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## EUROPEAN CITIZENSHIP FOR INCLUSIVE EUROPE

### ABSTRACT

*Citizenship is a key factor of any political community and the main criterion of its evaluation. The way a citizen is treated by polis, rights she/he possess, a real recognition of individual freedom and equality reflect the very nature of the polity she/he is a member. Within Union citizenship the crucial right is free movement of persons, which is a precondition of majority of other rights. Seen from this perspective, the idea of European citizenship appears as a concept which has very serious limitations. There are few groups of Union citizens, or people that should be treated as Union citizens, who cannot fully enjoy this right and by the same cannot feel as real members of the European Community. These are: citizens of new member states who joined the EU in 2004, long-term third-country nationals, economically non-active citizens of EU-15. A new form of European citizenship, which combines post-national and multicultural model of citizenship, seems to be a potential answer to the crucial needs and challenges Europe is facing nowadays. Moreover, the new European citizenship appears as a model for democratic community where all citizens are treated equally, which means that they have universal rights as well as rights relevant to their group differences. Also, it seems to be a precondition of «inclusive Europe», which is open to others.*

### INTRODUCTION

There is a growing interest in the idea of European citizenship over the recent years which is mainly the result of the political

developments in the old continent. Firstly, the liberation of Central-Eastern Europe from the Soviet bloc paved the way to their accession to the EU in 2004. As a consequence, the citizens of Central and Eastern Europe have become the citizens of the EU. Secondly, the present stage of European integration marked by the Maastricht, Amsterdam and Nice treaties was followed by rejection of the Constitutional Treaty in the French and Dutch referenda in 2005. Thirdly, the increasing number of immigrants coming to Europe from different parts of the world creates problems for European states and citizens. These developments pose the most important challenge to the privileges and rights of the Western societies, which were preserved and enhanced by the concept of Union citizenship. This process exacerbates the conflict between the universalistic principles of constitutional democracies and the particularistic claims of communities to preserve the integrity of their ways of life<sup>1</sup>.

Apart from these three phenomena there are some internal issues visible at the national level, that in a way undermine the traditional idea of citizenship. Unemployment creates a gloomy perspective for millions of people by excluding them from a sense of full participation in the civil society. Another problem is the conflict between the rights of citizens and the overwhelming power of the contemporary state and private corporations. The question at stake includes the rights to privacy in the context of accumulation of electronic data on individuals and the right to employment in a situation when the state economy is increasingly dependent on international financial markets.

Moreover, interest in citizenship has also been intensified by the rising profile of «new social movements», which include the feminist and gay rights activities and groups which represent ethnic and national minorities. These movements are put under the question ideas of rights and identities as they are comprehended and defined within traditional/national environment. It appears that national citizenship is being undermined by globalisation, on the one hand, and by the local forces, on the other. Actually, these two forces are intertwined. Local groups are inclined to express their identity more forcefully as global pressures seem to threaten them. It is not by chance, that the process of European integration has another side, mainly it is accompanied by a growth of nationalistic and populist movements being opposed to the idea of integration and

enlargement. These developments undermine the stability of the state and thereby put its civic and democratic element under the question.

#### CONCEPT OF CITIZENSHIP

Citizenship is a key factor of any political community and the main criterion of its evaluation. In a reference to the wisdom of Aristotle it should be argued that citizenship is a hallmark, a measure of a polity and a yardstick of human condition in a society. The way a citizen is treated by *polis*, rights she/he possess, a real recognition of her/his freedom and equality reflect the very nature of the polity she/he is a member. According to Aristotle «happines of a polity is identical with happiness of each individual belonging to it. And polity is a community of equals aiming at the best possible life»<sup>2</sup>.

Moreover, in citizenship, understood as a search for a responsible, equal and free life, the idea of European democracy is contained, because the main principle of a democratic state is freedom, equality and justice. Citizenship is the idea which constitutes the political; it is a constitutive idea of European democracy<sup>3</sup>. And the crucial feature of any democracy are rights of man and citizen. If they do not refer to all members of the community it cannot be named democracy, though formal procedures are respected<sup>4</sup>.

Generally, citizenship means a special kind of direct relationship – usually defined by certain rights and obligations – between an individual and a political community. The status of citizenship refers only to individuals and not to any group of people like classes, minorities, etc. On the other hand, a political community should be conceived in a very broad sense, as an entity rooted in different geo-political and historical environments. The classical examples of these various polities are the Greek city-state, the Roman empire, Feudal Europe, the modern nation-state, regional polities such as the European Union and *cosmopolis*<sup>5</sup>.

The concept of citizenship involves formal and substantial aspects. The formal dimension has a legal character and determines to which individuals and under which conditions the status of citizenship is awarded<sup>6</sup>. It therefore determines who is *in* and who is *out*; who is a proper member of the polity with ascribed rights and duties and who is not. Thus, citizenship excludes certain groups of

people who are defined legally as not part of the political community. Throughout European history the group of excluded included slaves, women, children in ancient Greece, workers, the poor, criminals and non-nationals in modern nation-states.

The substantial dimension of citizenship involves rights and duties conferred upon individuals of a particular political community. Usually the duties include military service and liability to taxation, but also less formalistic duties such as giving loyalty, support and legitimisation to the polity<sup>7</sup>. In the context of European modernity it was the national belonging which determined the formal aspect of citizenship in the nation-state whereas the substantial content developed together with different phases of capitalism.

#### EUROPEAN UNION CITIZENSHIP

The discussion that preceded and followed the adoption of the Maastricht Treaty allows to distinguish several objectives being the prerequisite of European citizenship. Firstly, Union citizenship was designed to improve the status of national residents in a member state other than their own behind the position of privileged aliens. In other words, the concept of Union citizenship emerged originally in reference to free movement of persons. Free movement of economically active persons and their families was a precondition of an effective internal market. For this purpose it was necessary to remove all obstacles and introduce new rights which would make the free movement more attractive. As is stated in Article B of the Maastricht Treaty, one of the objectives of the European Union is to «strengthen the protection of the rights and interests of the nationals of the member states through the introduction of a citizenship of the Union». This provision should be understood in the light of the European Parliament's *Imbeni Report*, according to which «the process of making citizenship of the Union a reality must be understood by citizens of the member states as a better guarantee that they will effectively enjoy the right to work, a decent standard of living (minimum wages, health care, right to housing, etc.) and environmental protection»<sup>8</sup>. Thus, the principal objective remained economic and the rights which EU citizens enjoyed were firmly linked to the Community's economic issues. At the end, the rationale

behind the new institution was the successful integration of the worker and his family into the host member state with a view to promoting free movement and minimising the effect of restrictions on it<sup>9</sup>. Therefore, free movement of persons is an essence and primordial objective of Union citizenship. It is the right which enables to enjoy other entitlements resulting from the concept of Union citizenship.

Secondly, the status of Union citizenship was intended to reduce the «democratic deficit» that had arisen: 1) because of transfers of sovereignty to the Community level where decisions are taken in secret and often by the unaccountable Council; 2) due to the still rather minor role of the European Parliament, the only Community institution directly and democratically elected, but one with comparatively marginal involvement in the EU legislative process; 3) because the executive power of the Community lies exclusively with the Commission and Council<sup>10</sup>. The third objective was to build up a European identity that would enhance the social legitimacy of the European integration programme.

In order to realise these objectives the Maastricht Treaty provides the provisions according to which: every citizen of the Union shall have the right to move and reside freely within the territory of the member states, subject to the limitations and conditions laid down in the treaty (Article 18); every citizen of the Union residing in a member state of which he is not a national shall have the right to work and to stand as a candidate at municipal elections as well as elections to the European Parliament under the same conditions as nationals of that state (Article 19); every citizen of the Union shall, in the territory of a 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 authorities of any member state on the same conditions as the nationals of that state (Article 20); every citizen of the Union shall have the right to petition the European Parliament and apply to the Ombudsman. It is important to emphasize that these two rights are conferred not only on citizens of the Union but also on any natural and legal person residing or having his/her registered office in a member state (Article 21).

These rights were completed by several provisions in the subsequent treaties, but it has to be stressed that the core of Union citizenship was defined by the Maastricht Treaty. Moreover, the rights envisaged within Union citizenship should be interpreted in

the context of the two provisions:

– Article F(L) TEU: the Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms;

– Article 6 EU: within the scope of application of this treaty and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited.

Taking into account the objectives of Union citizenship and the provisions of the Maastricht Treaty referring to it, it should be emphasized that the fundamental right envisaged within this institution is free movement of persons. On the one hand, free movement of persons is a crucial objective of Union citizenship and on the other it is the right which is a precondition of other privileges.

### *Exclusive European Citizenship*

Seen from the perspective of free movement of persons the idea of European citizenship appears as a concept which has very serious limitations. There are few groups of Union citizens, or people that should be treated as Union citizens, who cannot fully enjoy this right and by the same cannot feel as real members of the European Community.

### *Citizens of the New Member States*

According to the Accession Treaty, signed between the European Union and ten new members that joined the Community in 2004, a transitional period of maximum seven years (in the system 2+3+2) was imposed in which Community law relating to free movement of workers does not apply fully across the enlarged EU. During the transitional period, workers of the «new» member states (except Cyprus and Malta) face restrictions regarding access to the labour markets of the «old» EU. Originally, only the United Kingdom, Ireland and Sweden opened their labour market to the new member states<sup>11</sup>.

The main arguments used for the introduction of transitional periods concerned the fear of invasion of workers from the Central and Eastern Europe after their accession to the EU and that it would have a negative impact for the employment and the whole economy of the old member states. Actually, they were not convincing during

the time of accession negotiations, because they were based on mistaken assumptions and economic predictions. This was proved two years later by the European Commission Report of February 2006<sup>12</sup> that shows that, contrary to any expectations, workers' mobility from the new member states to the EU-15 has had mostly positive effect and has been in most countries less important than foreseen. Moreover, workers from the Central and Eastern Europe contributed to relieve labour shortages and to better economic performance of the EU. UK, Ireland and Sweden, which have not introduced restrictions, have identified high economic growth, a drop of unemployment and a rise of employment respectively. And for the EU as a whole, flows of workers have been rather limited.

Thus, the introduction of transitional periods was not legitimate and rationally founded<sup>13</sup>. Moreover, restrictions imposed on the new members are contradictory to the foundations of internal market – based on the free movement of goods, capital, services and people. Additionally, they are contrary to the very goals of the European Union adopted by the European Council during IGC 1996, which planned to build a more democratic and «an ever closer Union of citizens». It would be difficult to combine these restrictions with the programme of bringing Union closer to its citizens. And finally, exclusion of the new members from the work market of majority of the EU-15 is against the fundamental European values. According to Vaclav Havel: «there are some values which can be subjected neither to the interest of a state nor to the economy. Among them are: equality and dignity of all citizens». In other words, human and citizen rights should be first, then is an interest of economy and community.

### *EU Citizens Not Engaged in Economic Activity*

The right of free movement of persons (Article 18 TEC) is subject to limitations and conditions which are not mentioned in the treaty, yet contained in secondary legislation, which were adopted to give effect to the treaty. The introduction of European citizenship was followed by the adoption of the specific secondary legislation referred to it. Therefore the existing community legislation is responsible for the realisation of the right of free movement. Especially, the reference must be made to three directives adopted by the Council in 1990. These directives, providing the rights of

residence for retired persons (Directive 90/364), students (Directive 93/96), and persons who have ceased their economic activity (Directive 90/365) state that these groups of EU citizens in order to enjoy freedom of movement have to possess sufficient subsistence resources and proper health insurance. These regulations are meant to ensure that these groups of people and their families will not become a financial burden of the social system of the host member state. The sufficient resources may be higher than the level at which the host member state grants social assistance to its own nationals or higher than the level of minimum pension<sup>14</sup>. As a result, those member states which plan their social assistance more generously in comparison to others «will be able to exclude nationals who, although above the subsistence minimum in their country of origin, still possess fewer resources than social assistance minimum in the state in which they wish to apply for residence»<sup>15</sup>. This is why these three documents were named «the playboys' directives». Contrary to the opinion of the Court of Justice, each member state ultimately determines the scope of EU citizens eligible to the free movement provisions. This practice is a result of a policy to protect public funds and to prevent citizens of another member state to be the burden of the national welfare system.

The conditions envisaged in the Directive 93/96 are not legitimate in the light of the case-law referring to the free movement of students. According to the Court of Justice, equal treatment concerning access to vocational training applies not only to conditions imposed by educational institutions but also to any regulation enabling to exercise that right<sup>16</sup>. It was assumed that denying students a right to residence by a member state would be denying them a right to vocational training on equal basis, which is against the EU law. As Raulin case<sup>17</sup> shows, a citizen of a member state accepting to realise a vocational training in another member state automatically enjoys a right to reside for the period of the course.

The conditions of sufficient resources and medical insurance protect the interests of the member states but in practice they violate the principle of equal treatment of European citizens. The content of the directives is contrary to the Commission's claims that the introduction of the European citizenship fundamentally improved the right of residence. In fact, without sufficient subsistence resources and proper medical insurance there is no right of



residence and without a right of residence there is no access to vocational training. According to O'Leary, without sufficient resources you may be Union citizen, but you will not be able to go to another member state and enjoy the other rights resulting from Union citizenship<sup>18</sup>.

### *Long-Term Resident Third-Country Nationals*

According to Article 17 TEC, possession of member state nationality is a main criterion for the eligibility to the benefits of Union citizenship<sup>19</sup>. As a consequence, long-term legal third-country residents were placed at the margins of the European civil society despite the fact that they are an integral part of the European Community and contribute to its prosperity and development. They pay taxes and participate in other duties of their host member state which means that in a substantive way they are «citizens» of that state.

However, they have been viewed as a problem and/or a threat by the member states whose constitutions are based on a «trinity of unity», which involves: a unitary territory, a unitary force and a unitary people<sup>20</sup>.

At the beginning of EC the Council limited the right of free movement to workers who were nationals of the member states by the introduction of the secondary legislation (Regulation 15/61 and 38/64; Regulation 1612/68; Directive 360/70) giving effect to the right of free movement. As a result, important part of active Europe's labour force was excluded from the right of free movement.

Long-term third-country nationals are not considered to be beneficiaries of the non-economic right of residence. At early 1970s this right was planned to be conferred upon nationals of the member states who would enjoy it as citizens of the European Community. According to Article 18 TEC and the three 1990 directives the right of residence refers only to nationals of the member states<sup>21</sup>. The non-Community citizens from third countries enjoy only rights within free movement scheme when these rights facilitate freedom of movement for Community citizens. For example, third-country nationals can enjoy this right in «their capacity as family members of one of the categories of principal beneficiaries».

Exclusion of long-term third-country nationals from the free

movement, and residence within the Community law is accompanied by an intensive debate concerning immigration in Europe. The problem of immigration and the «social consequences of coloured migration» began to eliminate earlier debates on economic benefits of post-war immigration and its contribution to economic recovery and the expansion of European countries. The new perception of immigration problem appeared quite early in Britain together with the 1962 Commonwealth Immigration Act, which provided a voucher system linking entry to a prior employment offer. This document deprived East African Asians as holders of British passport the right of free entrance to the UK if they could not prove a close connection with Britain. The act introduced for the first time the idea of partiality, which meant that entry was limited only to those who were able to prove their ancestral connection with the UK. According to Gilroy's expression this «codified the cultural biology of race into statute law as part of a strategy for the exclusion of Black settlers»<sup>22</sup>. This member states' policy of exclusion established an «objectivity» within which free movement is confined only to workers who are nationals of the member states.

### *In a Search of Inclusive European Citizenship*

The existence of three groups of excluded European citizens means that the very concept of Union citizenship is far from perfection. It is based on two rules that make exclusion possible. Firstly, Union citizenship is based formally on national citizenship regulated by the principles of *ius soli* and *ius sanguinis*, which in European history were in fact different strategies to exclude «the other». As a consequence, third-country nationals, who do not meet these criteria, are deprived the rights envisaged for Union citizens. Secondly, another way of exclusion is based on the economic criterion of sufficient resources for subsistence and health insurance. It is a means to exclude from the right of free movement non active economically Union citizens who might become the burden for the social system of a host member state. Therefore, in order to build up a democratic community of inclusive Europe a new concept of Union citizenship is needed. Within the contemporary political thought we can refer to the two projects which in this respect can provide an interesting perspective. These are post-national/universal citizenship and multicultural citizenship.

*Post-National Citizenship*

The first strands on the idea of post-national citizenship within the modern political thought can be found in the Kantian philosophy. He argued that we had ethical duties to the rest of the human race that transcend our obligations to fellow citizens. The global law demands from people to share their hospitality with strangers as fellow «citizens of universal state of humanity»<sup>23</sup>. The Kantian idea represents a statist view on world citizenship that implies only compassion for others. It emphasizes that moral obligations cannot be limited to co-nationals and by the same provides a pathway to the politics of dialogue and consent.

An interesting interpretation of post-national citizenship has been proposed by Yasemin Nuhouglu Soysal. In the well known work *Limits of Citizenship. Migrants and Post-National Membership in Europe* (1994) she argues that the example of immigrants and guest-workers in a post-war Europe indicates that a new model of citizenship is emerging. According to her, the post-war period is characterised by the transfiguration of citizenship based on nationhood to a more universalistic model based on the idea of person<sup>24</sup>. Some rights that used to be restricted to nationals are conferred upon immigrants, which in a sense undermines the basis of national citizenship.

In the classical model, a common nationality was a precondition for an equal treatment of citizens. In other words the source of legitimacy for individual rights was ascribed to the nation-state. The experience of guest-workers and immigrants in post-war Europe indicates that in the post-national model of citizenship nationhood is replaced by the universal concept of person and national rights are replaced by universal human rights. The rationale of the state's obligations towards foreigners is located beyond the nation-state. As Soysal argues: «the rights and claims of individuals are legitimated by ideologies grounded in a transnational community, through international codes, conventions and laws on human rights, independent of their citizenship in a nation-state. Hence, the individual transcends the citizen»<sup>25</sup>.

Therefore, the post-national citizenship derives its legitimacy from two sources. The first one refers to a vital change of organisation of the international state system: growing connectedness, interdependence, emergence of transnational political actors

which complicate and undermine nation-state sovereignty and jurisdiction. The case of guest-workers is a good example of this phenomenon. The states ceased to have a sole control over immigrants. The sending countries and international organisations have also influence regarding their lives, welfare, education and political activities. This differs from the 19th-century international system built up of independent nation-states with exclusive power over its territory and population. The second source of legitimacy results from the emergence of universal rules and ideas concerning the rights of the individual which are enshrined into a variety of international laws and codes. For example, *The Universal Declaration of Human Rights* (1948) clearly states that «all beings are born free and equal in dignity and rights, independent of their race, colour, national and ethnic origin». *The International Covenant on Civil and Political Rights* (1966) demands from the state to respect and ensure the rights of «all individuals within its territory and subject to its jurisdiction». *The European Convention on Human Rights* (1950) repeats majority of these provisions adding a clause which protects against the collective expulsion of foreigners. The similar role was to be played by the *Charter of Fundamental Rights* (2000) which is however not legally binding as the Constitutional Treaty was rejected in the Dutch and French referenda in 2005.

Thus, according to Soysal the introduction of the discourse on universal person and human rights to the issue of citizenship and participation in public life means that the new post-national model of citizenship is emerging. However, there is a certain paradox behind this phenomenon. Namely, inasmuch as the ascription and legitimacy of rights transcend national boundaries, the post-national rights are organised and incorporated into life by the national institutions. As Soysal notes «the nation-state is still the repository of educational, welfare and public health functions and the regulator of social distribution. Simply put, the exercise of universalistic rights is tied to specific states and their institutions»<sup>26</sup>.

### *Multicultural Citizenship*

According to Iris M. Young the idea of universal citizenship, which refers to the ideal of humanity, nature of man and universal rights, assumed a concept of equality conceived as *sameness*. As a consequence, two meanings of universal citizenship can be

distinguished. Firstly, universality, conceived as general in opposition to particular, stresses what citizens have in common and not what makes a difference between them. Secondly, universality is to be understood in the sense of laws and rules that are the same for all; they are neutral to individual and group differences<sup>27</sup>.

Despite ascribing the same rights to all members of the society, aiming at providing equality and freedom, some segments of the society feel vulnerable and treated as a secondary class citizens. Equal rights do not provide necessarily social equality and justice. The main reason of this lies within the very nature of modern politics. Perception of citizenship in the light of common features of human race assumes homogeneity of citizens which excludes those individuals who does not fit to the common pattern. In the conditions of real differences in capacities, culture, values and behaviour «strict adherence to a principle of equal treatment tend to perpetuate oppression or disadvantage. The inclusion and participation of everyone in social and political institutions sometimes requires the articulation of special rights that attend to group differences in order to undermine oppression and disadvantage»<sup>28</sup>.

Universal citizenship based on the concept of general human nature led to the exclusion of some groups of society, because the idea that citizenship is the same for all required all citizens to be the same. This was a consequence of disparity between the public and private sphere. The public was conceived as a realm of rationality, restraint and generality where all particularities are not visible, while the private is an area of particularity, affectivity, need, desire, affiliation and the body. In such conditions, according to Young, «the inclusion of the formerly excluded group in the definition of citizenship – women, workers, Jews, blacks, Asians, Indians – imposes a homogeneity that suppresses group differences in the public and in practice forces the formerly excluded groups to be measured according to norms derived from and defined by privileged groups»<sup>29</sup>.

Also, the concept of universal citizenship allows for the exclusion of some groups of a society because it is based on the idea of general law, the same for all. It is blind to race, ethnic, gender and other group differences. The state and its institutions, the public realm are defined in general and abstract terms detached from all particularities, individual needs and experiences. However, despite equal law and equal moral worth the social inequalities still exist.

According to the representatives of national, ethnic and cultural minorities the universal rules and rights neutral to difference of nationality, race, culture, gender, age or disability only perpetuate oppression and vulnerability<sup>30</sup>.

Thus, the new concept of citizenship is needed which completes the universal approach and takes into account group differences, needs, interests and capabilities. The discourse of multicultural citizenship appears as a proposal that satisfies this need. According to the main representative of this concept Willy Kymlicka, in contemporary multicultural societies it is necessary to supplement traditional human rights with minority rights. He argues that «a comprehensive theory of justice in a multicultural state will include both universal rights, assigned to individuals regardless of group membership, and certain group-differentiated rights or special status for minority cultures»<sup>31</sup>. In liberal democracies accommodation of cultural differences is realised by the protection of the civil and political rights of individuals. Freedom of speech, association, religion, mobility and political organisation allow individuals to form and maintain established groups and associations as well as to adjust them to changing conditions and express their interest to the whole society. In other words, cultural difference can be preserved and accommodated when special rights and legal measures are provided, which transcend the common rights of citizenship. Kymlicka notes, that a variety of group differences can be accommodated if only their members enjoy certain specific rights, what is called after Iris Young «differentiated citizenship»<sup>32</sup>.

In order to provide a real autonomy of individuals and a real equality among different national and ethnic minorities a multicultural society introduces at least three kinds of group-specific rights. The first *self-government rights* are given to the component nations claiming their political autonomy to ensure the full and free development of their cultures and interests of their people. Due to this right a minority is not dominated by the majority which is in power. The second, *polyethnic rights* are meant to assist ethnic groups and religious minorities cultivate their cultural uniqueness and dignity. This also includes public funding of their ethnic associations, festivals, newspapers and art. According to Kymlicka the most problematic demand of ethnic groups refers to exemption from laws and regulations that disadvantage them. The third, *special*

*representation rights* are meant to increase participation and improve representation of vulnerable and weaker groups of society in the political and social life. Their role is to abolish all barriers which exclude women, ethnic minorities and the poor from becoming party candidates and party leaders. Another possibility is to introduce a system of proportional representation associated with greater inclusiveness of candidates.

Thus, provision of group-specific rights for ethnic and national minorities is necessary to ensure that all citizens have equal position in the society. The recognition of differences is the essence of real equality. In other words, equality requires different treatment which can alleviate the disadvantages and vulnerability of minority cultures.

#### CONCLUSION

A new form of European citizenship, which combines post-national and multicultural model of citizenship, seems to be a potential answer to the crucial needs and challenges Europe is facing nowadays.

According to Ryszard Kapuściński, the main challenge of the 21st century is the encounter with «the other». It has its historical context because during the second half of the 20th century two thirds of the world population liberated itself from the colonial dependence and became the citizens of their independent states. Gradually, they have been discovering their own past, myths, roots and identity. They are becoming to feel themselves, to regain their dignity and to be the subjects of their own life and fate. They are against any domination, against any efforts to be treated as objects and victims.

Kapuściński argues that during the history there are three strategies of encounter with «the other»: war, separation and dialogue. After years of wars and then separation, borders and exclusion, in the age of globalisation and rapid development of means of transport and communication we should try to establish a dialogue with «the other». We have to build the «Inclusive Europe» of dialogue, which is the best, the most human and democratic form of dealing with «the other».

However, in order to establish a dialogue with «the other» re-

presenting different cultures and values, first of all we have to recognise «the other» within our own culture and society. In other words, in order to recognise the distant «other», first we have to notice the «other» within us – a close «other». It includes a man of the same race, community, religion, but who is somehow different. That is why a new European citizenship – combining the post-national and multicultural form – appears as a model for democratic community where all citizens are treated equally, which means that they have universal rights as well as rights relevant to their group differences. Moreover, a new European citizenship appears as a precondition of inclusive Europe, Europe which is open to «others». It seems to be necessary in order to build the old continent which is characterised by dialogue of cultures and civilisation rather than by the clash of civilisations.

<sup>1</sup> J. Habermas, *Obywatelstwo i tożsamość narodowa. Rozważania nad przyszłością Europy*, B. Markiewicz transl., Warszawa, Wydawnictwo IFiS PAN, 1993, pp. 5-6.

<sup>2</sup> Arystoteles, *Polityka*, L. Piotrowicz transl., Wrocław, Zakład Narodowy im. Ossolińskich, 1953, pp. 230, 240.

<sup>3</sup> M. Riedel, *W poszukiwaniu «związku obywatelskiego»*. *Idea tego, co polityczne i problem demokracji europejskiej*, in B. Markiewicz (ed.), *Obywatel - odrodzenie pojęcia*, Warszawa, Wydawnictwo IFiS, 1993, pp. 35, 41.

<sup>4</sup> T. Buksiński, *Trzy demokracje*, in id. (ed.), *Idee filozoficzne w polityce*, Poznań Uniwersytet im. A. Mickiewicza, 1998, p. 56.

<sup>5</sup> G. Delanty, *Citizenship in a Global Age. Society. Culture, Politics*, Buckingham, Open University Press, 2000.

<sup>6</sup> R. Bauböck, *Transnational Citizenship. Membership and Rights in International Migration*, Aldershot, Edward Elgar, 1994, p. 23; J.M. Sörensen, *The Exclusive European Citizenship: The Case for Refugees and Immigrants in the European Union*, Aldershot, Avebury Ashgate Publishing Ltd., 1996, p. 3.

<sup>7</sup> J.M. Sörensen, *The Exclusive European Citizenship...*, cit., p. 3.

<sup>8</sup> *The Imbeni Report on Union Citizenship*, Document A3-0437, December 1993, p. 5.

<sup>9</sup> S. O'Leary, *European Union Citizenship. The Options for Reform*, London, IPPR, 1996, p. 34.

<sup>10</sup> K.H. Neunreichter, *The Democratic Deficit of the EU: Towards Closer Cooperation Between the European Parliament and the National Parliaments*, in «Government and Opposition», vol. 29, n. 3, 1994, pp. 300-314.

<sup>11</sup> In 2006 after the first phase of transitional period Spain, Italy, Denmark and Portugal have decided to open their labour markets.

<sup>12</sup> *Report on the Functioning of the Transitional Arrangements Set Out in the 2003 Accession Treaty* (period 1 May 2004-30 April 2006), Commission of the European Communities, COM(2006) 48 final, Brussels, 8 February 2006.

<sup>13</sup> It is often said as an argument that transitional periods for accession to work market of the EU were also introduced when Spain and Portugal joined the EU in 1986. However, it should be noted that at that time this restrictions were not a violation of Union citizens' rights,



because the concept of European citizenship was introduced to the European legislation within the Maastricht Treaty in 1992. In other words, it was a completely different legal context.

<sup>14</sup> S. O'Leary, *European Union Citizenship...*, cit., p. 49.

<sup>15</sup> *Ibidem*.

<sup>16</sup> Case 293/83 Gravier 1995.

<sup>17</sup> Case C-357/89, Raulin, ECR I-1027, 1992.

<sup>18</sup> S. O'Leary, *European Union Citizenship...*, cit., p. 51.

<sup>19</sup> In this part we do not concentrate upon the specific and exception area where some groups of third-country nationals enjoy the right of free movement on the basis of some association and cooperation agreements which the EU and its member states concluded with third countries. These documents include: the Agreement on the European Economic Area, the Association Agreement with Turkey and the agreements concluded with Maghreb countries like Morocco, Algeria, and Tunisia.

<sup>20</sup> T. Diez, *International Ethics and European Integration*, in «Alternatives», vol. 22, no. 3, 1997, pp. 287-312.

<sup>21</sup> P.A. van der Mei, *Free Movement of Persons within the European Community. Cross-Border Access to Public Benefits*, Oxford, Hart Publishing, 2003, p. 54.

<sup>22</sup> P. Gilroy, *There Ain't No Black in the Union Jack: The Cultural Politics of the Race and the Nation*, London, Hutchinson, 1987.

<sup>23</sup> I. Kant, *Perpetual Peace and Idea of Universal History from a Cosmopolitan Point of View*, in M. Forsyth, H.M.A. Keens-Soper and P. Savigear (eds.), *The Theory of International Relations: Selected Texts from Gentili to Treitschke*, London, Allen & Unwin, 1970, p. 206.

<sup>24</sup> Y. Nuhouglu Soysal, *Limits of Citizenship. Migrants and Post-national Membership in Europe*, Chicago, The University of Chicago Press, 1994, p. 137.

<sup>25</sup> *Ibidem*, p. 142.

<sup>26</sup> *Ibidem*, p. 157.

<sup>27</sup> I.M. Young, *Polity and Group Difference: A Critique of the Ideal of Universal Citizenship*, in «Ethics», vol. 99, n. 2, 1989, p. 250.

<sup>28</sup> *Ibidem*, p. 251.

<sup>29</sup> *Ibidem*, p. 255.

<sup>30</sup> *Ibidem*, p. 267.

<sup>31</sup> W. Kymlicka, *Multicultural Citizenship. A Liberal Theory of Minority Rights*, Oxford Clarendon Press, 1998, p. 6.

<sup>32</sup> *Ibidem*, p. 26.

<sup>33</sup> R. Kapuściński, *Ten Inny*, Kraków, Wydawnictwo Znak, 2006, pp. 65-76.

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