	✓	
XK	1	X	X	X	X	X	X	✓	3 years of marriage
MK	1	X	X	✓	✓	✓	✓	✓	3 years of marriage (in country); 8 years (abroad) and a genuine bond to MK
ME	5	X	X	✓	✓	✓	✓	✓	3 years of marriage
RS	PR	X	X	X	X	X	X	✓	3 years of marriage; oath of loyalty
SL	1	✓	✓	✓	✓	✓	✓	✓	3 years of marriage

^a Permanent residence status.

^b Condition evidenced by declaration, not proof.

Source: Constructed by the author with reference to: EUDO Citizenship (2015). *Global Database on Modes of Acquisition of Citizenship*. San Domenico di Fiesole: European University Institute. Online: <http://eudo-citizenship.eu/databases/modes-of-acquisition>. Mode A08 (spousal transfer). Country abbreviations: BH – Bosnia and Herzegovina; HR – Croatia; XK – Kosovo; MK – Macedonia; ME – Montenegro; RS – Serbia; SL – Slovenia.

As regards acquiring citizenship through marriage, the different policies of the post-Yugoslav states are presented in Table 5. From the table we can see that all countries except Macedonia require residence on the country's soil prior to naturalisation through marriage. In this country, if the spouses reside in Macedonia, citizenship is granted after three years, or eight years if they reside abroad provided that the applicant can prove a genuine connection to the country. Interestingly, Bosnia and Herzegovina, Croatia and Serbia require the applicants to be permanent residents prior to naturalisation. In line with the respective Aliens Acts of Bosnia

and Herzegovina⁴ and Croatia,⁵ permanent residence is normally granted after five years of lawful and continuous residence. In the case of Serbia, the Aliens Act enables the spouse of the Serbian citizen to receive permanent resident status after three years of marriage.⁶ While Montenegro requires five years of lawful and continuous residence, Kosovo and Slovenia have a one-year requirement. However, unlike all other post-Yugoslav states, Slovenia has retained language and renunciation of another citizenship as conditions for naturalisation through marriage. This suggests a restrictive approach to citizenship along this dimension, as contested states such as Montenegro and Macedonia have waived this requirement for spouses of their nationals.

The different policy approaches of the post-Yugoslav states to citizenship policies are mirrored in their policies regulating naturalisation through familial links to former citizens (expatriates). These are schematically presented in Table 6.

Table 6. Naturalisation through familial link to former citizen

Country	Yrs	Language	Renounce	Income	Taxes	No crime	No threat	Link to former citizen	Other
BH	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
HR	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
XK	X	X	X	X	X	X	X	✓	1 generation, maintains family links, respects legal order of Kosovo
MK	X	✓	X	✓	✓	✓	✓	✓	1 generation
ME	2	X	X	✓	✓	✓	✓	✓	3 generations
RS	X	X	X	X	X	X	X	✓	1 generation, legal capacity, statement of loyalty
SL	1	✓	X	✓	✓	✓	✓	✓	4 generations

Source: Constructed by the author with reference to: EUDO Citizenship (2015). *Global Database on Modes of Acquisition of Citizenship*. San Domenico di Fiesole: European University Institute. Online: <http://eudo-citizenship.eu/databases/modes-of-acquisition>. Mode A12 (transfer from former citizen). Country abbreviations: BH – Bosnia and Herzegovina; HR – Croatia; XK – Kosovo; MK – Macedonia; ME – Montenegro; RS – Serbia; SL – Slovenia.

As Table 6 indicates, the only two countries that do not grant citizenship to direct descendants of expatriates are Bosnia and Herzegovina and Croatia, which would ostensibly indicate a restrictive approach along this dimension of citizenship policy. However, if these provisions are viewed in the context of the overall law, as highlighted in Figure 1, unlike Bosnia and Herzegovina, Croatia grants citizenship through cultural links to the nation. This implies that such ‘claims of cultural belonging’ can be exerted by descendants of expatriates, yet not through the link with a person, but through that with the state. Such a policy is clearly an outcome of the uncontested dynamic between state and national identity. Kosovo, Macedonia and Serbia offer first-generation emigrants the opportunity to become their citizens, waiving residence, renunciation, language and other conditions. By contrast, Slovenia and Montenegro, which enable up to third- and fourth-generation immigrants to become their citizens, have retained the mandatory residence (in Slovenia also language) and other conditions prior to naturalisation. Such an approach to this policy dimension indicates an emphasis on links with the state through residence and integration, as opposed to the one rooted in cultural ties.

While the general expectation has been that differences across the post-Yugoslav space would be starker, they are in fact mirrored in the legislative detail that excludes certain categories of applicants, while offering facilitated access to others. In sum, states whose cultural imagery spills over their borders (Serbia and Croatia)

rely on ethno-national policies and facilitated access on grounds of cultural claims. That is, their citizenship regimes are ethnic and expansive. In the case of Slovenia, where nation building is coherent, yet ‘contained’ (the national imagery concurs with the state’s borders), policies are ethnic but are restricted by their emphasis on territorial belonging. We see similar ethnic policies restricted by territorial belonging in Macedonia and Kosovo, which are contested at the level of nationhood and statehood respectively, but have a dominant ethno-national community. By contrast, in Bosnia and Herzegovina and Montenegro, which are countries without a single dominant ethno-national community, citizenship policies are restrictive and not manifestly ethnic in character. They are grounded in links with territory and do not allow for the possibility of dual loyalty (and thus dual citizenship).

Dual citizenship

Issues surrounding dual citizenship in the post-Yugoslav space go beyond the current instrumental turn of the status of nationality (Joppke 2010), due to the particular relationship among the countries in the past and their more recent history of conflict and contestation. The nature of the dynamic between statehood and nationhood thus affects the ways in which membership in multiple states is regulated across the new states of South-Eastern Europe. The approach to dual and multiple citizenship can be open (when a state poses no restriction in terms of other nationality for applicants) or restrictive (when a state generally requires individuals to renounce citizenship of another state ahead of naturalisation).

This paper suggests that in states with uncontested nation-building projects, the approach to dual and multiple citizenships is open in the majority of naturalisation modes, due to the presumed loyalty inherent in citizenship regimes based on ethnic kinship. Even in cases when renunciation is required, a statement by the applicant that the country of origin will withdraw their citizenship *ex lege* suffices for the purposes of naturalisation. By contrast, the approach to dual and multiple citizenships of states with contested or conflictual nation building is more restrictive. The more stringent the rules for evidence of renunciation of the citizenship of origin (e.g., release certificate) prior to naturalisation, the more restrictive the citizenship regime is in this domain. Table 7 offers a schematic overview of dual citizenship policies along the dimensions analysed in the previous sections of the paper.

Table 7. Dual and multiple citizenship

Country	Birth abroad Automatic	Ordinary	Cultural	Birth abroad Reg	Marriage	Expatriate
BH	R ^a	R	n/a	O	R	n/a
HR	O ^b	R	O	O	O	n/a
XK	O	O	n/a	O	O	O
MK	O	R	n/a	O	O	O
ME	R	R	n/a	R	O	O
RS	O	R	O	O	O	O
SL	O	R	n/a	O	R	O

^aR – restrictive. ^bO – open.

Source: Constructed by the author with reference to: EUDO Citizenship (2015). *Global Database on Modes of Acquisition of Citizenship*. San Domenico di Fiesole: European University Institute. Online: <http://eudo-citizenship.eu/databases/modes-of-acquisition>. Country abbreviations: BH – Bosnia and Herzegovina; HR – Croatia; XK – Kosovo; MK – Macedonia; ME – Montenegro; RS – Serbia; SL – Slovenia.

Table 7 indicates that of the post-Yugoslav states, Kosovo has the most liberal approach to dual and multiple citizenships, which is largely attributable to the overall political climate in the country. Being a small and contested state at the international level, Kosovo seeks through an open approach to dual citizenship to facilitate the potential benefits of free travel that come to its citizens with a dual citizenship policy. Hence despite state contestation, the regime in Kosovo is open to dual citizenship. This is not to contradict the findings of Kolstø (2014), who established high congruence of Kosovo's nation-building project even though the state is contested. In terms of their approach to dual and multiple citizenships, Serbia and Croatia are liberal along most dimensions of citizenship. Only for applicants that seek naturalisation through residence (ordinary naturalisation) do they require applicants to declare that they would lose their other citizenship. However, whether or not they have lost such citizenship after naturalisation is in practice never checked. Table 7 illustrates that, ostensibly, Macedonia's approach to dual citizenship is similar to those of Croatia and Serbia. Yet, Macedonia, which tolerates dual citizenship for those who obtained it by birth, requests all foreigners to renounce their citizenship prior to naturalisation and attest it through a certificate (as opposed to signing a declaration, which is the case in Croatia and Serbia).

By contrast, Bosnia and Herzegovina, Montenegro and Slovenia have more restrictive dual citizenship policies. In the former, following recent legislative changes removing the *ex lege* loss for Bosnians naturalising abroad, the law has moved towards the tolerant end of the spectrum. However, for most categories of applicants, the policy remains restrictive, and dual and multiple citizenships are possible if there is an agreement with the applicant's country of origin. So far, Bosnia and Herzegovina has such agreements with Croatia,⁷ Serbia and Sweden. Similar to the case of Bosnia, Montenegro permits dual citizenship only in cases when an agreement exists with another state, and so far it has concluded one bilateral agreement – that with Macedonia. Negotiations for a reciprocal agreement with Serbia had been on the table for several years before breaking down in 2015 due to the two countries' diametrically opposed approaches to citizenship, their recent political history, Serbia's contestation of Montenegro and the existence of a large organised Serb minority in Montenegro. Hence the preservation of the ethnic balance in a small state is the key reason for Montenegro's restrictive dual citizenship regime, an argument that has also been used to explain the renunciation requirements in Slovenia.

In terms of the different dimensions of citizenship, we see openness in countries that apply naturalisations on grounds of cultural affinity, births, marriage and for expatriates – cases where loyalty is presumed through ethnic belonging or establishment of close links with citizens. The dimension of citizenship where dual citizenship is commonly not allowed is ordinary naturalisation, because in this naturalisation mode loyalty *with the country* is 'built' through residence and socialisation rather than through presumed kinship or relationship *with a person*. With the exception of Kosovo, the post-Yugoslav countries are restrictive in this regard.

Conclusions

Studying citizenship policies along their different dimensions as opposed to looking at the aggregate policy level can help us to better understand the details of the politics of citizenship in the new states of South-Eastern Europe. The regulation of citizenship in the seven states that occupy the post-Yugoslav socio-political space differs significantly and these differences are rooted in the individual states' dynamics of state- and nation-building projects. This paper explored the regulation of the attribution of citizenship at and after birth in these states, taking into account their specific political and institutional set-ups. In particular, it has been highlighted that despite the apparent contestation dynamics in Kosovo and Bosnia and Herzegovina, some aspects of citizenship policies in these two states have been affected by international influences and the neighbouring countries.

Table 8 summarises the analysis of the different dimensions of citizenship policies in the countries studied. A convergence of policies between the contested and consolidated states can be identified in cases of birthright citizenship and citizenship through marriage. Other dimensions show a tendency for citizenship policies to diverge between these two groups of states.

Table 8. Summary table

At birth		After birth				Dual citizenship
In country	Abroad	Ordinary naturalisation	Kinship	Marriage	Former citizen	
Convergence	Divergence	Divergence	Divergence	Convergence	Divergence	Divergence

In all the countries examined, descent is the primary principle for the attribution of citizenship at birth. That is, children born to nationals of the country in which they were born receive citizenship automatically. Only Macedonia requires that the child has no other citizenship, pointing to a restrictive approach to this dimension of citizenship. However, citizenship policies of the post-Yugoslav states diverge in cases of children born abroad to at least one national. Croatia, Kosovo, Macedonia, Serbia and Slovenia generally allow children born abroad to nationals to acquire their citizenship, while Montenegro and Bosnia and Herzegovina do so only if the child would otherwise remain stateless.

In the context of citizenship attribution after birth, the countries show convergence along different policy elements. In states in which state- and nation-building projects are consolidated (i.e., not challenged domestically or externally), citizenship regimes exhibit a number of ethnic elements along different policy dimensions. In particular, if the projection of the nation transcends the state's borders, the state is likely to adopt external citizenship and naturalise foreign residents on grounds of presumed cultural links with the state. The clearest illustrations of these dynamics among the countries under study are offered by Serbia and Croatia, and this is reinforced by their particular position as kin-states to significant minorities in a number of neighbouring countries. In this respect, citizenship policy is also embedded in the states' overall approach to foreign policy towards the neighbouring countries. Ethnically expansive citizenship policies do not, however, feature that prominently in those states in which the cultural imagery of the nation is contained within the state's territorial borders. As in the case of Slovenia, citizenship regimes will display a number of ethnic elements, but will also require individuals to show attachments to territory through mandatory residence and/or exclusive loyalty to the new state through renunciation of another citizenship. Conversely, in countries where the state- and nation-building projects are contested (i.e., the nation-building project promoted by the state, or the state itself, face endogenous or exogenous challenges), citizenship regimes will exhibit fewer ethnic, and more territorial requirements. Examples include the overall approach to the citizenship regime in Montenegro and Bosnia and Herzegovina, and ordinary naturalisation in Macedonia.

In sum, while the regulation of citizenship in the post-Yugoslav space converges or diverges along different dimensions, a significant number of legal provisions are dependent on the dynamics of state- and nation-building. That is, the politics of citizenship are intimately related to nation-building projects and the ways in which they affect statehood. They are also played out in a frame in which international factors and neighbouring countries have a significant impact on the formulation of specific aspects of citizenship policy, such as ordinary naturalisation, admission on grounds of cultural affinity and dual citizenship.

Notes

¹ Nation building and national identities are, however, by no means fixed. Hence a nation-building project that is stable during one period might be contested during another. Yet the expectation is that, should the substance of the nation-building project change to such an extent as to modify statehood, this will inevitably be reflected in citizenship policy.

² The difference in the spelling of ‘ius’ and ‘jus’ in this paper and in Shachar’s work is attributed to the authors’ use of classical and traditional Latin spelling.

³ While Slovenia was excluded from this analysis, the 2015 census results indicate that 83.06 per cent of this country’s population identify as ethnic Slovenes, which places the country in the group of those with consolidated state- and nation-building projects.

⁴ Zakon o kretanju i boravku stranaca i azilu (Službeni glasnik Bosne i Hercegovine, br. 36/08 i 87/12), internet stranica Ministarstva bezbjednosti Bosne i Hercegovine, Služba za poslove sa strancima, <http://www.sps.gov.ba/dokumenti/zakon2012.pdf>.

⁵ Zakon o strancima, pročišćeni tekst zakona, NN 130/11, 74/13, <http://www.zakon.hr/z/142/Zakon-o-strancima>.

⁶ Zakon o strancima, Sluzbeni glasnik RS 97/2008, http://www.paragraf.rs/propisi/zakon_o_strancima.html.

⁷ The dual citizenship agreement between Bosnia and Herzegovina and Croatia has come into force only recently, having been under negotiation for nearly a decade. Almost one-third of the citizens of Bosnia and Herzegovina are holders of a Croatian passport on grounds of cultural affinity with that country. As of 2014, they are also EU citizens and have voting rights in Croatia.

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