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Postmodern Liberal Conception of Citizenship

(draft paper)

ABSTRACT: The purpose of this inquiry is to show that the concept of “citizenship“ in modern liberal political thought is fixed and essentialist. This conception of citizenship is derived from Western metaphysics which establishes homogeneous categories. Modern liberal idea of citizenship is derived from the notions of “freedom“ and “equality“ which are considered as absolute truths which are based on universalist conception of reason. These essentialist notions include a number of binary oppositions, such as: we/they, citizen/foreigner, self/other and so forth (where the first term is perceived as dominant because it is considered as derived from reason) which leaves room for excluding and marginalizing. However, with the development of information society, the new perspectives of citizenship arise. The citizenship can be viewed as a state of mind. It is not tied to borderlines or residence.

Key words: citizenship, identity, pluralism, ethics, right, good.

Introduction

In the following lines, the postmodern concept of citizenship which is not tied to fixed notions of borders, nations, culture and common heritage will be explored. In this way, the concept of citizenship would be considered as unbounded and constructed. It will embrace various identity possibilities. Thus in postmodern liberal thought, citizenship is perceived as contingent cultural (narrative) construct. This postmodern conception of citizenship requires a new of ethics of citizenship which will not be based on the modern liberal idea of priority of right over the good. A new ethics of citizenship will reject the idea of the “one size fits all“ ethics, and it will leave room for “empathy“ (not only reason) and different notions of good. In the following lines it will be explored whether there are some changes towards the postmodern conception of citizenship in the international legal discourse.

1. Modern Liberal Conception of Citizenship

According to Thomas Bridges, modern liberal political thought is based on universalist conception of reason which is considered as the main characteristic of all human beings. Notions of “freedom“, “equality“ and “rights“ on which the modern liberal conception is built are considered as developed from human rationality. These concepts are perceived as founded on absolute truth based on reason, which transcends all particularistic, contingent conceptions of good. “Modernist liberals offered theoretical discourses designed to show that liberal democratic norms are founded upon or derived from universal principles and objective truths.“¹

Bridges argues that modern liberal thought produces a metaphysical conception of citizenship which rejects all cultural particularistic attributes. This conception of citizenship can be considered as metaphysical, because it emphasizes universalist and essentialist standpoint of citizenship.² According to Bridges: “In different ways, both Lockean and Kantian styles of liberal theory made the standpoint of citizen, the standpoint of free and equal individuality, appear to be the natural and essential human standpoint.“³ This conception of citizenship emphasizes homogeneity and sameness and transcends cultural, historical, social and other particularities. It is based on universalist conception of morality which is based on reason, which considered as the same for all human beings.

This conception of citizenship (as well as rights) based on the primacy of reason is emphasized by the *Universal Declaration of Human Rights*. It is asserted by the Article 1 of the *Universal Declaration of Human Rights*⁴ that “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 spirit and brotherhood.“ The *Universal Declaration of Human Rights* was inspired by the *Declaration of American Independence* (1776) and the *Declaration of the Rights of Men and Citizen* (1789). In both of these documents the primacy of reason is emphasized.

The *Declaration of American Independence*⁵ asserts that the rights it declares are “self-evident“. The *Declaration of Rights of Men and Citizen* is based on the doctrine of natural

¹ Bridges, T, *The Culture of Citizenship: Inventing Postmodern Civic Culture*, State University of New York, 1994, Chapter I, www.cvrp.org/book/Series01/I-26/contents.com

² Ibid.

³ Ibid.

⁴ The *Universal Declaration of Human Rights* was adopted by the United Nations General Assembly (10 December 1948 at the Palais de Chaillot, Paris).

⁵ *Declaration of American Independence* was adopted by Continental Congress on July, 4, 1776.

rights. It was influenced by Enlightenment and modern liberal political principles. These principles are founded on universalist conceptions of knowledge and reason, which transcend all contingent beliefs derived from historical or cultural circumstances. Human rights defined by the *Universal Declaration of Human Rights* represent the “standpoint of all human beings, in Lockean terms as the standpoint proper to the natural condition, or in Kantian terms as the standpoint proper to the faculty of autonomous reason.”⁶

Universality of human rights is also emphasized by *Vienna Declaration and the Program of Action* in 1993⁷: “All human rights are universal, indivisible and interdependent and related. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis.” This statement is confirmed in the World Summit in New York in 2005. It is argued that “universal nature of human rights and freedoms is beyond question.”⁸

However, this conception of universalist human rights which are granted to every individual is perceived by a number of authors as fixed. The concepts which define human rights in the *Universal Declaration of Human Rights*, such as “inherent”⁹, “inalienable”¹⁰, “endowed with reason”¹¹, and so forth, point to a metaphysical origin¹² of human rights. This idea of rights creates universal conception of citizenship. According to Young: “Equal treatment requires everyone to be measured according to the same norms, but in fact there are no 'neutral' norms of behavior and performance.”¹³

Although Thomas Bridges correctly identifies some fundamental problems which can be identified from modern liberal political thought, he oversimplifies this point of view. Modern liberal political thought cannot be perceived as a totality. However, a number of authors fall in this trap and misinterpret the point of views of some modern liberal political thinkers. This can be perceived in the example of Kant's understanding of morality. Kant's idea of morality is based on freedom (i. e. autonomy of will), not on reason. This was not recognized by Bridges, Gaut, Korsgaard and a number of other authors.

⁶ Tom Bridges, *The Culture of Citizenship: Inventing Postmodern Civic Culture*, Chapter 2, SUNY Press, 1994, www.cvrp.org/book/Series01/1-26/contents.htm

⁷ World Conference on Human Rights, 1993

⁸ World Summit in New York, paragraph 120

⁹ *Universal Declaration of Human Rights*, Preamble

¹⁰ *Universal Declaration of Human Rights*, Preamble

¹¹ *Universal Declaration of Human Rights*, Article 1

¹² This was also argued by Václav Havel in his speech in Geneva on the 50th anniversary of Universal Declaration of Human Rights: “I am convinced that the deepest roots of what which we now call human rights, lie somewhat beyond us, and above us, somewhere deeper than the world of human covenants – in a realm that I would, for the simplicity sake, describe as metaphysical.” (Conor Gaerty, “Are Human Rights Truly Universal?”, www.conorgearty.co.uk/pdfs/chapter_29_universalityfinal.pdf)

¹³ Young, I. M., “Polity and Group Difference: A Critique of the Ideal of Universal Citizenship”, *Ethics* 99, 1989, p. 269

Modern liberal conception of citizenship origins from the ethics based on the principle of priority of right over the good. The right is perceived as universal, rational concept, which is independent of any particularistic conception of good. Bridges argues that modern liberal political thought is influenced by this conception of justice.¹⁴

Modern liberal thought emphasizes the inclusion of all persons in full citizenship status. “Modern political thought generally assumed that the universality of citizenship in the sense of citizenship for all, implies a universality of citizenship in the sense that citizenship status transcends particularity and difference.”¹⁵ According to Young, this conception of citizenship is based on the priority of universality and sameness over the particularity and difference, on the one hand, and idea of “one size fits all“ ethics and law. This means that the rules are the same for all and “apply to all in the same way“.¹⁶ However, this conception of citizenship is founded on the general will and implies homogeneity. Universal citizenship is a myth¹⁷ as well as impartial general point of view.¹⁸ This conception of citizenship is exclusionary, because it does not recognize the difference. According to Young, the universal conception of citizenship should be rejected. The new group differentiated citizenship based on heterogeneous conception of the public should be established.

However, Young does not emphasize the heterogeneity based on multiple identities as the fundamental trait of the group itself. She argues that different social groups have different historical and social understanding and imply different narratives and conceptions of identity. She concludes that one group cannot entirely understand the experience of the other groups. However, this point of view can be applied to the concept of the group itself. Otherwise, it represents the homogeneous conception.

Modern liberal political thinkers create a number of binary oppositions, such as right/good, essential/contingent, citizen/stranger, nature/culture, reason/emotion and so forth. The first term is considered as dominant, because it is perceived as based on reason. The second term in those binary oppositions is often neglected and denied. That is why various forms of discrimination can arise.

¹⁴ Bridges emphasizes that modern liberal political theory is influenced by European Enlightenment.

¹⁵ Young, I. M, “Polity and Group Difference: A Critique of the Ideal of Universal Citizenship“, *Ethics* 99, 1989, p. 250

¹⁶ *Ibid*, p. 250

¹⁷ “Different social groups have different needs, cultures, histories, experiences and perceptions of social relations which influence their interpretation of the meaning and the consequences of policy proposals and influence the form of their political reasoning. These differences in political interpretation are not merely or even primarily a result of differing or conflicting interests, for groups have differing interpretations even when they seek to promote the justice and not merely their own self-regarding ends.“ (*Ibid*, p. 257)

¹⁸ *Ibid*, p. 256,257

According to some authors European citizenship established by the *Treaty of Maastricht* is based on those binary oppositions. The concept of EU citizenship is defined by article 8 of the *Treaty of Maastricht*¹⁹: “Every person holding the nationality of a Member State shall be a citizen of the Union.“ The *Treaty of Maastricht* clearly defines who are and who are not EU citizens and creates binary oppositions such as: we/they, citizen/alien, EU/non-EU, and so forth. The first term in those binary hierarchies is perceived as dominant, while the other is often perceived as subordinated and only the first term's “other“. Some authors emphasize the binary hierarchies such as: young/old, educated/non-educated, citizen/foreigner, and so forth. The right to free movement mostly adheres to academic, educational and political field.²⁰

2. The Politics of Affinity – Towards the Postmodern Conception of Citizenship

According to Derrida the history of Western metaphysics and thought can be perceived as the history of metaphors and metonymies, which are based on binary hierarchies. In his *Of Grammatology*, Derrida argues that logocentrism is the part of his project of deconstruction. Logocentrism perceives Western discourse as based on logos (reason, law). It gives priority to identity over difference, universality over particularity, necessity over contingency, nature over culture, etc.²¹ The first term is considered as dominant and universal, because it is perceived as it has its origin in the reason which is the same for all human beings. The other is perceived as contingent and particular and mostly excluded from Western discourse. Derrida emphasizes that the existence of these binaries shows that the Western discourse is founded on metaphysics.

The purpose of Derrida's critique is deconstruction of Western metaphysics and discourse. Derrida's deconstruction exposes assumptions that underlie these binary oppositions and create discrimination and inequality in a metatheoretical level. Derrida argues that two terms of the binary oppositions present in Western discourse (signifier/signified, objective/subjective, male/female, etc.) cannot be opposed, because every term of these binary oppositions contains in itself the phantom of the other. He introduces the concept of „differance“, which overcomes the fixed identity of ”difference” and it represents a constant interplay of meanings.

¹⁹ I.e. *Treaty of European Union*

²⁰ See Jakobs, D & Mair, R, “European Identity: Construct, Fact and Fiction“ in Gastelaars & Ruijter (eds.), *A United Europe: The Quest for Multifaced Identity*, Shaker, Maastricht, 1998, p. 13-34

²¹ According to Derrida, logocentrism gives priority to identity over difference and priority to speech over written word. Therefore, logocentrism expresses priority of the signified over the signifier, i.e. priority of the presence/speech over the absence/writing.

The postmodern conception of citizenship can be based on the Derrida's critique of essentialist and universalist conception of identity. Modern liberal conception of citizenship is based on essentialist and fixed notion of identity, which implies sameness. This idea of identity is the origin of all binary hierarchies. The conception of citizenship based on fixed identity constructs a public sphere which does not embrace the difference. Williams argue that "identity has been used as a focus for gathering people together under the banner of some unifying notion or characteristic (...) The development of collective identities in this way has always been fundamentally concerned with acts of power."²² According to Hall, identities are based on "the unchanging oneness" that overcomes "superficial differences".²³

However, the idea of citizenship should embrace the concept of a fluid identity, which represents dynamic, hybrid and changeable category. The modern idea of identity is based on the Cartesian idea of the unitary subject. Descartes employs the "method of systematic doubt" to examine all knowledge in order to get firm and certain knowledge. He states: "I noticed that, during the time I wanted this to think that everything was false, it was necessary that I, who thought this, must be something. And noticing that this truth – I think, therefore I am – was so firm and so certain that the most extravagant suppositions of the skeptics were unable to shake it, I judges that I could accept it without scruple as the first principle of the philosophy I was seeking."²⁴ Descartes makes a distinction between the mind and body, which produces binary oppositions: self/other, objective/subjective, and so forth.²⁵ He emphasizes the difference between the rational, conscious, unified and knowing subject, on the one hand, and an object, on the other hand.

However, the idea of fluid identity does not embrace a stable, unitary, conscious and self-identical subject. Fluid identity is based on the assumption that the subject is produced by discourse. Consequently, identity is shifting, fragmented and multiple. It cannot be considered as rational and it is always in the process of reconstruction.²⁶ This approach emphasizes that meaning is not fixed, it is deferred and represents an interplay between two opposites. Thus

²² Williams, A, *EU Human Rights Policies: A Study in Irony*, Oxford University Press, 2005, p.184

²³ Ibid, p. 185

²⁴ Descartes, R, *Discourse on Method and Meditation on First Philosophy* (D. A. Cress, Trans.), Hackett, Indianapolis, 1993, p. 19

²⁵ According to Derrida, Descartes was not the first to produce these binaries which can be found in the entire Western metaphysics from Plato's philosophy.

²⁶ "Rather than viewing self as an objectifiable, cognitive essence, poststructuralists argue that identity processes are fundamentally ambiguous and always in a state of flux and reconstruction." (David Collinson, "Rethinking Followership: A Post-structuralist Analysis of Follower Identities", *The Leadership Quarterly*, 17, 2006, p.182

concepts such as “identity”, “difference”, “equality”, “nature”, etc. are always open to different interpretations.

According to Derrida, the politics of (fixed) identity, which privileges unity represents dangerous ethics and politics.²⁷ Derrida rejects identity based on totality and unity as an illusion. He argues that language, cultural and national identities are different from themselves. On the other hand, the person is being different from itself.²⁸ “Once you take into account this inner and other difference, then you pay attention to the other and you understand that fighting for your own identity is not exclusive of another identity, is open to another identity.”²⁹ In the contemporary civilization, the binary opposition we/they is still employed in the legal discourse, and that is why some authors regard contemporary world as “barbaric”.³⁰ Barbarian³¹ is traditionally defined as a foreigner whose language, customs and culture differ from the language, customs and culture of a “civilized citizen”. The barbarian is perceived as civilized citizen’s other – inhuman, cruel, rude, etc. Thus, the question whether we are moving toward greater freedom or greater barbarianism can be asked.³²

Derrida’s concept of “differance” is open to different meanings and reinterpretations.³³ Consequently, heterogeneity and dissociation are promoted. He argues that the concepts of borders, nations, culture, citizenship, etc. do not have fixed meaning. According to Derrida, the meaning is a free interplay between two opposites.³⁴ Thus, it is always open to different interpretations. It must be emphasized that Derrida’s idea was not to make new binary oppositions in which the difference will have priority over an identity, heterogeneity over homogeneity, dissociation over association, etc. He argues these concepts have to be rewritten

²⁷ John D. Caputo, *Deconstruction in a Nutshell: A Conversation with Jacques Derrida*, 2006, p. 13, <http://books.google.com>

²⁸ Ibid, p. 13

²⁹ Ibid, p.13

³⁰ Stjepan G. Meštrović, *The Barbarian Temperament: Toward a Postmodern Critical Theory*, Routledge, London and New York, 1993

³¹ The peoples who were non-Greek, non-Christian and non-Latin, were regarded as barbarians in Western history.

³² Stjepan G. Meštrović, *The Barbarian Temperament: Toward a Postmodern Critical Theory*, p. 56

³³ “Derrida moves from the Saussurean focus on speech to a concern with writing and textuality and replaces the fixed signifieds of Saussure’s chains of signs with a concepts of differance in which meaning is produced via dual strategies of difference and diferral. For Derrida, there can be no fixed signifieds (concepts) and signifiers (sounds and written images), which have identity only in their difference from one another (...) Signifiers are always located in a discursive context and the temporary fixing of meaning in a specific reading of a signifier depends on this discursive context. “ (Weedon, *Feminist Practice and Poststructuralist Theory*, Blackwell, Cambridge, 1987, p. 25)

³⁴ Derrida rejects logocentrism which he considers as the main characteristic of the Western thought. Logocentrism associates discourse with logos and creates the philosophy of identity, which establishes binary oppositions: identity/difference, speech/writing, signified/signifier, etc. The first term is considered as dominant because it represents values of western thought and discourse, while the other is perceived as subordinated and defined only through the negation of the first term,

and not perceived as fixed.³⁵ In this way, the concept of citizenship would be considered as unbounded. It will embrace various identity possibilities. Subsequently, states and nations are also not fixed entities. “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.”³⁶

With the development of information society, the new perspectives of citizenship arise. The citizenship can be viewed as a state of mind. It need not be tied to borderlines. “The map may well be a mental one, however, and its geography may well be one of the imagination. People are always their own cartographers, moving about in a world arranged according to their needs for affiliation and their senses of affinity.”³⁷ Derrida does not argue that all forms of unity and gathering need to be overcome.³⁸ He rejects the politics which grants rights to the homogenous groups based on fixed identity. This essentialist politics marginalizes and excludes a number of peoples, which is also argued by representatives of the politics of affinity.

The politics of affinity rejects the concept of a fixed identity and the idea of homogeneous groups.³⁹ Peoples’ identities are multiple and represent a fluid concept always open to changes and refiguration, which results from one’s affiliations and development. Therefore, their particular notion of a good life should not be denied. The politics of affinity leaves room for individuals and groups “for whom the disciplinarity of a singular and totalizing identity is increasingly untenable.”⁴⁰ “Rather, a politics of affinity assumes the existence of cross-cutting cleavages which will pull in different directions on any political subject with respect to most issues of controversy (for example, gay Catholics).”⁴¹

Therefore, politics of identity does not neglect the difference in favor of a unity and it requires refiguration of the concept of identity employed in European legal discourse. While

³⁵ “Reconsider all the pairs of opposites on which philosophy is constructed and on which our discourse lives, not in order to see the opposition erase itself but to see what indicates that each of the terms must appear as difference of the other, as the other differed and differed.” (*A Derrida Reader: Between the Blinds*, ed. by Peggy Kamuf, Columbia University Press, New York, 1991, p. 61)

³⁶ Onora O’Neil, “Justice and Boundaries”, *Political Restructuring in Europe: Ethical Perspectives*, ed. by Chris Brown, Routledge, London, 1994, p. 78

³⁷ Rob Kroes, *Them and Us: Questions of Citizenship in a Globalising World*, University of Illinois Press, 2000, Urbana & Chicago, p. 23

³⁸ John D. Caputo, *Deconstruction in a Nutshell: A Conversation with Jacques Derrida*, 2006, p. 13, <http://books.google.com>

³⁹ E. T. A. Hoffman, German XIX century writer, is one of the first known authors who argue about dissociation and difference as the main characteristic of identity. He expresses this idea in his story “Princess Brambilla” and in a number of other stories.

⁴⁰ Carl F. Stychin, “Desintegrating Sexuality: Citizenship and the EU”, p. 119

⁴¹ *Ibid*, p. 119

the identity politics is based on sameness, the politics of affinity is based on difference. It embraces different models of identity. The core idea of the politics of affinity is “deliberation amongst people who may form an affinity because they have something in common, but who may not consider themselves as sharing an identity, because they do not have that much in common.” On the other hand, the concepts that politics of affinity employs are continually reconstructed and reinterpreted.

The idea of the politics of affinity is not to completely replace and reject the politics of identity, because in this way it would create binary opposition affinity/identity, where affinity would dominate over identity. If this would be the case, another kind of the politics of identity would be created. The aim of the politics of affinity is to encompass a broader concept of identity which would include different affinities and encounter the difference. Consequently, the term “other” would also be broadened and would not be considered as fixed term. It would be compatible with broadened concept of identity which include different identities which constantly change and depend on the context.⁴²

The idea of the European Union as a very specific political category requires the notion of fluid identity. Thus, “the 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 of rethinking citizenship, community and identity.”⁴³ According to Kostakopoulou, the idea of EU citizenship should be based on the assumption that citizens have multiple identities. It should not be based on the foundationalist notion of the community or the essentialist conception of identity.⁴⁴ The values of political pluralism and cultural multiplicity require breaking with homogeneity and sameness.

3. The New Ethics of Citizenship

The postmodern ethics of citizenship will not deny a particular conception of good founded on the particular way of life. The citizenship is composed of many narratives and different world views. It is a dynamic category, which continually changes, which cannot be reduced to membership or a territory. Bridges argues that the postmodern ethics of citizenship should not

⁴² Stychin, C.F, *Governing Sexuality*, p. 19

⁴³ Kostakopoulou, T, “Towards a Theory of Constructive Citizenship in Europe“, *Journal of Political Philosophy*, Volume 4, Number 4, 1996, p. 344

⁴⁴ *Ibid*, p. 344

only explain what it means to be a citizen, but also to make clear why it is good to be a citizen. This is the main difference between ethics based on the priority of the principle of right (which gives only a normative standpoint of citizenship) and the ethics in which the right and the good intertwine (which also promotes the difference, and thus gives a substantive standpoint of citizenship). This ethics is based both on justice and care. It applies rule accompanied with empathy, i.e. care. “Social and moral phenomena are bound in terms of interpersonal relations, context and values, and are multifaced and dynamic in nature.”⁴⁵

The postmodern ethics of citizenship in which right and good interweave rejects false dichotomies between “rationality” and “irrationality”, “reason” and “emotion”, “objective” and “subjective” and so on. It rejects the picture of law as rational and neutral instrument of justice. Young argues that ethics based on the principle “one size fits all” should be rejected. “This implies that instead of always formulating rights and rules in universal terms that are blind to difference, some groups sometimes deserve special rights.”⁴⁶ The law and judicial reasoning should also include empathy. This is necessary because every case is unique and particular. This idea was expressed by many feminist theories. “They have seen the ‘objectiveness’, ‘rationality’ and emotional distance that judges are supposed to inhabit not only as unattainable, but also as not be aspired. For example, Lynne N. Henderson has called for empathy in judicial reasoning, arguing that legality gives judges a way to escape responsibility, and Carrie Menkel-Meadow has called for an inclusion of ‘ethics of care’ in the judicial processes.”⁴⁷ Applied to citizenship, this ethics does not recognize borders, and exterminates othering and stigmatizing.

In the recent studies the distinction between ethics of justice which is based on the principle of the priority of right over the good, on the one hand, and ethics of care which is based on empathy is emphasized. The ethics of justice is based on reason, which is considered the same for all human beings, while the ethics of care embraces contextuality and feeling. Some authors argue that the modern liberal political thought is mostly based on the ethics of justice, while the postmodern thinkers may be considered as representatives of the ethics of care.

This point of view is flawed, because the ethics of care rejects all dichotomies. Although it is based on empathy, it does not completely deny the reason. However, the question how

⁴⁵ Botes, A, “A Comparison Between the Ethics of Justice and the Ethics of Care”, *Journal of Advanced Nursing*, 32 (5), 2000, p. 1073

⁴⁶ Young, I. M, “Polity and Group Difference: A Critique of the Ideal of Universal Citizenship”, *Ethics* 99, 1989, p. 269, 270

⁴⁷ Ivana Radacic, “What is Feminism and Feminist Jurisprudence?”, www.zenska-mreza.hr/Izjave/feminist_legal_theories.doc

empathy can be incorporated inside the framework of the legal system is often asked. First, the autonomy of individual and the notion of fluid and dynamic identity should be recognized. Only in this way the rights would not be applied in the abstract manner and the particular situation of the applicant will be recognized. However, the ethics of justice still prevails. In the following lines the two approaches to the problem of citizenship as free and equal individuality in the European Court of Human Rights' cases of "Islamic headscarf" will be analyzed.⁴⁸ The first approach is based on the ethics of justice, while the second one employs the ethics of care. It will be argued that the conception of citizenship based on the ethics of care, represents the postmodern conception of citizenship which overcomes dualisms produced by modern liberal political thought.

Conclusion

Substantive conception of citizenship cannot be accomplished by increasing the number of rights. It can be realized only by the transformation of the rights discourse and the modern liberal conception of citizenship. This transformation requires a new ethics of citizenship which is not based on the essentialist and exclusive notion of identity. This, postmodern ethics of citizenship offers a fluid concept of citizenship which is not founded on the homogeneous groups of rights based on the principle of priority of (universal) notion of right over the (particular) notion of good. It creates fluid identity of citizenship, which is open to different interpretations and values and leaves room for "Other".

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⁴⁸ This problem is emphasized by Ivana Radaic in her article "Gender Equality Jurisprudence of the European Court of Human Rights" (*European Journal of International Law*, Vol. 19, No. 4, 2008)

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