

# EU Citizenship as a Mental Construct: Reconstruction of Postnational Model of Citizenship

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The purpose of this paper is to revise essentialist conceptions of the European Union citizenship and European identity, and make a case for a ‘politics of affinity’. This politics is founded on flexible notion of Union citizenship that accommodates multiple identities. The ‘politics of affinity’ avoids homogenizing assumptions and unitary conceptions of European, national, regional and other identities. It promotes diversity, otherness and fluid character of the postmodern European citizenship. It also advocates a more fluid idea of boundaries. The politics of affinity grounds European politics and citizenship discourse on affinity (not identity). The following lines will reflect on the institutional mechanisms, reforms and policies needed for the implementation of the politics of affinity. This paper will focus on the Treaty of Lisbon, the 2004/38 Citizenship Directive, the 2003 Directive on Long-term Residence Third Country Nationals and some ECJ’s rulings in the new millennium.

## Introduction

This paper explores European citizenship presented within the framework of the work of political theorists and political philosophers in the past two decades, on the one hand, and within the framework of European Union law, on the other. It shows that these two conceptions of European citizenship are completely different. A great number of political philosophers and political theorists argue that European citizenship represents the postnational model of citizenship. Postnational citizenship is not tied by fixed borders and identity. It embraces multiple and shifting identities. Elizabeth Meehan argues that: ‘a new kind of citizenship is emerging that is neither national nor cosmopolitan but that is multiple in the sense that identities, rights and obligations associated with citizenship are expressed through an increasingly complex configuration of common Community institutions, states, national and transnational voluntary associations, regions and alliances of regions’ (Ref. 1, p. 1). This new model of citizenship is founded on multiple and complex identities. However, within the EU legal discourse the EU citizenship is still tied

to nationality. It can be concluded that considering the EU citizenship there is a huge gap between theory and practice.

European citizenship is a polyvalent concept, which implies various contradictions. As will be argued in the following lines, the EU citizenship reflects politics of fixed identity, which guarantees rights only to homogeneous groups (and individuals as representatives of these groups). Legal definition of the EU citizenship creates various binary oppositions, such as: EU/non-EU, citizen/stranger (or citizen/third country national, or citizen/refugee etc). Consequently, every research method based on a univocal perspective regarding the concept of EU citizenship is flawed. Research on European citizenship should avoid the search for simple policy solutions as well as methodological approaches centred only on monolithic perspectives. It should go beyond the traditional understanding of citizenship, law and borders as static, fixed and permanent. It should be based on close textual interpretation and the hermeneutical analysis of legal sources. The European context includes a wide range of citizenship models: nested citizenship, diasporic citizenship, cultural citizenship, regional citizenship, traditional citizenship and so forth.

### **The Postnational Concept of Citizenship**

Caporaso<sup>2</sup> compares the European Union to the postmodern state.<sup>3</sup> He describes the postmodern<sup>4</sup> state as fragmented and multileveled. There are three aspects of postmodernity that can be found in the EU: (1) weak core; (2) many spatial locations and (3) multilevel policy based on interconnectedness, not nestedness (Ref. 2, p. 147). According to Caporaso, the central political institutions of the EU can be considered thin. The domestic institutions still play a more significant role in the domain of social policy, citizenship rights and welfare policy, than the political institutions of the EU. Secondly, the EU represents a multileveled polity that includes many different spatial locations. Thirdly, this multilevel polity is not based on the idea of nestedness,<sup>5</sup> but on an interconnectedness that implies interaction ‘among different levels above and below nation-state’ (Ref. 6, p. 512). Van Ham argues that postmodern polities are concerned about individual well-being, prosperity and the improvement of democratic governance. Postmodern polities reject the idea of undialectical border and fixed identity, and are less concerned about state sovereignty (Ref. 7, p. 15) In this way pluralism and the idea of multiple, shifting identities are emphasized.<sup>8</sup> A postmodern polity implies a postnational notion of citizenship that is not fixed by borders nor by essentialist notions of identity. Postnational citizenship should not be defined by nation or culture. This notion of citizenship should embrace challenges of processes of globalization and pluralism. Those processes require a multilayered conception of citizenship founded on the idea of multiple identities.<sup>9</sup>

Postnational citizenship is tied to the existence of global institutions and human rights discourses that challenge the monopoly of the nation-state. Postnational or ‘transnational citizenship is less expansive than its apparent synonyms, world citizenship and global citizenship, and is more clearly cross-border than the term cosmopolitan citizenship. A longstanding normative theoretical tradition calls for “global” or “world” citizenship. In contrast, the term transnational citizenship can refer to cross-border relations that are far from global in scope’ (Ref. 10, p. 177).

Postnational citizenship arises with global political changes, such as globalization and pluralism. Globalization challenges the efficacy, sovereignty and democratic legitimacy of the nation-state. Pluralism erodes the homogeneity of nation-states and refigures the idea of collective identity. Homogeneity of collective identities is also challenged by some contemporary problems such as ecological disasters, organized crime and human trafficking, which transcend borders and cannot be solved by relying merely on the capacity of nation-states.<sup>11</sup> Thus, in some aspects the policy of the nation-states is ineffective. The concept of borders is transformed by the development of global health institutions (such as the World Health Organization), global military force (such as NATO), global economic institutions (such as the International Monetary Fund) and a universal human rights discourse represented by the *Universal Declaration of Human Rights*.<sup>11</sup> Borders became fluid and capacity shifted from national to transnational level. Intensive migrations in the past few decades require a new policy that provides for the equality of individuals and social groups regardless of their race, religion, age, sex, language, and so forth.

Erosion of the national model of citizenship is a consequence of the increased circulation of goods and mobility of working citizens after the Second World War. The national model of citizenship is based on the idea of fixed borders which determine both the state and national identity. In this way, citizenship as membership in a national community and territorial belonging are concordant. Within the framework of the national model of citizenship, citizenship status and rights and duties are ascribed only to individuals as members of the nation. Belonging to the nation is determined by various myths, historical and cultural heritage, ethnic, linguistic and other characteristics. Consequently, the fundamental question: ‘What is a nation?’ cannot be exactly defined, because it is often a matter of policy. ‘Nation’ is a contingent, not an essentialist category. National citizenship served the interests of the modern state. However, contemporary capitalistic corporations are antinational and their interests often contradict the interests of singular states. The traditional order of national citizenship implies uniform citizenship rights and formal equality. Citizenship is perceived as a status ascribed to the individual, whose identity is perceived as rational, stable, coherent and conscious. On the other hand, the postnational model of citizenship implies multiple and complex notions of identity. The postnational condition dissociates nation, identity and state and implies multiple levels of membership in the community. It includes complex systems of rights and duties and different identities (supranational, national, regional, local, personal, etc).

According to Tembini, there are three basic forms of postnational citizenship: (1) postnational membership; (2) European citizenship; and (3) multicultural citizenship. In the following lines the postnational nature of European citizenship will be analyzed. Kostakopoulou argues that EU citizenship as a postnational form of citizenship should be conditioned on domicile. ‘Domicile could easily be propounded as a Community law concept, thereby ensuring uniformity and fairness in the interpretation of the personal scope of Union citizenship throughout the Union’ (Ref. 12, pp. 345–346). EU citizenship based on domicile would embrace a more heterogeneous idea of European identity and the European public.<sup>13</sup> This new conception of EU citizenship requires more fluid notions of identity and space. It embraces the idea of fluid boundaries<sup>14</sup> and politics

based on solidarity, not ethnicized identities. Soysal describes postnational citizenship as a possible combination of citizenship and denizenship, or as based on dual nationality. It presupposes fluidity of identities and boundaries. According to Soysal, the traditional model founded on national citizenship based on nationality can no longer embrace the dynamics of belonging and membership in contemporary Europe (Ref. 15, p. 21).

Kostakopolou derives another conception of postnational citizenship. According to Kostakopolou, ‘developments in the European Union have brought forth the possibility of membership in various overlapping and strategically interacting political communities on supranational, national and subnational levels and have unleashed the potential for rethinking citizenship, community and identity. However, the dynamics of the European Union citizenship have not been fully and properly explored’ (Ref. 12, p. 338). The EU citizenship should be considered a dynamic category that is constantly in a process of flux and change. Thus, it should be perceived as contingent, not essentialist. The content of rights and duties ascribed to citizenship changes over time. This change in the content of rights can also be caused by the development of human rights and different social movements. This dynamic nature of the EU citizenship should be explicitly stated within the EU legal framework. Kostakopolou introduces the concept of ‘constructive citizenship’ that transcends the idea of the nation-state (Ref. 12, p. 338). This conception of citizenship rejects essentialist notions of identity. It embraces multiple identities that include difference. Constructive citizenship is differentiated according to gender, race, class, and so forth. Constructive citizenship implies that the nation-state is no longer perceived as a primary source of identity. Thus, it represents the form of postnational citizenship.

### Soysal’s Conception of Postnational Citizenship

Soysal argues that postnational citizenship is based on personhood, not nationality. She argues that this new mode of citizenship is produced by ‘dialectical tension between national citizenship and universal human rights’ (Ref. 15, p. 164). Individual rights are no longer defined by nation-state. They transcend its borders and become universal. Consequently, ‘the rights of the person transcend those of the citizen’ (Ref. 15, p. 165). Soysal argues that international declarations and charters ascribe rights to all human beings as free and equal individuals. She emphasizes that this perspective is presented in the *Universal Declaration of Human Rights* (1948), the *International Covenant on Civil and Political Rights* (1966) and the *European Convention on Human Rights* (1950). However, Soysal does not recognize that the language of universality and sameness employed in these documents substantively denies heterogeneity and difference. This was clearly explained by Iris Marion Young.<sup>16</sup> According to Young, the modern ideal of citizenship represented in most human rights declarations and conventions perceives equality as sameness, which creates the binary opposition universal/particular, where what citizens have in common is perceived ‘as opposed to how they differ’ (Ref. 16, p. 250). Hence, the modern political ideal of universal citizenship implies that the law is applied to all in the same way, regardless of their differences. In this way, a logic that imposes sameness over difference is created (Ref. 17, p. 7).

Soysal argues that ‘a new and more universal concept of citizenship has unfolded in the post-war era, one whose organizing and legitimating principles are based on universal

personhood rather than national belonging' (Ref. 15, p. 1). According to Soysal, this new post-national concept of citizenship is not exclusionary, because it is not based on nationality, but on a universal concept such as personhood. The notion of personhood implies universal rights that transcend borders. Postnational citizenship is a consequence of transnational human rights discourse. Soysal considers universal human rights and national sovereignty as two basic 'institutionalized principles of the global system.' (Ref. 15, p. 7). The national model of citizenship is based on the idea of fixed borders and essentialist identity. This idea of citizenship is exclusionary because it grants rights only to those individuals who are considered state nationals. It implies a number of binary distinctions such as: we/they, self/other, citizen/stranger, national/non-national, and so forth. On the contrary, the postnational model of citizenship includes both national and transnational actors (Ref. 15, p. 7). In this way, the nation state is not perceived as the primary source of identity any more.

According to Soysal, these two models of citizenship (national and transnational) create 'dialectic tension' (Ref. 15, p. 8). However, it can be argued that Soysal's conception of postnational citizenship also implies dialectic tensions and binary oppositions. Soysal argues that 'the postwar era is characterized by a reconfiguration of citizenship from a more particularistic one based on nationhood to a more universalistic one based on personhood' (Ref. 15, p. 137). She emphasizes that the postnational conception of citizenship is universal, while the national model of citizenship is particular. In this way, she derives the postnational concept of citizenship from the binary opposition universal/particular. Postnational citizenship implies fluid and multiple identities, that transcend binary oppositions. The existence of binary oppositions points to an essentialist understanding of identity. According to Soysal, some major developments in the postwar era led to the reinterpretation of national citizenship. The first concerns the emergence of global institutions and transnational political structures that challenge the nation state monopoly (Ref. 15, p. 144). The pluralism of contemporary societies requires the notion of a citizenship tied to a more fluid notion of identity. The second concerns the emergence of universalist rules of human rights discourse. Soysal argues that: 'International conventions and charters ascribe universal rights to persons regardless of their membership status in a nation-state' (Ref. 15, p. 145).

Article 1 of the *Universal Declaration of Human Rights* states: 'All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.' The idea of personhood presented within the *Universal Declaration of Human Rights* is rational and conscious. It excludes other forms of identity and social groups. Thus, it is universalist and essentialist. Soysal argues that the universal concept of personhood should represent the foundation for the postnational model of citizenship. She emphasizes that 'it is within this new universalistic discourse that the individual, as an abstract, human person, supplants the national citizen' (Ref. 15, p. 164). This idea is flawed and contradicts the basic principles of postnational polity. Postnational perspective implies differentiation and fragmentation of culture, identity, politics and other concepts. It includes 'the decline of "grand narratives" of legitimation in politics and society; the celebration of the idea of difference and heterogeneity; the globalization of culture with telecommunications

networks; the emphasis on flexibility and reflexivity in lifestyle; a decline in the idea of coherence as a norm of personality; and the decline of “industrial society” and its replacement by “postfordism” and “postindustrialism” (Ref. 18, p. 7).

Soysal grounds the postnational model of citizenship on the modernist notion of the self as a rational, conscious, autonomous, unified and stable category. However, this conception of the subject contradicts the postnational model of citizenship that embraces multiple and fragmentary identities. Soysal is aware that a universalist concept of personhood is not compatible with the idea of multiculturalism,<sup>19</sup> but she does not try to transform this point of view. Another problem of Soysal’s conception of postnational citizenship is that it does not transcend dualities such as: global/national, universal/particular, self/other, identity/rights and so forth. She recognizes two principles – the universal principle of human rights that transcends the borders of nation-state, on the one hand, and the particular principle of national sovereignty – that is, ties to fixed borders of the nation state – on the other hand. She represents these two principles as two completely separate and irreconcilable spheres.

Soysal identifies that ‘a growing tendency toward regionalisms (sometimes separatisms) and their recognition by the central states, fragments existing nations and nationalities into infinitely distinct ethnicities and cultural subunits’ (Ref. 15, p. 161). Although she argues that national identity becomes fragmentary and multileveled, she does not apply this point of view to the idea of personhood, which she perceives as universalist. She describes the postnational state as a multiplicity of membership (Ref. 15, p. 164). Although Soysal highlights the multiplicity of membership that embraces global, regional and local identities,<sup>20</sup> she grounds those identities on universalist and essentialist assumptions. In this way they are fixed and do not support pluralism of contemporary societies in a substantive way. She grounds those multiple identities on the universalist, stable, autonomous and fixed notion of personhood and that is why they cannot represent the postnational model of citizenship. Postnational citizenship implies fluid boundaries. Its nature is contradictory to all kinds of binary oppositions. Thus, it resolves discord between universal and particular, global and local, essential and contingent, etc.

### **Policy of Affinity versus Policy of Identity**

The citizenship debate is often turned into a debate about identity. In the history of citizenship studies there are two dominant groups of theorists. Representatives of the first group argue about the essentialist and universalist nature of individuals and social groups, while representatives of the second group argue that individual and group identities are socially and historically constructed. The first group can be considered to subscribe to the modern liberal idea of identity, based on binary oppositions such as: essential./contingent, citizen/stranger, nature/culture and so forth. Both elements of those binary oppositions are perceived as fixed and static. The second group moves towards a postmodern concept of identity as polyphonic, contingent and flexible category. Postmodern thinkers argue that identity is produced by discourse – it is socially and historically constructed. Consequently, identity should be comprehended as heterogeneous, because it includes different voices and perspectives, which are constantly reinterpreted. However, ‘postmodern’ and ‘postnational’<sup>21</sup> are not

synonymous concepts. The postnational state implies multiple identities; however, those identities can still be perceived as homogeneous and fixed. The postmodern idea of identity also implies a polyphonic concept of identity.

However, multiple identities as emphasized by postmodern thinkers are considered heterogeneous and flexible. The postnational state still allows the conflict between personal and social identity, because, as is shown by the example of Soysal's understanding of postnational citizenship, those identities can still be defined as monolithic.<sup>22</sup> In that case, postnational citizenship does not transcend borders or the modernist idea of identity. In the following lines it will be argued that postnational citizenship requires the postmodern idea of identity based on politics of affinity (not stable and essentialist identity).

Soysal's idea of transnational citizenship based on universalist assumptions reflects a politics of identity. The politics of identity arose in the second half of the twentieth century. It implies the struggle for recognition of different social and political groups and movements (feminism, Black civil rights, gay rights, etc). However, the politics of identity homogenizes experiences and narratives of diverse individuals. It aims at developing and strengthening collective identities. It employs various identifiers as instruments of its operationalization. Those identifiers simplify narratives, experiences and characteristics of different social groups and produce stereotypes (Ref. 23, 15). The politics of identity does not transcend power relations and binary hierarchies. It perceives 'gender', 'citizenship', 'class', 'nation', etc as static and essentialist categories. Thus, it denies a voice to certain groups. As an essentialist politics it 'asserts that some relations are more important than others (i.e. the Marxist assumption of class as the defining social and economic category) and therefore have to be taken into account when constructing strategies for political change' (Ref. 7, p. 69).

Postnational citizenship requires a politics of more flexible identity. This model of citizenship should be based on a politics of affinity, which implies otherness and difference. According to Harraway, every form of identity aspires to essentialize and categorize the subject. For this reason, she denies the notion of identity, and replaces it by 'affinity'. Affinity represents a result of 'otherness, difference and specificity' (Ref. 24, p. 156). A politics of affinity is based on the idea that individuals join the group through sharing affect, not ideology. Although identity politics arose as a critique of various forms of oppression,<sup>25</sup> it can be considered essentialist because it is based on unifying arguments. Identity politics gives priority to one, stable form of identity and separates it from all other possible forms. Thus, for example, being a third-country national is perceived completely separable from being a woman. On the other hand, there are often generalizations made about various social groups within the realm of identity politics. In this way, social groups are perceived as homogeneous, which leaves room for various forms of marginalization and discrimination. The politics based on the term 'identity' is often criticized by political philosophers. Indeed, it is not clearly explained by scholars on which idea of identity the politics of identity is founded.<sup>26</sup> Politics of identity only identifies marginalized identities as a result of dominant discourses.

Stychin argues that:

a politics of affinity differs from one centered on a fixed identity in that affinity suggests that the fictions of a homogeneous and totalizing group attribute have been rejected in favor of a recognition that a shared characteristic and experience – which may lead to (or

require) common endeavors – cannot overwhelm the differences that exist between the members of the group. (Ref. 27, p. 112)

Although Stychin argues that a politics of affinity should in the first instance provide the foundation for a European politics of sexuality, it has greater relevance and should represent the ground for entire EU citizenship policy. The politics of affinity does not only emphasize group-based differences, but the differences among the members of the group as well. Stychin claims that the politics of affinity transcends the self/other dichotomy. According to Van Ham, the politics of affinity denies a ‘parochialized, narrow sense of Self’ (Ref. 7, p. 70).

### **The EU Politics as a Reflection of the Politics of Identity**

The following lines will argue that EU citizenship politics does not represent the politics of affinity. Secondly, the EU citizenship still does not represent a postnational model of citizenship, because it is tied to nationalist paradigms and stable and fixed identities and borders. Elizabeth Meehan emphasizes the distinction between citizenship and nationality. She argues that:

nationality is a legal identity from which no rights need arise, though obligations might – as is obvious when nationals are called ‘subjects’. Conversely, citizenship is a practice, a form of belonging, resting on a set of legal, social and participatory entitlements which may be conferred, and sometimes are irrespective of nationality – or denied, as in the case of women and some religious and ethnic minorities, regardless of nationality. (Ref. 28, p. 4)

The traditional account of citizenship has been linked with nationality. However, the supranational political order of the EU requires a new transnational concept of citizenship. A number of critics of European citizenship note that this concept is limited by nationality of the member states. Therefore, European citizenship is a prerogative of the member states. On the other hand, there are some authors who support the opposite point of view – that European citizenship completely separates nationality from citizenship.<sup>29</sup>

The concept of the EU citizenship<sup>30</sup> is defined by Article 8 of the *Treaty of Maastricht*: ‘Every person holding the nationality of a Member State shall be a citizen of the Union.’<sup>31</sup> The *Declaration (No. 2) on Nationality* of a Member State annexed to the *Treaty of Maastricht* states: ‘...the question whether an individual possesses the nationality of a Member State shall be settled solely by reference to the national law of the Member State concerned.’<sup>32</sup> The *Treaty of Amsterdam* (1997) states that national citizenship is complemented and not replaced by EU citizenship. The nature of EU citizenship was not changed by the *Constitutional Treaty* that states that citizenship of the Union is additional to national citizenship (Article 1.10). According to Chryssochoov, the *Constitutional Treaty* was not a path towards the EU as a postnational entity, because the EU citizens are considered sovereign only as nationals of Member States. However, the *Charter of Fundamental Rights* extends EU citizenship to legally resident non-nationals. This does not change the exclusive nature of EU citizenship, because it embraces only nationals of the Member States and legally resident non-nationals and excludes all others.

The European Council at its meeting in Tampere, in October 1999, stated that the status of third country nationals who resided legally for a period of time in a Member

State and who held a long-term residence permit in that Member State should be equated to the status of Member States nationals. However, the idea of ‘the long term resident’ within the EU law discourse is often complex and vague. The Council Directive 2003/109/EC states: ‘The main criterion for acquiring the status of long-term resident should be the duration of residence in the territory of a Member States. Residence should be both legal and continuous in order to show that the person has put down roots in the country.’<sup>33</sup> It could be asked what ‘putting down roots’ in the new country means. This condition is not only dependent on the person who resides in the new country, but also on how this person is treated by the environment and the national legal framework of that country. According to Article 5<sup>34</sup> of the Council Directive 2003/109/EC, Member States will require third-country nationals to provide evidence that they have regular and stable resources that are sufficient to maintain themselves and their families. They should also comply with integration conditions determined by national laws of host Member States. The list of rights guaranteed to third country nationals defined by Article 11 (Equal treatment) is limited. On the other hand, Member States are allowed to restrict those rights with respect to the provisions of paragraph 1.<sup>35</sup> It seems that the rights of third-country nationals are dependent mostly on the host Member States.<sup>36</sup> ‘Member States may limit equal treatment in respect of social assistance and social protection to core benefits’ (Article 11.4, 2003/109/EC). This leaves room for various forms of discrimination. For example, before taking a decision to expel a long-term resident, Member States take into account the age of the person concerned (Article 12.2b, 2003/109/EC).

The list of rights granted to Union citizenship is extended by the *Treaty of Lisbon*.<sup>37</sup> However, this treaty does not lead to postnational citizenship. Article 8 of the *Treaty of Lisbon* states: ‘Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to national citizenship and shall not replace it.’ Citizenship in the *Treaty of Lisbon* is ‘articulated as additionality; previously, citizenship of the Union was expressed as being complementary to national citizenship’ (Ref. 38, p. 2) in Article 17 of the *Treaty on European Union* and in the *Treaty of Amsterdam*. ‘Expressing Union citizenship as additional to national citizenship was insisted upon by the Member States, in order to reinforce the point that EU citizenship can only add rights, and cannot detract from national citizenship’ (Ref. 38, p. 2). According to Shaw, even the EU’s own elections show that the EU citizenship still does not represent a postnational model of citizenship, because they

tend to be fought on the basis of national political platforms by national political parties fielding national candidates, despite the existence of electoral rights for EU citizens under Articles 22(2)(b) and 23 TFEU allowing them to vote on the basis of residence rather than citizenship. Thus, in practice, most of the regulations governing European Parliament elections are national, not European in character.’ (Ref. 39, p. 2)

Kochenov argues that the European citizenship is ‘derivative’, because it is ‘largely left within the virtually exclusive domain of the Member States’ (Ref. 40, pp. 181–182). The Member States decide who their nationals are. Thus, they decide who gains the status of the EU citizenship.<sup>41</sup> This makes the concept of the EU citizenship vague and unclear. Within the legal system of the Member States a unified rule of gaining citizenship does not

exist. Consequently, in some Member States it is easy to gain citizenship status, while in others it is very complicated. The differences between the citizenship laws in the various Member States strongly affect EU citizenship. Those differences are based on different legal and political traditions. Consequently, EU citizenship is merely contingent and mostly depends on where the agent lives.

Nationality as such [...] is effectively 'abolished' within the EU by Article 12 EC.<sup>42</sup> Why would anyone wait eighteen years to naturalize in Finland if it is possible to do the same in Belgium in three years, or in Spain in one, and to acquire the same European citizenship rights, including the right to move to Finland, with your new Belgian, Spanish, or Bulgarian passport and thanks to article 12 EC to be treated there exactly like any Finn would be treated? For third-country nationals residing in the EU it is becoming increasingly irrelevant in which Member State to naturalize. (Ref. 40, p. 183)

Article 8 of the *Treaty of Maastricht* defines who are not the EU citizens. Thus, it creates binary oppositions: EU/non-EU, citizen/stranger, we/they and so forth. However, the *Treaty of Maastricht* does not define who the EU citizens are. It leaves it to the Member States.

The first interpretations of EU citizenship provisions within in the European Court of Justice (ECJ) were very thin.<sup>43</sup> Citizens are mostly perceived as 'economic subjects' long after the *Treaty of Maastricht* is established.<sup>44</sup> Dora Kostakopoulou argues a 'judicial minimalism'<sup>45</sup> during the period 1993–1997' (Ref. 46, p. 245) She emphasizes that those cases reflect a huge gap between European citizenship norms and reality. The ECJ for the first time used the term 'citizenship' to extend the rights of EU citizens in the case *Martínez Sala* [1998] ECR I-2691.<sup>47</sup> According to Hamernik, 'the revolutionary case or saga about European citizenship starts in the decision of European Court of Justice C-85/96 *Martínez Sala v Freistaat Bayern* [1998] ECR-I-2691. *Martínez Sala* was greeted as potential bridge between the orthodoxy of economic rights for economic migrants and the new horizons lit up by comprehensive rights to equal treatment of Union citizens.'<sup>48</sup> Another significant case that extends the scope of the EU citizenship is *Rudy Grzelczyk v. Centre Public d'Aide Sociale d'Ottignies-Louvain-la-Neuve (CPAS)* [2001] ECR I-6193. *Grzelczyk* is a significant judgment because it allows access to social benefits to nationals of other Member States who are lawful residents in that Member State, beyond existing secondary Community law.<sup>49</sup> Some authors argue that the cases of *Grzelczyk* and *Sala* do not represent a substantive change of the exclusionary nature of EU citizenship. Citizens who are economically inactive are required to present proof that they will not depend on the social assistance of the host Member State.<sup>50</sup> The same can be argued for the cases *Trojani*<sup>51</sup> and *Bidar*<sup>52,53</sup> Consequently, rights from EU citizenship are not unconditional. This can be perceived in the case of *Mr. de Cuyper*.<sup>54</sup> 'Mr. de Cuyper was a Belgian citizen who was granted unemployment allowances and also was exempted from the condition to be subject to control procedures, however, only if he stays resident in Belgium to monitor his employment and family situation.'<sup>55</sup> The ECJ in *Case C-413/99 Baumbast and R v. Secretary of State for the Home Department* [2002] ECR I-7091 shows the limited scope of EU citizenship. The ECJ ruled<sup>56</sup>:

A citizen of the European Union who no longer enjoys a right of residence as a migrant worker in the host Member State can, as a citizen of the Union, enjoy there a

right of residence by direct application of Article 18(1).<sup>57</sup> The exercise of that right is subject to limitations and conditions referred to in that provision, but the competent the national courts must ensure that those limitations and conditions are applied in compliance with the general principles of community law and, in particular, the principle of proportionality.<sup>58</sup>

### **EU Citizenship as a Mental Construct: Mental Maps of Keeping in and Keeping out**

In this section a symbolic geography within the European context will be presented. Symbolic geography is founded on mental maps created by various binary oppositions, not geographical borders. According to Todorova,<sup>59</sup> politics creates (symbolic) geography. In this way a dialectical process is created, because the politics itself is affected by the mental maps<sup>60</sup> it had previously created. This means that mental maps are not just the mere reflection of historical, social and economic factors. The idea of mental maps is closely connected to the idea that the nature of social reality is symbolic. The basic presupposition of this point of view is that a mind-independent reality does not exist.<sup>61</sup> Concepts of ‘mental maps’ and ‘mental cartography’ are formulated within the framework of cognitive psychology. Mental maps represent schemes that gather chaotic impressions and representations. Mental maps are not based on mathematical measures, but take into account social, political and moral parameters. The idea of mental mapping is mostly employed in discourse analysis of representations fixed by language. It identifies a symbolic geography, which is founded on subjective and narrative factors (not only objective and structural).<sup>62</sup> This point of view is mostly represented by Anderson,<sup>63</sup> Todorova,<sup>59</sup> Wolff<sup>64</sup> and Foucault.<sup>65</sup> Identifying mental maps of inclusion and exclusion is significant, because it reflects political instrumentalization, which relies on power relations. This point of view leads to an awareness that political and legal discourses should not be essentialized. Mental maps create a symbolic logic of keeping in and keeping out within the European context. If this logic is identified and overcome it can create another form of citizenship perceived as a mental construct. Citizenship as a mental construct is based on the radicalization of the idea that the ‘concepts by which people define who they are – in which they articulate their sense of identity – are all of them concepts without sharp borders, and hence cannot provide a basis for sharp demarcations such as political boundaries between states’ (Ref. 66, p. 78). This form of citizenship presupposes a contingent, porous and shifting concept of borders. However, the EU citizenship is still far away from this perspective, because it is fixed by borders. There are some paradoxes that can be considered as consequences of the EU citizenship policy that is based on the modernist notion of (essentialist) identity and a number of binary oppositions. Those examples show that the EU citizenship is still closely tied to nationality and the matter of the Member States’ laws and policies.

Romanian president Traian Basescu promised hundreds of thousands of Romanian passports to Moldovans. Around 120,000 Moldovans already have Romanian passports and another 800,000 are waiting to have their applications for Romanian passports

approved.<sup>67</sup> Although Romanians and Moldovans live in two separate countries, Romanian president Traian Basescu emphasizes that they represent one nation.<sup>67</sup> However, according to polls two thirds of the Moldovans want to be part of the EU and they do not support reunification with Romania. Only 2% identify themselves as Romanian.<sup>67</sup> Spain granted permanent residency and the right to work to 600,000 irregular migrants. Poland offered citizenship to one million ethnic Poles in Russia, Belarus, Kazakhstan and Ukraine. Finally, Warsaw feared the possible complications in joining the EU's Schengen zone. Thus, ethnic Poles were granted a 'Polish Card' in 2007.<sup>68</sup>

The *EUDO Citizenship Observatory* reports that Slovakia and Hungary transformed their citizenship laws on 26 May, 2010. 'In Hungary an overwhelming majority of parliamentarians voted for offering persons with Hungarian ancestry access to Hungarian citizenship without asking them to renounce their present citizenship and without requiring that they take up residence in Hungary. The addressees of this new opportunity are up to 2.5 million Hungarian linguistic minorities living mostly in Slovakia, Romania and the Serb province of Vojvodina.'<sup>69</sup>

Some other EU member states also offer citizenship status to persons whose ancestors were citizens. According to Bieber, those citizenship laws support ethno-nationalist perspectives.<sup>70</sup> They are based on the idea of citizenship tied to ethnic identity. However, in reality, this attempt is often subverted. Ethnicity and patriotism are often not motives for those who accept citizenship status. Many Bosnian citizens who accepted Croatian citizenship (before visa-free travel was granted to Bosnia and Herzegovina in 2010) did not consider themselves Croatians, but saw an opportunity to receive a passport that could help them travel in the EU countries. In this way, a distinction between Bosnian citizens who hold dual citizenship (both Bosnian and Croatian) and those who do not is formed. This distinction forms a number of binary oppositions such as: mobile/immobile, national/transnational, Bosnian/Croatian, non-EU/EU, and so forth.

A similar argument can be made about Macedonians who are granted Bulgarian citizenship. Most of them do not consider themselves Bulgarians, but took the opportunity of receiving a Bulgarian passport. Although Macedonia is part of the EU visa liberalization programme, it is not a EU Member State. Consequently, holding a Bulgarian passport certainly means more rights. However, the consequence of this situation is numerous distinctions and hierarchies between Macedonian citizens. Thus, a new symbolic geography is formed based on those binary oppositions, not geographical borders.

### Conclusion

This paper argues that the European Union represents a postmodern polity, which requires a postnational notion of citizenship. Postnational citizenship embraces diverse identities and cannot be institutionalized through a politics of identity that is based on the modernist notion of fixed and essentialist identity. Politics of affinity offers a dynamic and fluid notion of citizenship, while the politics of identity equates citizenship with 'nation', 'borders', 'gender', 'ethnicity', etc, perceived as fixed categories. This paper shows that the EU citizenship politics still represents the politics of identity, because it ties citizenship to nationality and borders. Consequently, there is a big gap between

theory (represented by academics who argue about the necessity of the emergence of postnational citizenship) and practice (citizenship defined by EU legal and political discourse).

### Acknowledgement

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### Notes and References

1. E. Meehan (1993) *Citizenship and the European Community* (London: Sage) .
2. J.A. Caporaso (1996) The European Union and forms of state: Westphalian, regulatory or postmodern? *Journal of Common Market Studies*, **34**(1).
3. Caporaso examines the European Union in the light of three state forms – the postmodern state, the Westphalian state and regulatory state.
4. According to van Ham, 'postmodernism offers a new, radical intellectual and political agenda. Its rejection of boundaries of any kind, whether as means of physical demarcation (separating peoples between "us" and "them") or as intellectual ordering devices (distinguishing between academic disciplines) should be read as a means to overcome modernist mechanisms of marginalization and exclusion of peripheral voices: the poor, women and children, racial and other minorities, artists and youth and other sub-cultures, as well as academic endeavors that try to go beyond the well-trodden path of orthodox discourse. It is broadly interdisciplinary in approach and denies that any particular methodology is better than another [...] As a result, postmodernism does not acknowledge monological interpretations of reality, rejects unifying and dominant actors like the nation-state.' P. Van Ham (2001) *European Integration and the Postmodern Condition: Governance, Democracy, Identity* (London & New York: Routledge), p. 16.
5. "'Nestedness" implies the traditional federal (territorial) principle by which smaller units (counties, states, provinces, cantons) are situated within larger units.' C. Closa (1995) Citizenship of the union and nationality of member states. *Common Market Law Review*, **32**, pp. 511–512.
6. C. Closa (1995) Citizenship of the union and nationality of member states. *Common Market Law Review*, **32**.
7. P. Van Ham (2001) *European Integration and the Postmodern Condition: Governance, Democracy, Identity* (Routledge: London & New York).
8. 'This goes hand in hand with a perceived loss of the sense of a shared historical past, which may in turn open up possibilities of forging more inclusive identities going beyond the rigid confines of the national-state. The interconnectedness of the world also makes it difficult for individual states and societies to sustain possible illusions and fantasies of 'national superiority' and uniqueness.' P. Van Ham (2001) *European Integration and the Postmodern Condition: Governance, Democracy, Identity* (London & New York: Routledge), p. 15.
9. 'Given the proliferation of legal statuses in Europe-among others, (Member State) national, dual national, European citizen, third-country national, resident,

- permanent resident – traditional notions of citizenship are simply not the correct standard against which to measure the actual context of European citizenship.’
- E. Horváth (2008) *Mandating Identity: Citizenship, Kinship Laws and Plural Nationality in the European Union* (the Netherlands: Kluwer Law International Horváth), p. 97.
10. J. Fox (2005) Unpacking ‘transnational citizenship’. *Annual Review of Political Science*, **8**.
  11. J. Habermas (2001) *Postnational Constellation: Political Essays* trans. and ed. by M. Pensky (Cambridge, MA: MIT Press).
  12. T. Kostakopoulou (1996) Towards a theory of constructive citizenship in Europe. *Journal of Political Philosophy*, **4**(4).
  13. ‘In such a public, individuals can participate as individual citizens and members of communities or groups which have equal status in the public sphere – they can take action both as citizens and as black citizens, or gay citizens, or old age pensioner citizens. This will free the European demos from the grip of nationality, without at the same time postulating an abstract, undifferentiated collectivity.’ T. Kostakopoulou (1996) Towards a theory of constructive citizenship in Europe. *Journal of Political Philosophy*, **4**(4), p. 346.
  14. Boundaries can be perceived as constructed (determined by feeling and belief), not fixed.
  15. Y. N. Soysal (1994) *Changing Citizenship in Europe: Remarks on Postnational Membership and the National State* (Chicago: University of Chicago Press).
  16. I. M. Young (1989) Polity and group difference: a critique of the ideal of universal citizenship. *Ethics*, **99**.
  17. S. Benhabib (1994) Democracy and difference: reflections on the metapolitics of Lyotard and Derrida. *Journal of Political Philosophy*, **2**(4).
  18. E. F. Isin and P. K. Wood (1999) *Citizenship and Identity* (London, New Delhi: Sage Publications).
  19. Soysal argues: ‘What is ironic is that the preservation of particularistic group characteristics – such as language, a customary marker of national identity – is justified by appealing to universalistic ideas of personhood.’ Y.N. Soysal (1994) *Changing Citizenship in Europe: Remarks on Postnational Membership and the National State* (Chicago: University of Chicago Press), p. 154.
  20. Soysal states: ‘Turkish migrants in Berlin represent an example of this emerging form of membership (so, for that matter, do Moroccans in Paris, Pakistans in London, and Surinamese in Amsterdam). As foreign residents of Berlin, Turkish migrants share a social space with foreigners from other countries and with German citizens. They pay taxes, own businesses and homes, work in factories and in the service sector, receive welfare, rent government-subsidized apartments, and attend schools. They form political associations, join unions and political parties, organize protests, formulate platforms, and advance claims. Either selectively or concurrently, they invoke, negotiate, and map collective identities as immigrant, Turk, Muslim, foreigner, and European.’ Y. N. Soysal (1994) *Changing Citizenship in Europe: Remarks on Postnational Membership and the National State* (Chicago: University of Chicago Press), p. 166.
  21. Or, even, supranational.
  22. This is also characteristic of modern idea of identity, which is described in Kafka’s novels. Kafka describes impossibility of reconciliation of personal and social identity, and that is why in most of his novels the main character dies.
  23. B. Stojković (2002) *Identitet i komunikacija*, Belgrade, Fakultet političkih nauka, Čigoja štampa.

24. D. Harraway (1991) A cyborg manifesto: science, technology and socialist-feminism in the late twentieth century. *Simians, Cyborgs and Women* (New York: Routledge).
25. According to Sonia Kruks: 'What makes identity politics a significant departure from earlier, preidentrian forms of the politics of recognition is its demand for recognition on the basis of the very grounds on which recognition has previously been denied: it is a qua woman, qua blacks, qua lesbians that groups demand recognition. The demand is not for inclusion within the fold of "universal human kind" on the basis of shared human attributes; nor is it for respect "in spite of" one's differences. Rather, what is demanded is respect for oneself as different.' S. Kruks (2000) *Retrieving Experience: Subjectivity and Recognition in Feminist Politics* (Ithaca, NY: Cornell University Press), p. 85.
26. Richardson *et al.* argue about four notions of the self: (1) traditional notion, based on the idea of moral responsibility; (2) modern notion founded on the idea of conscious, rational and unitary subject; (3) postmodern notion which emphasizes discursive constructedness of the self and (4) dialogical notion which contains all three ideas of the self: pre-modern, modern and postmodern. F. C. Richardson, A. Rogers and J. McCaroll (1998) Toward a dialogical self. *American Behavioral Scientist*, **41**(4).
27. C.F. Stychin (2001) Disintegrating sexuality: citizenship and the EU. In: R. Bellamy and A. Warleigh (ed.) *Citizenship and Governance in the European Union* (London & New York: Continuum).
28. Meehan E. 2000. Citizenship and the EU. Discussion Paper C 63, Bonn, Centre for European Integration Studies.
29. According to Horváth, 'the political community – circumscribed by state borders – is no longer linked to the territory in which rights may be exercised. Instead, the territory of rights spreads far beyond the territory of the community. Thus, Member State nationals enjoy a number of citizenship rights (free movement and residence, non-discrimination, etc.) throughout the Union that used to be limited to the nation state [...] As a corollary [...], it is not only nationals who enjoy certain rights in the territory of the Member State, but a much larger group, including European citizens and extending, through the Long-Term Residence Directive, to third-country nationals legally residing in a Member State. The citizenship-nationality link that formed the basis of the nation state has thus been broken. Because of this development [...], it is not the members of the given political community who determine the content of applicable rights, but a supra-state entity, namely, the European Union.' E. Horváth (2008) *Mandating Identity: Citizenship, Kinship Laws and Plural Nationality in the European Union* (the Netherlands: Kluwer Law International), 980.
30. The rights guaranteed to the EU citizens are: right to move and reside freely within the territory of the Member States (Article 8a); 'the right to vote and to stand as a candidate at municipal elections in the Member State in which he resides under the same conditions as nationals of that state' (Article 8b), 'the right to petition the European Parliament in accordance with Article 138d' (Article 8d), the right to 'apply to the ombudsman' (Article 8d). 'Every citizen of the Union shall, in the territory of the third country in which the Member State of which he is a national is not represented be entitled to protection by the diplomatic or consular authority of any Member State on the same conditions as nationals of the State.' (Article 8c).
31. 'The Doctrine was reiterated by the Solemn Declaration of the Birmingham European Council, highlighting the point that citizenship of the Union brings the citizens additional rights and protection without in many ways taking place of their

- national citizenship. The doctrine was furthermore confirmed by the Edinburgh European Council Decision, of which Section A states that provisions on citizenship of the Union do not in any way take the place of national citizenship. This Decision was accompanied by a unilateral Danish Declaration on Citizenship stating that “citizenship of the Union in no way in itself gives a national of another Member State the right to obtain citizenship or any of the rights, duties, privileges or advantages that are inherent in Danish citizenship.” C. Closa (1995) Citizenship of the union and nationality of member states. *Common Market Law Review*, **32**, pp. 511–512.
32. The *Declaration (No. 2) on Nationality* of a Member State, Available at: [europa.eu/abc/treaties/archives/en/entr10htm/](http://europa.eu/abc/treaties/archives/en/entr10htm/)
  33. ‘Provision should be made for a degree of flexibility so that account can be taken of circumstances in which a person might have to leave the territory on a temporary basis’ (Council Directive 2003/109/EC, para. 6).
  34. ‘Conditions for acquiring long-term resident status’.
  35. Article 11.1 of Directive 2003/109/EC.
  36. ‘Member States may decide to grant access to additional benefits in the areas referred to in paragraph 1. Member States may also decide to grant equal treatment with regard to areas not covered in paragraph 1’ (Article 11.5, Directive 2003/109/EC). ‘Member States may take a decision to expel long-term resident solely where he/she constitutes an actual and sufficiently serious threat to public policy or public security’ (Article 12.1, 2003/109/EC).
  37. ‘Citizens are directly represented at the Union level at the European Parliament’ (Article 8A.2). ‘Every citizen shall have the right to participate in the democratic life of the Union’ (Article 8A.3). ‘Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European Commission, within the framework of its powers to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties’ (Article 8B.4).
  38. J. Shaw (2008) The treaty of Lisbon and citizenship. *European Policy Brief*.
  39. J. Shaw 2010. Citizenship: contrasting dynamics at the interface of integration and constitutionalism. *EUI Working Papers*, EUDO Citizenship Observatory.
  40. D. Kochenov (2008/2009) European citizenship and the difficult relationship between status and rights. *Columbia Journal of European Law*, **15**.
  41. Kochenov emphasizes that ‘such practice is not without limitations, however. As spelled out by ECJ in *Micheletti*, any decision of a Member State related to that state’s nationality, should be taken with “due regard to Community law.” At the same time the Member States are not given any discretion as far as regulation of the nationality of any other Member State is concerned.’ D. Kochenov (2008/2009) European citizenship and the difficult relationship between status and rights. *Columbia Journal of European Law*, **15**, 182.
  42. Article 12 of the *Treaty on European Union* states that ‘without prejudice to any special provisions contained [in this Treaty], any discrimination on the ground of nationality shall be prohibited.’
  43. See the cases: 214/95 Boukhalfa v. Bundesrepublik Deutschland [1996]=CR I-2253; the joined cases 65 and 111/95 The Queen v. Secretary State for the Home Department ex parte Shingara and Radion [1997] ECR I-3341; the joined cases C-64 and 65/96, Land Nordrhein-Westfalen v. Kari Uecker, Vera Jacquet v. Land Nordrhein-Westfalen [1997] ECR I-3171.
  44. However, inside the framework of the *Treaty of Rome*, EU citizens are perceived merely as economic subjects.

45. 'Although European judges knew that Union citizenship was not a market citizenship, they, nevertheless, embarked upon a process of "adaptive stabilization" of its meaning. In *Uecker and Jacquet*, the Court ruled that Article 8 was not intended to alter the scope *ratione materiae* of the Treaty so as to cover internal situations. [...] ... In *Stober and Pereira* the Court saw Article 52 EC, coupled with Reg 1408/71, as the key Article in deciding that German legislation, which required the children of self-employed workers to reside in Germany in order to qualify for dependent children's allowance, was incompatible with the Treaty. In *Kremzow*, European citizenship was invoked, but without success. The Court confirmed its treatment of purely internal situations by ruling the sentence of imprisonment imposed on *Kremzow* by an Austrian criminal court did not fall within the scope of the application of the Treaty.' D. Kostakopoulou (2005) Ideas, norms and European citizenship: explaining institutional change. *The Modern Law Review Limited*, **68**(2), pp. 244–245.
46. D. Kostakopoulou (2005) Ideas, norms and European citizenship: explaining institutional change. *The Modern Law Review Limited*, **68**(2).
47. 'The case concerned a Spanish resident in Germany who whilst unemployed claimed a German child-benefit allowance. Under German social security law, her application was refused because she was not in a possession of a valid residence permit. The Court did not accept this limiting condition [...] ... lawful and authorized residence in another Member State by the national of one of the Member States is sufficient, alone, to bring a person within the personal scope of the Community law. This the contribution of the concept of Union citizenship as universal ascription to all nationals of the Member States, regardless of economic status.' I. Bulvinaite (2003) Union citizenship and its role in the free movement of persons regimes. *Web Journal of Current Legal Issues*, **5**, p. 4. Available at: <http://webjcli.ncl.ac.uk/2003/issue5/bulvinaite5.html>
48. O. Hamernik (2007) On EU citizenship in the light of objective justification of national rules in the ECJ case-law, [www.enlsyn.gr/papers/...Paper%20by%20%Pavel%20Hamernik.pdf](http://www.enlsyn.gr/papers/...Paper%20by%20%Pavel%20Hamernik.pdf)
49. Rudy Grzelczyk (2001) EU Case Law, 2001, <http://www.eucaselaw.info/rudy-grzelczyk-2001/>
50. According to Van der Mei: 'Economically inactive can still be required to present proof that they will not become a burden on the host of State's social assistance schemes. Grzelczyk does not imply recognition of a general unconditional right to freedom of movement. The ruling merely implies that Union citizens who have initially convinced the host State's authorities that they are able to provide for themselves but who, contrary to initial expectations, become temporarily in financial need do not automatically lose their right to reside. Secondly, Grzelczyk does not necessarily imply that Community students can actually claim social assistance in the host state. The ruling merely implies that Community students can claim social assistance benefits where, and under the same conditions as, national students have right to such benefits. National social assistance laws, however, may contain eligibility criteria, which students often are not able to meet [...] Further, Article 12 (1) of EC Treaty does not object to national rules which make entitlement to social assistance and other minimum subsistence benefits subject to requirements of habitual residence or domicile on the national territory.' P. Van Der Mei Free movement of person within European Community. In P. Hamernik and O. Hamernik On EU citizenship in the light of objective justification of national rules in the ECJ case-law, [www.enlsyn.gr/papers/...Paper%20by%20%Pavel%20Hamernik.pdf](http://www.enlsyn.gr/papers/...Paper%20by%20%Pavel%20Hamernik.pdf)

51. Case C-456/02 Trojani, judgement of 7 September 2004.
52. Case C-209/03 Bidar, judgement of 15 March 2005.
53. 'Trojani had no community right to reside since he could not support himself but it appeared that he has been lawfully resident under Belgian law. That was sufficient for the Court to decide that his right arose from Article 18 and to bring the equal treatment requirements of the Treaty into play in terms of his entitlement to the minimex. On the other hand in the Bidar case the Court has accepted the residence right of a French student who had completed his secondary education in the UK and his entitlement to student grant. The Court after accepting the direct applicability of Article 18 EC was able to arrive at such broad conclusions mentioned above.' H. Göçmen (2008) Does the concept of European citizenship lack content? *GAU Journal of Social and Applied Science*, 2(4), 61.
54. C-406/04, 18.07.2006.
55. O. Hamernik On EU citizenship in the light of objective justification of national rules in the ECJ case-law, [www.enelsyn.gr/papers/...Paper%20by%20%Pavel%20Hamernik.pdf](http://www.enelsyn.gr/papers/...Paper%20by%20%Pavel%20Hamernik.pdf)
56. Para 3 of the judgment.
57. The right to move and reside freely in the Member States (Article 18 EC).
58. Quoted in I. Bulvinaite (2003) Union citizenship and its role in the free movement of persons regimes. *Web Journal of Current Legal Issues*, 5, <http://webjcli.ncl.ac.uk/2003/issue5/bulvinaite5.html>
59. M. Todorova (1997) *Imagining the Balkans* (New York: Oxford University Press).
60. 'Mental maps incorporate elements of the meaning people attach to spatial configurations, the loyalties they hold, the emotions and passions that groupings evoke, and their cognitive ideas about how the world is constructed.' J. S. Migdal (2004) Mental maps and virtual checkpoints: struggles to construct and maintain state and social boundaries. In Joel S. Migdal (ed.) *Boundaries and Belonging: States and Societies in the Struggle to Shape Identities and Local Practices* (New York: Cambridge University Press), p. 7.
61. Representatives of this point of view within philosophy of science are nirealists: Laudan, Fine, van Fraassen, etc.
62. M. Subotić (2007) *Na drugi pogled: Prilog studijama nacionalizma* (Belgrade: Institut za filozofiju i društvenu teoriju).
63. B. Anderson (1983) *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London, New York: Verso).
64. L. Wolff (1994) *Inventing Eastern Europe: The Map of Civilization on Mind of the Enlightenment* (Stanford: Stanford University Press).
65. M. Foucault (1979) *Discipline and Punish: The Birth of the Prison*, translated by A. Sheridan (Harmondsworth: Penguin).
66. O. O'Neill (1994) Justice and boundaries. In: C. Brown (ed) *Political Restructuring in Europe: Ethical Perspectives* (London: Routledge).
67. Bidder B. 2010. Romanian passports for Moldovans: entering the EU through the back door. Available at: [www.spiegel.de/international/europe/](http://www.spiegel.de/international/europe/)
68. This card guarantees limited rights to access to healthcare, cheap bus pass and a refund of visa costs.
69. R. Bauböck (2010) Dual citizenship for transborder minorities. Available at: [www.eudo\\_citizenship.eu/citizenship.../](http://www.eudo_citizenship.eu/citizenship.../)
70. F. Bieber (2010) Dual citizenship can be a solution, not a problem. Available at: [www.eudo\\_citizenship.eu/citizenship.../](http://www.eudo_citizenship.eu/citizenship.../)

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