

TALLINNA ÜLIKOOL
SOTSIAALTEADUSTE DISSERTATSIOONID

TALLINN UNIVERSITY
DISSERTATIONS ON SOCIAL SCIENCES

20



Leif Kalev

**MULTIPLE AND EUROPEAN UNION CITIZENSHIP
AS CHALLENGES TO ESTONIAN CITIZENSHIP
POLICIES**

Abstract

 **TLÜ KIRJASTUS**

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Department of Government, Faculty of Social Sciences, Tallinn University, Estonia.

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Supervisor: Rein Ruutsoo, PhD in Social Sciences, Prof. at Tallinn University.

Opponents: Eero Loone, Cand. History, PhD in Philosophy, Prof. *emeritus* at University of Tartu.
Ülo Kaevats, Cand. Philosophy, Prof. at Tallinn University of Technology.

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CONTENTS

| | |
|--|----|
| LIST OF PUBLICATIONS | 5 |
| LIST OF ABBREVIATIONS | 6 |
| PREFACE | 7 |
| 1. INTRODUCTION..... | 7 |
| 2. FOUNDATIONS OF THE DCE PROJECT..... | 9 |
| 2.1. Theoretical focus | 9 |
| 2.2. General description of research..... | 9 |
| 3. STATE AND CITIZENSHIP..... | 11 |
| 3.1. State as a space of coherence | 11 |
| 3.2. Nation state building and citizenship | 13 |
| 3.3. Classical normative model of citizenship..... | 15 |
| 3.4. Substantive dimensions of citizenship | 15 |
| 3.4.1. General outline..... | 15 |
| 3.4.2. Analytical dimensions employed..... | 17 |
| 4. MULTIPLE AND EUROPEAN CITIZENSHIP AS CHALLENGES TO NATIONAL CITIZENSHIP..... | 19 |
| 4.1. Multiple citizenship..... | 20 |
| 4.2. European Union citizenship | 21 |
| 5. THE FINDINGS OF ESTONIA SUMMARISED..... | 23 |
| 5.1. Historical and legal aspects | 24 |
| 5.1.1. Conceptualisation of citizenry..... | 24 |
| 5.1.2. The content of citizenship | 26 |
| 5.2. Attitudes on multiple and EU citizenship..... | 27 |
| 5.2.1. Attitudes on multiple citizenship..... | 27 |
| 5.2.2. Attitudes on EU citizenship..... | 29 |
| 6. CONCLUSIONS AND RECOMMENDATIONS..... | 30 |
| 6.1. Multiple citizenship..... | 30 |
| 6.2. EU citizenship | 32 |
| MITMIKKODAKONDSUS JA EUROOPA LIIDU KODAKONDSUS VÄLJAKUTSETENA EESTI KODAKONDSUSPOLIITIKALE. Kokkuvõte | 33 |
| REFERENCES..... | 34 |

LIST OF PUBLICATIONS

This thesis is based on the following papers, referred to into in the thesis by their Roman numerals I–IV.

- I. Leif Kalev and Rein Ruutsoo 2005a. Citizenship and Multiple Citizenship in Estonia. – Y. M. Schröter, Ch. Mengelkamp and R. S. Jäger. (Hrsg.) *Doppelte Staatsbürgerschaft*. Landau: Verlag Empirische Pädagogik, 238–255.
- II. Leif Kalev and Rein Ruutsoo 2006. The Shadow of the Past and the Promise of the EU: National and Multiple Citizenship – The Estonian Case. – D. Kalekin-Fishman and P. Pitkänen. (eds.) *Dual Citizenship as a Challenge to European Nation-States*. London, Thousand Oaks, New Dehli: Sage Publications [In press], 180–201.
- III. Leif Kalev and Rein Ruutsoo 2005b. *Balancing Nation State Building and Globalisation: Attitudes of the Decision Makers of Estonia*. [Manuscript to be published in DCE project by University of Tampere Press].
- IV. Leif Kalev and Rein Ruutsoo 2005c. *Marginal Stories? The Perspectives on Citizenship of Multiple Citizens and Multicultural Persons of Estonia*. [Manuscript to be published in DCE project].

Other publications in relevant area:

- V. Leif Kalev 2005. *Multiple Citizenship and Civic Commitments*. Proceedings of European Society for Research on the Education of Adults (ESREA) network of Active Democratic Citizenship and Adult Learning conference „Adult Education and Civic Duties“ (15.–18.09.2005, Tallinn). Tallinn: Tallinn University, Faculty of Educational Sciences.
- VI. Rein Ruutsoo, Leif Kalev 2005. Eesti kodakondsuspoliitika ja Kodanike Euroopa. – *Riigikogu Toimetised*, nr. 11, lk 120–128.
- VII. Leif Kalev and Rein Ruutsoo 2005a. *Recreating Nation State in an Era of Globalisation*. [Manuscript to be published in DCE project].
- VIII. Leif Kalev 2004. Minimaalriik, rahustervik või kaasatud kodanik? Kodakondsuse põhimõtted taasiseseisvunud Eesti poliitikas. – *Acta Politica*, nr. 1, lk 89–110.
- IX. Kristi Raik, Erik Terk, Raul Allikivi, Liia Kaarlõp, Leif Kalev, Ivar Raig, Külliki Tafel ja Raivo Vetik 2002. *Teaduslik uurimus. Euroopa Liidu tulevik ja Eesti*. Tallinn/Helsingi (Riigikantselei tellimus hankelepinguga nr. 02–244).
- X. Leif Kalev 2002. *Sotsiaalne kapital: mõiste, viljakus ja suhe teiste kapitalikäsitlustega*. Tallinn/Tartu. [magistritöö, käsikiri autori valduses].

LIST OF ABBREVIATIONS

- CoE – Council of Europe
- DCE – European Union 5th framework research project “Dual Citizenship, Governance and Education: A Challenge to the Nation State”
- EEC – European Economic Community
- EU – European Union
- LoN – League of Nations
- UNO – United Nations Organisation

PREFACE

It has been a fascinating experience to follow the development of Estonia as a state and the deepening of European features here during the last 15 years of independence. In many aspects, Estonia is nowadays a fully normal European Union state. However, establishing a fully knowledge-based society remains a demanding task.

A knowledge-based society is hard to imagine without the knowledge-based governance. With this thesis I hope to make a modest contribution to the knowledge basis on the complex issues of contemporary citizenship.

The thesis consists of a general article providing conceptual framework and a synthesised discussion of the research material, and four empirically oriented articles on Estonian citizenship. The general article is written purely by myself. In case of the subsequent four articles written in co-operation with Rein Ruutsoo my share is at least 50% in case of all the articles.

I hope that the following pages will offer an enjoyable, but also intellectually developing reading.

1. INTRODUCTION

The dissertation is comprised of a collection of articles that analyse the aptitude of Estonian citizenship policies to enter the contemporary European discursive space on citizenship. More specifically, the aim of the dissertation is to analyse the potential of Estonian citizenship policies to accommodate to the challenges posed by multiple and European citizenship.

After accession into European Union Estonia has advanced to a new situation. The issues of transformation and restoration of nation state have been accompanied by various topics important for the other members, majority of them having enjoyed a longer tradition of statehood.

This is the case also concerning several aspects of citizenship policies. The evolution and enrichment of national citizenship related to nation state building has been complemented by the debates on developing common rules and practices for European Union citizenship. The issues of multiple citizenship have also gained prominence due to extensive transnational migration, heavy scholarly debates and the evolution of international law on the issue.

These problems were i.a. addressed in the research conducted in EU 5th framework research project “Dual Citizenship, Governance and Education: A Challenge to the Nation State” (DCE). The project addressed both practices and attitudes in case of multiple and EU citizenship. Hence, it provides a useful basis to analyse the similarities and differences in case of Estonia as compared to the other participating European states.

The current article will serve as a general introduction for the four articles we have written in collaboration with Rein Ruutsoo in the process of research conducted in the DCE project.¹ As we were responsible for the analysis of Estonia, these articles will empirically focus upon the experience of Estonia.

- The first and the second article written in 2003–2004 (here referred to as Kalev and Ruutsoo 2005a, 2006) focuses on the historical experiences and legislation on citizenship in Estonia and thus provides a general outline of the framing of citizenship policies.
- The third article (Kalev and Ruutsoo 2005b²) analyses the current attitudes of decision makers on citizenship, as well as EU and multiple citizenships based on an empirical survey of decision makers in spring 2004 conducted within DCE-project (n=208 in Estonia).
- The fourth article (Kalev and Ruutsoo 2005c) provides some perspectives from the groups of actual multiple citizens and people with multicultural background providing a viewpoint from people who are likely in the effective contact zone of the Estonian society.

¹ There are also additional articles in Estonian (Kalev 2004, Ruutsoo and Kalev 2005).

² Cf. also additional article Kalev and Ruutsoo 2005d.

Each of the articles has had a specific data collection and analysis methodology, as well as conclusions of its own in accordance with the common general research design of the DCE project. These will later be discussed in more detail.

In this article, I will analyse the issues of multiple and European citizenship from the Estonian viewpoint. In so doing, I analyse the suitability of these two concepts on the basis of the general national historical and institutional trends and contemporary attitudes of the decision makers, complemented by views expressed by multiple citizens/multicultural persons. In addition to the practices and attitudes I will also analyse the legal and institutional necessities for change.

Although DCE defines the limits for my theoretical approach and is the main source of my empirical material, my discussion in this article is complementing the one conducted DCE by concentrating to a national focus, employing other theoretical material and rearranging the empirical material on a new basis.

Theoretically, the main research objective in this article is to clarify the relation between various aspects of citizenship, nation state building and the two practical forms of citizenship that could be labelled as post-national. This provides a general contextual framework for discussion and rearranging the empirical material of the articles covered by the current one.

Empirically, the objective is to identify the main patterns in socio-historical and legislative practices as well as attitudes of national decision makers on citizenship in Estonia and to relate these to the background characterising contemporary Europe. Practically, I address the questions:

1. Are there any policy changes legally necessary for Estonia to introduce in case of multiple and European Union citizenship?
2. What features could have a legitimating influence for policies in Estonia concerning multiple and European Union citizenship?

I will first present an overview on the theoretical and methodological foundations of the DCE project that is the main basis of my research material. Then I will theoretically discuss nation state building and citizenship, adding new aspects to the DCE conceptual framework useful for analysing the Estonian case and identifying two analytical frames used in further analysis. After that I will relate these topics to the issues of European and multiple citizenship and summarise the results of Estonia. I will conclude with some recommendations concerning Estonia's policies on multiple and European citizenship.

There are some social scientific accounts on European citizenship (cf. Ruutsoo and Kalev 2005, Ruutsoo 2005, Mamontov 2005, to an extent also i.a. Raik, Terk et al. 2002, Raik 2003), but virtually no discussions on multiple citizenship except the ones of the DCE project (cf. references of the article) and, on legal aspects, Narits 1996.

There have been many attempts to analyse Estonian society and politics, including the aspects of nation state formation, civil society, ethnic relations etc. (cf. the references for subsequent articles) but citizenship is seldom used as a central term. If such a term has been used it is mostly linked to the issues of (re)defining the borders of citizenry and requirements of inclusion (cf. i.a. Ruutsoo 1998, 2002a, 2002b, Barrington 2000, Hallik 2005, Asari 2004, Saarts 2005). An attempt has been made to link the concept to the context of rebuilding nation states and western type party and governance systems in the Baltic states (cf. Danjoux 2002).

Concerning the content and dimensions of citizenship, there has been much less discussion. There is a kind of brief umbrella article in Estonian (cf. Kalev 2004) analysing many but not all of the main dimensions of Estonian citizenship. There is one MA thesis on citizen state (Sõlg 2004). Under my supervision, three bachelor thesis have been defended analysing various aspects of citizenship: one analysing the content of citizenship in the constitution (Halling 2005), an other comparing the naturalisation principles in various citizenship laws in Bauböckian framework (Karolin 2006) and a third analysing the treatment of citizenship in Estonian public discussion between 1998 and 2005 (Viinapuu 2006).

2. FOUNDATIONS OF THE DCE PROJECT

2.1. THEORETICAL FOCUS

The starting point of the DCE project is defining state and citizenship in conventional terms. Sovereign states represent a “nexus of power and place” (Castles and Miller 1998), territorial units with internationally recognized borders within which a population is governed by law. Of major importance is the relationship between the state and its population, a relationship that is defined, circumscribed, and legitimated by laws of citizenship (Fishman et al 2006).

Concerning citizenship, a further distinction of citizenship as status and as practice (Oldfield 1990, Lister 1997) is introduced. The former is primarily concerned with the rights and duties associated with membership of a society. The latter treats citizenship as a set of practices that define individuals as competent members of a community. (Pitkänen and Fishman 2006)

The concept of ‘citizenship’ is considered to contain multiple positions occupied by individual members of a state. The conceptual framework of the project rests on mostly Marshall’s (1964, 1992) three-faceted conceptualisation of civil political and social citizenship, with the amendments of *socio-cultural* and *socio-economic* state memberships. Social citizenship, as presented by Marshall, has been supplemented with the idea that, in a multicultural society, there are multiple frameworks for learning citizenship (see van Steenbergen 1994; Castles and Davidson 2000).

Thus, the articles in this collection treat citizenship as a complex construct that can be analyzed from at least four points of view: (1) juridical status; (2) political citizenship; 3) socio-cultural citizenship; and (4) socio-economic citizenship. The project also utilises the writings of Zincone (1999) and Rouhana (1997) both in a way further developing the framework laid down by Marshall.

Zincone (1999) points out that in relation to different groups the Marshallian citizenship rights are clustered variously, and imply various types of potential for action. Hence, she suggests that procedures for evaluating different models of citizenship can be helpful. In her view, political and civil rights alike can be measured according to their extension and inclusion, their incidence and liberating power, their pluralism and tolerance for difference. By applying these constructs, Zincone (1999: 12) compiles models of citizenship and assesses the degree to which they are realized in different states.

According to Rouhana (1997) people derive their identity from participation in a collective. Through citizenship – participation in legal-formal structures, in the distribution of power, as well as in the prevalent socio-cultural understandings that locate majority and minority groups in the collective consciousness – individuals’ sentiments coalesce in axes of bonding and identification.

The main interest of the project lies in the issues of dual or multiple citizenship defined as holding simultaneously the citizenships of two or more states. In many cases, a state may give vent to implicit suspicions of the potential for disloyalty of a citizen with dual allegiance by restricting access to sensitive dimensions of political and socio-cultural life of a person who holds dual citizenship, among them military service and the acquisition of land. However, there is a potential that dual citizens develop dual identities in some aspects contributing to both titular states/societies. (Fishman et al 2006) With regard to dual citizens, a key issue of concern is the kinds of activities that are necessary in order to help them take an active role in more than one country (Pitkänen and Fishman 2006).

However, the research design of the project allows us also to discuss EU citizenship. There was an additional general, if mostly legal treatment on the subject (cf. Ramos 2003) and the survey among decision makers included both questions on EU citizenship and EU officials as a group of respondents. This possibility is further improved in case of Estonia as the country-specific part of the questionnaire focused on gathering additional information on this respect.

2.2. GENERAL DESCRIPTION OF RESEARCH

According to the research plan (cf. DCE project web page) the general aim of the project has been to clarify and compare policies and their implementation in the area of citizenship, especially dual citizenship in Finland, Estonia, France, Germany, Greece, Israel, Portugal, and the United Kingdom. The study focuses on the prevailing rules and practices, as well as on experiences and attitudinal orientations related to the acquisition and attribution of dual citizenship.

The research includes (1) analysis of policy documents; (2) survey among national and European policy-makers and authorities involved in implementing citizenship policies and educational policies; and (3) case-study among individual citizens, including persons with dual citizenship and persons with a multinational background holding only a single citizenship.

All the three stages of research had common dimensions for analysis: political, juridical, socio-cultural citizenship and education for citizenship. Of these, three first turned out to be practically more relevant.

1. Analysis of policy documents includes international supra-national and national agreements, legislation, policy documents, and specific programmes in order to clarify European and country-specific policies on citizenship, especially dual citizenship. In addition to that, existing social scientific and historical research and materials were utilised.

At this stage, the focus of research was how regulations have been defined and expressed by state and European authorities in the legislation and policy documents. The project team also explored the elements that these policies and programmes share at the multi-national level, and the elements that can be regarded as strictly national, and gathered statistical data on demographics of citizenship. While the general project focus was to identify the data on the number of residents who have acquired dual or multiple citizenship or citizens who have lost their citizenship status in the participating countries in Estonia the data on the composition of citizenry and naturalisation turned out to be important as well.

The method employed was (comparative) qualitative content analysis. By specifying and interpreting the contents of international agreements, national conventions, and specific programmes we analysed and compared the prevailing policies in participating countries. The content analysis will involve the following phases: (1) identification of the material relevant to the study; (2) interpretation of the nature of the policies; (3) comparative analyses of the policies; and (4) identification of the challenges for the future.

2. The policy-related survey focused on examining the experiences, views and attitudes of national and European policy-makers and authorities involved in implementing citizenship policies. The European level (Council of Europe and the European Union) institutions were selected due to their competence on citizenship issues especially. In the EU, the Committee on Citizen's Freedoms and Rights of the European Parliament, and certain units of the Commission formed the target group. While the European group was uniformly analysed the more numerous respondents at national level were further divided into four target groups: (1) members of parliament, (2) national (central government) officials, (3) local authority officials, (4) leaders of civic society.

The study included both awareness and attitudinal engagement of the respondents: their experiences ('memory' of events that are significant), their espoused practices (what they say they do), and their prospective forecast (what should be done). The data was gathered through questionnaires using face-to-face interviews, post mail and/or email. The questionnaire consisted of closed questions, statements of attitude and open questions. In addition, personal information (gender, education, occupational and national background), experiences (the number and character of encounters with persons holding dual citizenship) and conceptions were recorded.

The English core version of the questionnaire was translated to the native languages of the participating countries. The main part of the questionnaire was standardized but the participating research teams could add a country-specific part to the questionnaire. The Estonian team used this opportunity and asked additional country-specific questions on general attitudes mainly on nationalism and European citizenship.

The number of respondents was 993 in all 8 DCE states and 208 in Estonia. This number was considered sufficient for cross-national comparisons as well as for analysing Estonian situation by the groups of decision makers. Additional information was obtained through an international web-based discussion room among policy-makers and authorities (discussions were held in English).

The quantitative research data was analysed by factor analysis, t-tests, and by Pearson correlation. The open questions will be analysed by using qualitative content analysis constructing post facto interpretative categories. In this way, we will attempt to introduce a methodological pluralism by incorporating both qualitative and quantitative elements. The web discussions were analysed qualitatively by using interpretative content analysis.

3. By case studies, we addressed individuals including: (1) people who were citizens of two or more countries, and (2) people who had a multi-national background but only one citizenship. We studied and compared the experiences and views of these groups. The comparison included their loyalties, identity-formation (local, national, European) and their views of citizenship and nationality.

The research data was gathered through semi-structured interviews conducted approximately at the same time in each DCE country. The interviews were carried out in multiple ways: through personal interviews, interviews by telephone, and/or via electronic mail (in Estonia only personal interviews). The interviews were carried out in the respondents' mother tongues or in English (in Estonian case, either Estonian or Russian).

The interviewing style was structured when seeking answers to the common questions of the project. Nevertheless, the respondents are also allowed to express themselves freely while maintaining the general direction and shape of the interviews. In Estonian case, the possibility to address the common questions was limited because of a very different situation compared to the other DCE countries.

First, dual citizenship is not legalised in Estonia. However, in the last population census in 2000, 209 persons declared themselves as dual or multiple citizens (data of the Statistical Office of Estonia) so dual citizens are actually present. Yet, many of the dual citizens we reached hesitated or rejected of speaking about their experiences and it is most likely they were not covered by the population census data.

Second, the Estonian groups that could be seen as target groups for the survey have a very different background. They are composed of people with life histories which trajectories were historically inter-related but without shared characteristics. Both resulted from Soviet annexation that created a large Estonian Diaspora (ca. 100 000) and the group of Soviet-time immigrants and their descendants living in Estonia. After 15 years of independence, the practical situation of both these groups is quite different from the target groups of other DCE countries. At the same time more similar groups are missing because since regaining independence, Estonia has been predominantly a country of emigration with very few immigrants.

The interviews were analysed qualitatively, by using interpretative content analysis. The analytical process consisted of reflexive collaboration with all partners with respect to concept development and interpretation, in order to increase the comparability of the analyses implemented in each partner country. However, at the same time, the research results were identified by considering also the national differences in the political framework of each country.

3. STATE AND CITIZENSHIP

3.1. STATE AS A SPACE OF COHERENCE

There is a plethora of the definitions of and approaches to state and modern state (for overviews cf. i.a. Mann 1993: 44–63, Dunleavy and O'Leary 1995, Pierson 2004: 4–77). In the current article I understand the state as a territorial and intellectual space that the state/public institutions try to organise. Such an approach is in general accordance with i.a. Weber (1978), Mann (1993), Giddens (1995), Taylor (2003).

By controlling access to a territory through boundary restrictions, the content of the territory can be manipulated and its character designed. This strategy seems to be ubiquitous across individuals and groups in their constructions of social organisation (Sack 1983).

However, the processes are not one-dimensional. Jessop (1990: 3–10) treats the society as an indeterminate horizon within which various political projects may be pursued with different rate of success. There are several societalization projects producing “society effects” and several state projects producing “state effects”. Our state and society can be understood as the aggregate of the actual outcomes of these projects.

I will follow the understanding that the state institutions generally attempt to create coherence within the territory (cf. Weber 1978: 54–56 and Mann 1993: 54–63) while the projects of the other actors may have various results some supportive, some opposing and some neutral to the public logic of the organisation of state territory.³

³ I will leave aside the problems of the existence of ‘state’, ‘society’, ‘social’ etc. as discussed i.a. in Jessop 1990, Kuper 1992 etc.

This doesn't necessarily lead to a unitary empirical outcome. Mann (1993: 75–87) speaks of the model of polymorphous crystallisation taking place i.a. along the capitalist, ideological-moral, militarist, representativeness and national unity continuums and leading to somewhat stable though contingent crystallised state models.

The term conveys the way states crystallize as the centre – but in each case as a different centre – of a number of power networks. (Mann 1993: 75)

In creating coherence in a territory, the state institutions try to establish a normative foundation legitimating their rule (cf. Käärrik 1998, Weber 2002, Habermas 1976, 1996, Pierson 2004, cf. also Luhmann 1969, 1980, 2004)⁴ and structuring the political community (cf. Walzer 1967, Ruggie 1983, 1993, Weber 1995 and Rae 2002). Rae (2002) speaks of 'state identities' in this context.⁵

The modern state has from the beginning been constructed as defining a moral community, and elites have jealously guarded the state's monopoly on the right to define legitimate identity. In so doing, state elites have acted as agents in the constitution and reproduction of the state as a separate and bounded political unit within a system of such units. (Rae 2002: 50)

Conceptualisation of the position of a citizen is closely related to the construction of the normative foundations of the state. Thus, the latter, usually expressed in constitutions and legislation at least in contemporary European states, are of much use for understanding citizen's status as constructed by state institutions.

With reference to the description of the state as 'power container' by Giddens (1985) Taylor (2003) characterises the state as being the set of four containers that have been filled in order to create a modern nation state of 20th century and that are now arguably leaking:

- 1) Power containers: modernity marked transformation from warring states to defensive states but now the ability of any state to protect its population has come under question;
- 2) Wealth containers: the change from mercantile state to development state characterising modernity is now threatened by economic globalisation;
- 3) Cultural containers: the modern nation states developed from imagined communities are now facing cultural fragmentation;
- 4) Social containers: the modern change to democratic welfare state will be more and more replaced by social confusion.

Such approach is in general accordance with the various treatments of the crisis of nation state such as i.a. Dunn 1995, Guehenno 1995, Sassen 1996, Strange 1996, Holton 1998, cf. also Turner 1994, 2001, Hoffman 2004 (for a kind of summarising discussion on the "retreat" and "hollowing out" of the state cf. Pierson 2004: 50–105, 155–169), and more broadly also to both economic and cultural theories of globalisation (cf. Delanty 2000: 83), expressed by various authors (i.a. McLuhan 1962, Harvey 1989, Giddens 1990, Ohmae 1990, 1995, Stopford and Strange 1991, McGrew 1992, Robertson 1992, Dicken 1992, Falk 1994, Friedman 1994, Lash and Urry 1994, Guehenno 1995, Abramson and Inglehart 1995, Sassen 1992, 1996, Appadurai 1996, Strange 1996, Bauman 1998, Castles 1998 Jameson and Miyoshi 1998, Falk 1999, Castells 2000, Waters 2001, Fukuyama 2002).

Much of the more contemporary literature suggests that instead of speaking about the end of the nation state we can at best speak of its transformation. Among others, Taylor (2003) concludes that despite of the leakages the reports of the death of state are premature). However, the states have to adapt to the changing reality and for young states, this means facing many challenges simultaneously.

⁴ On the basis of Weber's treatment of legitimacy (cf. i.a. 2002: 47–56), two main types or aspects can be distinguished (cf. also Käärrik 1998): normative expectations on state institutions toward citizens (A-legitimacy) and the real acceptance by citizens (B-legitimacy). In this context, both are of importance.

⁵ With regard to state identity construction I generally take the position of Rae (2002: 14–54) regarding this as 'a mutually constitutive relationship in which cultural structures are the products of the practices and lived experiences of agents and these in turn shape agents' identities and expectations as well as the means by which they seek to achieve their goals' (Rae 2002: 46). In this article, I will concentrate mostly to the activities of state institutions and to the implications of such activities.

3.2. NATION STATE BUILDING AND CITIZENSHIP

In this article, I use the general narrative of socio-historical research on state and nation building in the Western civilization (especially Europe) during the last centuries as a background. There are many debates surrounding the narrative but for my purposes these debates are not central.

Raadschelders (1998) distinguishes between state-making and nation-building in European history. The stage of state making marked the development of state machinery with a focus on expansion and ‘citizen’ or, more correctly, ‘subject’ perceived as the obliged agent in the service of the ruler as sovereign directed to the expansion of his or her domain. In the period of nation-building the focus was more in internal questions including the redefinition of the sovereign as people and introduction of a more active role of citizens as bearers of rights and participants in political decision making (at least in formal level). The main aspects of citizen–government relations of these periods are captured in the following table.

Table 1. Development of the Relationship between Citizen and Government from Early Modern to Modern Government: A Characterization of Assumptions in Literature. Source: Raadschelders 1998: 178

| Period | 16 th –18 th centuries | 19 th –20 th centuries |
|----------------------------|--|--|
| Characteristics | State-making | Nation-building |
| Type of rule | Indirect | Direct |
| Role of central government | Outward | Inward |
| Citizen participation | Output oriented | Input oriented |
| Public expenditure | Warfare funds | Welfare funds |
| Citizen role | Civic duty | Civil rights |
| Possible effect | Imperial overstretch | Demand overload |

In analysing the development of features of the modern state, Pierson (2004: 4–49) suggest that of the 9 features, 5 (monopoly control of the means of violence, territoriality, sovereignty, bureaucracy⁶ and taxation) developed already during absolutism while 4 (constitutionality, impersonal power, authority/legitimacy and citizenship) characterise solely the modern form of the state.

“There is one element in the modern state configuration that is radically underdeveloped under absolutism – and that is the idea of citizenship” (Pierson 2004: 42).

The processes of state and nation building have always included the normative dimension.

Through different epochs of state-building, first in the early modern period, then following imperial collapse in the wake of two world wars, and more recently following the end of the Cold War, state-builders have been concerned with how to conceive of the state: with how it should be ‘personified’, ‘symbolized’, and ‘imagined’. (Walzer 1967: 194, quoted via Rae 2002: 50)

My interest in this respect is vested with the construction of citizenry as the legally established body of people holding the ultimate political power and constituting the political community in case of contemporary European nation states.

In the early stages of state building we can speak of a religious and hereditary basis of legitimacy with rulers claiming divine legitimation. In the period of nation state building nationalism was no doubt the most important basis for legitimation providing unprecedented coherence within a state (cf. Gellner 1983, 1987, 1994, 1997, Smith 1986, 1991, Hobsbawm 1990, Hammar 1990, Greenfeld 1992, Brubaker 1992a, 1992b, 1996, 1997, Miller 1995, 2000, Calhoun 1997, Oommen 1997a, 1997b, Faulks 2000, Gosewinkel 2001, Rae 2002, Riesenbergs 2002, Heater 2004b).

The power of the modern state is based to a large degree upon the fusing of the idea of state with that of nation to produce the nation state. (Taylor 2003: 101)

⁶ Although the bureaucracy was rationalised and impersonalised in modern state compared to the absolutist state.

There is an ongoing scholarly discussion, how much ethnic homogenisation is in principle required for nation state building.⁷ However, nationalism just is one of the principles of legitimation.⁸ The preceding religious elements for long retained some influence, although in a transformed manner.

There is some continuity between the cultural resources the state-builders have used in the pre-national and national ages in that religious identities have continued to play a role in the constitution of secular national identities, but they have also undergone significant transformation. (Rae 2002: 50)

More importantly, the modern nation state building included many other legitimating principles, such as human dignity, democracy, social justice/equality, non-discrimination, and the rule of law. There is an ongoing discussion on postnational citizenship. Kymlicka (1995) speaks of societal identities providing the context of choice. Habermas (1994, 1996), Schwartzmantel (2001) and other scholars stress the need for an overarching political or civic identity and a common public space or sphere in order to have a functioning democratic society. Habermas (1994: 23) even claims that citizenship was never conceptually tied to national identity. Marshall (1992, cf. also later discussion in this article) analyses the development of citizenship in terms totally other than these of ethnicity.

Habermas (1994, 1996) speaks of ‘constitutional patriotism’⁹ as the normative basis of state identity. Such discussion is continued in case of EU citizenship by Bauböck (1997) and Lacroix (2002). The model stresses the common experiences of democracy building and legitimacy derived through everyday legitimation via deliberative democratic participation. These should outweigh the historical nationalist identities.

Such an approach is closely related to the tradition of Continental public law theory, treating state and citizenship as independent of ethnicity. The constitutions of the Western democratic states have traditionally emphasised other aspects than ethnicity as principles of legitimation. One could speak of the gradual process of establishing the normative content of the modern state from 17th century up to date. Such evolution can very generally be presented in five stages (cf. Maurer 2004: 8–11):

1. Absolutism establishing a uniform arena of societal and political processes (mainly 17th century);
2. The reinterpretation of the bearer of sovereignty: replacing king by the people as sovereigns (mainly 18th to 19th century);
3. The liberal constitutional state based on the rule of law (*der liberale Rechtsstaat*): providing the basic individual liberties and the rule of law (mainly 19th century);
4. The democratic constitutional state: establishing the representative political institutions (mainly 19th to 20th century);
5. The democratic and social constitutional state: establishing the idea of state institutions as guarantors of societal welfare and self realisation (eneseostus) (mainly from mid–20th century onwards).

All in all, we can see a gradual development towards the model where the citizen has a much more central role in political community than in the previous era of hierarchy, domination and subjecthood. A contemporary European state could be understood as the citizen’s state. Thus, citizenship can be understood as one of central aspects in modern state building.

The transfer of the sovereignty from the body politic of the king to the body politic of citizens is a major turning point in the history of the western democracy. (Turner 1990: 211)

⁷ For a brief overview cf. Vetik (1998: 10–11) identifying the modernist homogenisation position expressed i.a. by Deutsch (1963) and the position advocating preserving ethnic and cultural differences expressed i.a. by Connor (1972). Rae (2002) speaks of ‘pathological homogenisation’, especially along with the ethnic lines. Nationalism at least in its radical forms has become somewhat discredited in the 20th century. This has led to the raise of the approaches debating the nationalist agenda, for example the theories stressing minority rights, multiculturalism etc. (cf. i.a. Young 1990, 2000, Soysal 1994, Kymlicka 1995, Bauböck 1998, Kymlicka and Norman 2000) as well as to the search for alternative projects for the basis of state identities/political cohesion aiming to redefinition of the essence of political cohesion (cf. i.a. Habermas 1994, Schwarzmantel 2001 etc.). Following this tread, I regard nationalism in this article as contributive and linked to, but not inevitable for creating contemporary modern state.

⁸ According to Derek Heater (2004a: 187–194) citizenship as an identity has a special relationship with history, nationality and solidarity. History is the repository of facts about the past and the provider of myths providing a society’s collective memory. Heater points out that without collective memory the citizen is a political amnesiac. Myths of history provide the necessary emotional adhesive for such civic feelings as pride and patriotism. Nationality is a mental construct mainly a feeling of cultural togetherness. Solidarity is an emotional force, which binds a group to a common identity.

⁹ The concept of constitutional patriotism is in fact introduced by Dolf Sternberger (Bauböck 1997), cf. also Müller 2005.

The democratic nation state needed a definition of membership that made it clear who were its citizens. First of all, it was important to know who were its active citizens, members of the electorate. (Hammar 1990: 58)

As a collective bond of uniform legal status and shared source of common rights and duties, citizenship offers a fundamental framework for expanding the inclusiveness of our (increasingly diverse) societies and promoting cohesion (amid this diversity). (Aleinikoff and Klusmeyer 2002: 1)

3.3. CLASSICAL NORMATIVE MODEL OF CITIZENSHIP

Treating citizenship as one of the constitutive elements of the state is widely used in legal writings, at least in Continental European tradition.¹⁰ The legal approach classically (cf. i.a. Donner 1994: 1–29, Zippelius 1999: 48–91, Liventaal 1999: 10–18, Annus 2001: 24–34) brings out four constitutive elements of the state:

- 1) People¹¹,
- 2) Territory,
- 3) Public authority (a functioning system institutions) characterised by
- 4) (Internal and external) sovereignty.

The citizen is perceived as the constitutive member of the people, i.e. nation, i.e. citizenry (cf. i.a. Zippelius 1999: 72–84, Faulks 2000: 21–35, Conrad and Kocka 2001, Maruste 2004, Pierson 2004: 106–111), as the member of the ‘community of fate.’ The number and qualities (competence, commitment etc.) of the citizens are the actual resource pool for the strength of state. Also, the citizens are the bearers of the state as an intellectual (or ‘imagined’, cf. Anderson 1991) community.

The relations between the state (authority) and citizen are relatively close and well defined, entailing mutual and exclusive loyalty, rights and obligations, clearly defined borders of the citizenry (marked by passports) and territory of jurisdiction (marked by state border structures) and, usually, normatively presupposed committed participation in relevant spheres of public activity. The relations are at least in the Continental legal system based on the enacted framework of legislative prescriptions. (cf. Kalev 2004)¹²

The classical normative model of citizenship is relatively general and fits to both nationalist and constitutional patriotic/republican conceptualisations. However, in the 20th century many new aspects of citizenship have been discussed in theoretical literature.

3.4. SUBSTANTIVE DIMENSIONS OF CITIZENSHIP

3.4.1. General outline

While most of the citizenship literature in the 19th and 20th century was somewhat related to the questions of law and legal theory of state, the writings of Thomas H. Marshall (1950, 1964) on citizenship opened the avenue for a more sociological account on citizenship mostly responsible for the current popularity of the citizenship theory (cf also Kalev 2004: 89–90).

¹⁰ It might be useful to mention that the English speaking countries predominantly use Common Law based legal system and not the Continental ‘Civil’ Law that is the basis for this approach.

¹¹ The people can be defined as either the sum of the citizens of the state or of the permanent inhabitants/residents of the state. The short time period visitors and inhabitants are usually not included in the definition of the people as the constitutive element of the state.

¹² The main issues addressed in the legal conception of citizenship are (Kalev 2004: 90–92):

1. The constitutional order and regime type of the state defining the role of the citizens *vis a vis* public institutions.
2. The legal status types (models) of inhabitants of the state defined by law.
3. The stipulation of rights and duties.
4. The terms for obtaining, holding and losing citizenship.

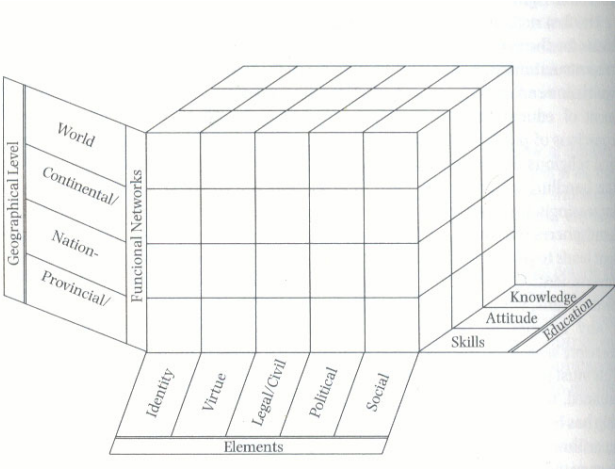
Currently, there are various social scientific conceptualisations of citizenship. According to Tilly (1995: 1–2), the new theories of citizenship are partly an attempt of the analysts of political processes to respond with a new synthesis to the challenges posed by the interpreters and advocates of new social movements portraying identity and citizenship as turning away from the power politics toward assertions of identity.

Most of the various aspects of the new citizenship literature are summarized by Eder and Giesen (2001) and Heater (2004a).¹³

Table 2. Three conceptions of citizenship. Source: Eder and Giesen 2001: 7

| | | | |
|----------------------------------|--|---|---|
| | The individualist paradigm: market model; liberal theory and socialist critique | The political paradigm: participation model; democratic theory and republican/ communitarian critique | The collective identity paradigm: membership model; universalist theory and primordial critique |
| Citizenship as a practice | Individual liberties (negative freedom) | Civic duties (positive freedoms) | Common virtues/values |
| Citizenship as an institution | Welfare entitlements | Democracy as a strong public sphere | Common culture and tradition |
| Citizenship as a discourse | Rights | Obligations | Belonging |

Table 3. The cube of citizenship. Source: Heater 2004a: 326



Andersen and Hoff (2001: 3) generalise citizenship as having three analytical dimensions:

- 1) rights (and duties);
- 2) participation;
- 3) identities.

¹³ For a review cf. also Isin and Turner 2002.

3.4.2. Analytical dimensions employed

The material collected in DCE project is based on a specific understanding of citizenship. Due to practical reasons, I base my analysis generally to the same approach. As already mentioned, the DCE project was based on the distinction between citizenship as a status and citizenship as a practice (Oldfield 1990; Lister 1997; Isin and Wood 1999; see also Turner 1993). In fact, DCE survey treats citizenship as an essentially legally based construct:

- that can be structurally analysed in Marshallian tradition;
- that is produced by decision makers having attitudes on the right scope and balance of the rights and duties;
- that creates societal practices and perceptions.

Citizenship as a status refers to the legal membership and rights and duties attached to it. Citizenship as a status sets the possibilities for citizenship as a practice, which refers to participation as a citizen (in political, socio-cultural and economic terms) and feeling of belonging and the identity dimension.

Marshall understands citizenship in terms of empowerment of the individuals. Citizenship is the main tool for balancing democracy and market economy both stabilising and reviving society.

.... The claim to enjoy these conditions [economical and educational improvements in order to reach the life-style of a gentleman] is a claim to be admitted to a share in the social heritage, which in turn means a claim to be accepted as full members of society, that is, as citizens. The inequality of the social class system may be acceptable provided the equality of citizenship is recognised. (Marshall 1992: 6)

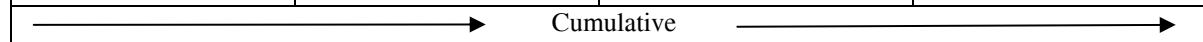
Speaking of the equality of citizenship, Marshall distinguishes three spheres of rights of citizen with the principal importance: civil, political and social.

The civil element is composed of the rights necessary for individual freedom – liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts, and the right to justice. By the political element I mean the right to participate in the exercise of political power, as a member of a body invested with political authority or as an elector of the members of such a body. By the social element I mean the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in the society. (Marshall 1992: 8)

It is comprehensible that a person is a citizen only in terms of some of the Marshallian dimensions. This is the case i.a. in case of denizenship (almost full citizen in terms of civil and social citizenship and lacking many of the political rights and obligations, cf. Hammar 1990). However, it must be kept in mind that in accordance with the starting logic of the DCE project I use legally defined citizenship as the main starting point of the discussion.

Building on English experience, Marshall presents the historical cumulative development of the essence of citizenship as illustrated in the following table.

Table 4. The growth of citizenship. Source: Marshall 1964: 70

| | Civil rights | Political rights | Social rights |
|--|--|--|---|
| Characteristic period | 18 th century | 19 th century | 20 th century |
| Defining principle | Individual freedom | Political freedom | Social welfare |
| Typical measures | Habeas corpus, freedom of speech, thought and faith, freedom to enter into legal contracts | Right to vote, parliamentary reform, payment for MPs | Free education, pensions, health care (the welfare state) |
|  Cumulative | | | |

Marshall has been criticised (for a review cf. Turner 1993: 6–12, Heater 1999: 17–24, for a kind of reflection cf. Bulmer and Rees 1996), especially concerning the issues of historical development of citizenship but his division of citizenship into three spheres has remained very influential as an analytical framework.

One could distinguish at least cultural and economic aspects of Marshall's social citizenship as separate spheres. However, Marshall's legacy is especially powerful in terms of social citizenship providing a rationale for designing the society as a common space enabling contemporary heterogeneity.

Here, the main issue of debate is the connection of civil and social citizenship. Can social rights be recognised as a necessary component of a citizen status? Providing the possibilities to fully participate to the poorer citizens implies restricting the liberties of those better off. Marshall is straightforward in this aspect.

The extension of the social services is not primarily a means of equalising incomes. What matters is that there is a general enrichment of the concrete substance of civilised life.... Equality of status is more important than equality of income. (Marshall 1992: 33)

The neo-liberal theoreticians pay attention mostly to the income issues and are not so optimistic.

The aspiration of equality may be elevated, but the reality of equality is grubby and unpleasant. In the name of an ideal which promises what it cannot give, it is necessary to embark on a continual process of mutual inspection and assessment.... (Joseph and Sumption 1979: 121).

In the Western Europe the understanding of the idea and inevitability of social citizenship as a status is relatively deeply rooted. In the USA, however, the social functions of state are perceived more as providing minimal social aid to the people and less in the context of ensuring full-scale citizenship (cf. Fraser and Gordon 1994). This may well be the case of at least some of the new EU CEE members, and among them the one of Estonia.

As the issues of nation state building and the formation of citizenry are of particular relevance in case of Estonia I will complement the Marshallian approach by the conceptualisation of Bauböck (1994, 1998) identifying three main conceptions of the political community to the analytical framework. This approach is generally reconcilable to the framework of DCE survey.

According to Bauböck (1994, 1998) the legal status of citizenship can be allocated based on three different conceptions of the political community: a national, a republican and a societal (liberal) one. Bauböck's approach is relatively closely linked to i.a. the differentiation of liberal vs. republican vs. communitarian citizenship by Delanty (2000).

The advantage of the Bauböckian model is that it can be used as a common platform to discuss the problems of newcomers and of people who are already members of the political community. The conceptualisation of citizenry provides reference points to address both of these cases.

In a national conception, the relevant community to be included in citizenship has a life of its own, independent from the state by which it is presently organised. This may be a community of language, of religion, of imagined common descent or of shared historical experiences.

By contrast, the republican conception of citizenship is self-referentially focused on the political community, which takes priority over other affiliations.... It extols the virtues of patriotism and active participation of politics. Citizenship is thus seen more as a practice than as a legal status.

A societal conception of citizenship is more inclusive. It refers to population, which is durably subjected to a state power and depends on this power for a guarantee of its fundamental rights. Because of the internal territorial organisation of modern states, society so conceived is basically identical with the resident population of a state.

There are visible links between nationalist state identity and nationalist conception of citizenship, as well as between constitutional patriotism and the republican conception. The societal conception is more related to the emancipatory tradition of democratic theory (cf. Trend 1996, Sousa Santos 2005, but also Dahl 1989, 1998, Held 1995, 1996, Beetham 1999, Dryzek 2000) and also to the liberal conception of citizenship as opposed to the republican one as offered by Heater (1999), linked to the differentiation between thin and thick citizenship (Tilly 1995).

[Liberal citizenship] involves a loosely committed relationship to the state, a relationship held in place in the main by a set of civic rights, honoured by the state, which otherwise interferes as little as possible in the citizen's life. (Heater 1999: 4)

By 'republic' is meant a constitutional system with some form of sharing out of power to prevent concentrated arbitrary and autocratic government; and 'civic' means the involvement of the citizenry in public affairs to the mutual benefit of the individual and the community. (Heater 1999: 44)

Summarising the discussion above we can bring out two broad approaches important for the analytical foundation of research.

1. The ways of conceptualisation of citizenship, which are highly illustrative to the structuring principles of the political community. Here, we can distinguish between 3 main types of citizenship:
 - a) Republican – based on individual achievements and the effort to create real connections between a person and a state/society, i.e. focused to an effective integration in the public sphere;
 - b) Social – citizenship is perceived as a complementary set of human rights everyone should enjoy. Every inhabitant of a country should become a citizen because of the logic of polity creation in Locekan sense, i.e. democratic society and government requires the participation of all the inhabitants as members of the social contract (cf. also Dahl 2001);
 - c) Communitarian – oriented towards traditional communities of inhabitants and requiring almost full-scale assimilation (cultural, ethnic, etc.) from newcomers.
2. The dimensions of substantiating the content of citizenship that are highly illustrative with respect to the fields in which people “in” are considered as full scale citizens, i.e. holders of the central positions in all the nation states. Here, based on Marshall (1992), we also can differentiate at least between 3 main spheres:
 - a) Civil citizenship – being a master of one’s own private life;
 - b) Political citizenship – being the ultimate holder of state power enjoying political freedoms;
 - c) Social citizenship – being an active participant in society in cultural, economic etc. terms, i.e. being a person empowered to fully enjoy the cultural and socio-economic inheritance of previous generations as well as the one of current situation.

These frames can be utilised first of all in analysing national citizenship. In this context, they shed light to the features of practices and attitudes of national citizenship influencing the positions on multiple and EU citizenship. The approaches, especially the Marshallian one, could also be of some use in characterising the debates on multiple citizenship and the essence of European Union citizenship but here the main issues at stake could be better brought out using the lines of argumentation presented below.

Thus, in this article I will use the frames for rearranging the DCE results of Estonia. In so doing I partly also address the questions of multiple and European citizenship. For example, the Marshallian dimensions can be used to analyse the actual or desired scope of EU citizenship as well as the actual content of the multiple citizenship possessed or deemed legitimate or necessary to possess by a person in practice can be analysed by using Marshallian dimensions. Also, as discussed above there are linkages between Bauböckian conceptualisations of citizenry and the tolerance towards/allowance of multiple citizenship.

4. MULTIPLE AND EUROPEAN CITIZENSHIP AS CHALLENGES TO NATIONAL CITIZENSHIP

While most of the above discussed conceptualisations and aspects of citizenship can be interpreted as contributing to or at least in line with national citizenship as a legal institution, it is possible to identify at least three concepts where this relationship seems to be problematic:

1. World citizenship (cf. i.a. de Roberts 1999, Heater 2002);
2. European (or some other supranational) citizenship;
3. Multiple or dual citizenship (also discussed as transnational, cf. i.a. Kleger 1997, Bosniak 2003).

In this article, I will concentrate to the concepts having at least some level of legal institutionalisation, i.e. European Union citizenship and the case of multiple national citizenships.

Defining the citizens in the context of one political system has created stability and symmetry but at the same time also stiffness and accentuation of tight boundaries (e.g. Aleinikoff and Klusmeyer 2002). Multiple and EU citizenships challenge the principle of nationality and identity tied to one state only. The new untraditional citizenships emphasise the features of “fluid modernity”: freedom of movement, multiculturalism, acting in “a space between” and having no place of one's own.

4.1. MULTIPLE CITIZENSHIP

Multiple citizenship means being simultaneously the citizen of two or more states. In international law, this situation is regarded as undesirable at least since the introduction of the Westphalian model of international relations. Traditionally, the nation states are regarded fully sovereign in their citizenship policies (cf. i.a. Donner 1994: 16–19). Nevertheless, disputes arise because of practical dual or multiple citizenship (for example, marriage of the citizens of different titular nationalities, conflict between *ius sanguinis* and *ius soli* in automatic attribution of citizenship etc.).

In order to solve these problems, nation states have gradually created the mechanisms of international law on dual or multiple citizenship, starting with inter-state mixed claims commissions such as the American-Venezuelan Mixed Claims Commission set up in 1903, continuing by establishing international courts such as The Permanent Court of International Justice 1921 and concluding international conventions such as the LoN Hague Convention Governing Certain Questions Relating to the Conflict of Nationalities, 1930, UNO Convention on the Nationality of Married Women, 1957, and CoE Convention on Reduction of Cases of Multiple Nationality and Military Obligation in Cases of Multiple Nationality, 1963. All in all, these instruments were directed towards avoiding multiple nationality and in case of practical multiple nationality to define one of the titular nationalities as effective one, mostly on the basis of domicile (actual residence). (cf. Donner 1994)

However, some of the states have for long tolerated multiple nationalities, usually unilaterally, concerning emigrants and posing some conditions (cf. Greek Law of Nationality 1856/1914, German Imperial and State Citizenship Law 1914, the even more open practices of United Kingdom and France). In 2000, a new CoE European Convention of Nationality entered into force, marking a partial shift in policies not opposing multiple citizenship in certain situations.¹⁴

The issues of multiple citizenship have gained prominence due to expanding transnational migration. “Sovereignty itself has to be conceived today as already divided among a number of agencies, national, regional, and international, and limited by the very nature of this plurality” (Held 1991: 222).

Transnational mobility has become a common phenomenon since the end of World War II. After the war, people who had lost their homes and places of work, or even citizenship (“Displaced Persons”) began to seek alternative locations for living. Encouraged by open communication and easier access to transportation, worldwide migration has since swelled to unforeseen proportions. Today, there are “magnet” states on every continent, states that attract immigrants from less advantaged neighbouring areas. Impoverished countries and relatively wealthy countries are currently clustered in every geographical region (Fishman et al 2006 referring to Berger and Huntington 2002; Castles and Davidson 2000; Castles and Miller 1998; Danspeckgruber 2002; Rosenau 1997).

In the European Union, however, these processes are ever more salient. While migration from member state to member state is open, there is also a stream of immigration from outside the Union that apparently cannot be stemmed (Favell and Geddes 1999). The Maastricht Treaty of 1993 facilitated the passage of goods, money, and labour among the signatory states. This did not necessarily undermine national autonomy; rather it has contributed in some states to moderating a demographic crisis. There are claims expressed by some scholars that since the 1980s declining birth rates have in fact led wealthy states to depend on immigration for maintaining a way of life. While the number of people retiring from work with generous pensions has grown, the number of young people entering the labor market in those states has declined. The upshot of this development is that immigration has become a resource of cardinal importance. (Fishman et al 2006)

Today the nation-states are encountering difficulties in managing borders. Among others, the administration of boundaries is complicated by contradictions generated both internally and externally. On the one hand, with the flux in population, more abstract boundaries of the internal polity are “smudged” as an increasingly diverse population affects interpretations of political issues on the public agenda. Increased pluralism within nation-states often breeds pressures for cultural (linguistic, religious) self-determination and autonomy, as well as for cultural maintenance (Bauböck and Rundell 1998; Castles and Davidson 2000). On the other hand, territorial borders are “blurred” as immigrants tend to travel back and forth between their countries of origin and the receiving countries (Bauböck and Rundell 1998). This trend is enhanced by the pressures of globalization – the de-territorialization of economic activity by international corporations that are indifferent to the location of production.

¹⁴ As of 26.05.2006 this convention was signed by 27 and ratified by 15 of the 46 members of CoE, so the shift may not be characterised as general at least not yet.

There are relatively heated discussions concerning the desirability of multiple citizenship. I will bring out the main arguments for and against multiple citizenship as expressed in the theoretical literature (Hansen and Weil 2002, Aleinikoff and Klusmeyer 2000, 2001, 2002 and Martin and Hailbronner 2003).

The argument against multiple citizenship refers to:

- 1) Loyalty as allegiance to a (nation) state;
- 2) The conflicts arising from taking high office;
- 3) The problems concerning conflicting military obligations, including conscription;
- 4) The fears concerning problems for national culture of the host country posed by immigrants and the possibility of instructed voting that could be influential in case of a large diaspora;
- 5) Unfairness (double voting rights, usually one taxation but double benefits etc.);
- 6) The exit option to move to the other country of nationality if conditions in the first deteriorate radically;
- 7) The problems concerning diplomatic protection;
- 8) Conflict of laws regarding civil status, inheritance, taxation and other issues of private law.

The argument for multiple citizenship refers to:

- 1) Potential to reflect actual and deeply felt affiliations, connections, and loyalties;
- 2) Potential to promote naturalisation and integration;
- 3) Potential to facilitate free movement between states;
- 4) Potential to promote inclusiveness;
- 5) Inevitability of multiple citizenship if some states allow it;
- 6) Inevitability of one effective nationality also in cases of multiple citizenship and its possibility to solve the conflicts in military service, diplomatic protection, as well as the conflict of laws.

Leaving aside the legal technicalities and somewhat lopsided integration discussion the central point of the argument seems to be how will multiple nationality influence political community in the sense of republican vs. liberal citizenship. The argument against multiple citizenship refers to the practical impossibility of many parallel allegiances. The argument in favour usually stresses only the cases for real multiple identities, setting limits to its force.

Thus, multiple citizenship is generally supported only under condition it doesn't harm the titular political communities. For example, Aleinikoff and Klusmeyer (2002: 37–41) support multiple citizenship in case of individuals with a genuine link to the countries concerned, giving primacy to the country of residence and with clear option for multiple nationals to renounce other nationalities as well as recommendation to surrender the other nationality for those in policy-level positions in national government.

Consequently, multiple citizenship could be practical in some cases and disadvantageous in others depending on the situation of the state(s) and multiple citizen(s). Thus, it is an issue to be addressed by every state according to the actual conditions in a given time and space.

The concept of multiple citizenship is inherently problematic for national citizenship as substantially conceived. National citizenship is directed to clear mutual relations between people as citizens and (nation) state institutions as the main structurers of the political community.

The scholars discussing multiple citizenship predominantly have legal approach and tend to treat the state mostly as technocracy. Thus, only the (human) right aspect of citizenship is stressed and the legitimation and cohesion problems remain unanswered.

4.2. EUROPEAN UNION CITIZENSHIP

The predecessor of EU, European Economic Community (EEC), was, as indicated by name, primarily an organisation for intergovernmental economic co-operation. The Rome treaties of 1956 establishing EEC foresaw a common market characterised by free movement of goods, services, and people.

Although there was plethora of plans and discussions to introduce a substantial political dimension to EEC/EU and direct elections into advisory European Parliament were agreed in 1976, only after the Single European Act (1986) and Maastricht Treaty (1992) this started to attain some volume. The subsequent treaties of Amsterdam (1997) and Nice (2001) as well as other acts and processes resulted in a complex entity consisting of 25 member states and combining intergovernmental and supranational features but no doubt also having a common political dimension.

The Maastricht Treaty enacted a European Union citizenship allowing the metaphor of transition ‘from a market citizen to a EU citizen’ (Oppermann 2002: 562). Olsen (2003) has characterised this situation as creating the preconditions for the citizens of the member states to identify themselves with the institutions of EU.

In fact, the EU citizenry is defined on the basis of national citizenry; the rights of a EU citizen are complementary to the content of national citizenship and will not enable to act as a full citizen in the other member states. Hence, the EU citizenship has been characterised as semi- or quasi-citizenship (Castles and Davidson 2000: 98). We are speaking of relatively minimalist rights unaccompanied by duties. This makes the concept of EU ‘citizenship’ vague (cf. Shore 2004).

We could summarise the content of EU citizenship as follows (cf. Oppermann 2002: 564–568):

- Free movement of people, services and goods and other provisions resulting from the rules of internal market;
- Principle of equal treatment;
- Universal right for domicile within the borders of the union;
- Passport union, abolishing of border control (Schengen area), police co-operation (Europol);
- Common definition of refugees;
- Extended diplomatic protection;
- Right to elect local government assemblies and European Parliament;
- Right to petition European Parliament and European ombudsman;
- Right to appeal to all EU institutions in all the official languages of the union and to receive answer in the same language;
- Right to access the documents of European Parliament, Council and Commission.

Moreover, in reality many of even these rights are either narrowed off, limited in practice or entirely absent (cf. Kadelbach 2003, Mamontov 2004). This holds true especially to the citizen rights towards EU and member state institutions whereas the more institutionalised but primarily civil sphere connected rights concerning free movement are better enforced in practice. However, plans of change are constantly raised.

The European Commission prepares a report and proposals on the development of EU citizenship for the Parliament, Council and Economic and Social Committee in every three years. On the basis of these, changes are made. For example in the last years, the rights of the EU citizens were extended to long-term non-citizen residents of European Union (cf. Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers, Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted – all mostly applied in Estonia via Act on Granting International Protection for Aliens).

There have been virtually innumerable theoretical discussions on the future development scenarios European citizenship (cf. i.a. Meehan 1993, Rosas and Antola 1995, O’Leary 1996, Bauböck 1997, Lehning and Weale 1997, Weale and Nentwich 1998, Wiener 1998, Hansen and Weil 2001, Bellamy and Warleigh 2001, Eder and Giesen 2001, Raik, Terk et al. 2002, Dunkerley et al 2002, Barber 2002, Raik 2003, Amin 2004, Eder and Spohn 2005, Bruter 2005, Majone 2005, Dell’Olio 2005). My aim here is not to discuss these in depth but bring out the main possibilities for further development.

Generalising the various discussions, one can identify three main logical pathways covering the various scenarios presented:

- 1) European citizenship remaining generally to the same level (a bonus package to the national citizenship or denizenship);
- 2) European citizenship as being developed towards a more state like model (cf. i.a. the common European Fatherland and European constitutional patriotism models of Bauböck 1997);
- 3) European citizenship being partly or totally dismantled (in order to strengthen the exclusivity of national citizenships or for the sake of market).

Developing the argumentation line of Tiilikäinen (1995) and Majone (2005) it is possible to clarify the essential challenge with regard to expanding EU citizenship in institutional terms. Developing a more enhanced political citizenship of EU not only comes at the expense of national citizenships but also needs a different legitimisation basis.

The current EU citizenship can be understood as a ‘bonus package’ to national citizenships and suits to the contemporary model of legitimisation of EU institutions in practice being essentially based on the legitimacy of member state political institutions. A more enhanced EU citizenship deepens the demands for an independent legitimisation for EU institutions. But it is hard to speak of legitimisation in current situation without an effective European public sphere and citizenship identity (cf. Balibar 2002). It seems hard to envision an enhanced political EU citizenship without structuring EU as a huge federal nation state.

5. THE FINDINGS OF ESTONIA SUMMARISED

Summarising the material collected by research and presented in the articles I will bring out the general factors that will predictably exert an ongoing influence upon Estonian policies of citizenship.

My discussion here primarily utilises the material concerning:

- 1) The historical and legal aspects of citizenship providing the main general contexts and aspects for discussing citizenship policies, and
- 2) The attitudes expressed by decision makers referring to the issues perceived as important and informing us about the factors concerning possible changes from the viewpoint of the people who are entitled to make changes.

In accordance with the above theoretical conceptualisations I will subsequently pay most attention to the attitudes of national decision makers generally linkable to the state actors organising coherence in a territory. The attitudes expressed by multiple citizens/multicultural people are used as supportive information. The empirical reason is that the interviews were qualitative and thus not statistically representative, the structure of the interviewees differed from other DCE countries making it hard to compare, and concentrated primarily to the aspects of DCE project not so much focused in the current article. However, it is possible to treat the interviews as additionally characterising the situation from the viewpoint of the people actually affected by citizenship policies on the issue.

In general the Marshallian and Bauböckian conceptualisations of citizenship turned to be practical in rearranging the empirical material of the articles. As could be expected on the basis of the general methodology of the DCE project, Marshallian dimensions were well employable in case of the practices and, to a somewhat lesser extent, attitudes on the content of national, multiple and EU citizenship.¹⁵ Concerning the attitudes the use of Marshallian frame was somewhat more problematic because of the dominance of the issues of political citizenship and the weakness of civil and social citizenship in the prevailing discourses in Estonia. The Bauböckian framework was utilisable in discussing and interrelating the legislation and principles on citizenry, i.a. native citizenship and naturalisation of Estonia. Also the distinction of the principles *ius sanguinis* and *ius soli* appeared useful in analysing the attitudes.

¹⁵ The Marshallian conceptualisation was useful in terms of analytical dimensions. The historical development of the content of the dimensions of citizenship was not addressed in this research.

5.1. HISTORICAL AND LEGAL ASPECTS

5.1.1. Conceptualisation of citizenry

1. The citizenship legislation of Estonia is characterised by relatively moderate and open rules in line with the European tradition. It is noteworthy the citizenship legislation has changed so little if considering the relatively heavy debates on citizenship policies (cf. Ruutsoo 1998, Saarts 2005, Viinapuu 2006). Numerous stipulations resemble closely those of the laws from the previous period of independence.

1.1. In obtaining citizenship by birth, the Estonia has traditionally been based on the principle of *ius sanguinis* as also in most other European states. The descendants of the citizens acquire citizenship by birth. Such situation could have been interpreted as an expression of closed national identity.

However, the introduction of complementary elements of *ius soli* modernising citizenship legislation has changed Estonia a country of the mixed model combining *ius sanguinis* and *ius soli*. The special arrangement in 1998 of naturalisation for minors who were born in Estonia after 26 February 1992 marked a significant turn towards the use of *ius soli*. In addition, Estonia uses *ius soli* in the case of children born in Estonia whose parents are unknown. As a result, the rules for automatic citizenship are relatively progressive in Estonia.

1.2. Concerning the rules for naturalisation, the Estonian legislation has always been relatively open. There are no barriers impossible to overcome. The criteria of citizenship for non-citizens are independent of ethnicity and based on individual achievements, thus every willing applicant can meet these criteria.¹⁶

National legislation on naturalisation continues the relatively open practices of the first era of independence. In the 1990s this foundation was complemented partially in response to the critique and proposals of OSCE and other organisations and more inclusive practices established. Following the consolidation of political system, economic stabilization and leave of the remnants of Soviet/Russian Army by 1994, Estonian politics and legislation concerning naturalisation and integration have been characterised by an increasing pragmatism and flexibility. Estonian naturalisation legislation has been the object of interest of many international observers and organisations as well as of neighbouring countries, and is now generally considered as meeting all international standards.

2. It could be argued that the most important changes in the field of principles concerning citizenry, for example with regard to naturalisation policies, have occurred in conceptualisations while the legislation has remained relatively stable. Communitarian principles have traditionally dominated citizenship philosophy in the region. Since late 1990s the policies seem to have shifted to a clearly republican orientation.

Historical legal tradition of citizenship is closely related to the concept of a cultural nation. Long isolation of the country from the modern citizenship institution, limited practices in the respect of treating legal immigrants and parochial elements in habits also exert influence on attitudes and policies. After restoring independence the Baltic nations continued both legislative and philosophical citizenship traditions of pre-war era and generally are continuously being modelled by their naturalisation laws as “single-community” nation-states. The Preamble of the Constitution of Estonia declares, “The State shall guarantee the preservation of the Estonian nation and culture through the ages”. This reflects the strong concept of the nation-state of the early and mid-20th century Europe present also in the current Constitution.

At the same time both the original zero option 1918 and the restoration of the Estonian state *in integrum* in 1991–92 did not differentiate between different nationalities (ethnic groups): the rights of all the citizens (among them a tenth being not ethnic Estonians) of the republic occupied in 1940 and their descendants were restored. The policies have remained firmly on a legal basis.¹⁷

¹⁶ However, there is an ongoing debate on the practical effect of the requirements for knowledge of Estonian (simultaneously the official and ethnic language) as barrier to people unable or reluctant to learn. General discussion concerning naturalisation can be found below (p. 4).

¹⁷ Of course, this was not too hard to accept for nationalists as most of the ca. 100,000 non-Estonian original citizens were already well integrated and the bulk of ca. 400,000 non citizen residents were Soviet-time newcomers.

Even while the conditions for obtaining citizenship by birth and by naturalisation have broadly remained the same the influence of republican and even social conception on citizenship in the sense of Bauböck has increased. Thus the same legislative conditions are reinterpreted and, if necessary, legally refashioned mostly in terms of republican citizenship.¹⁸ Of course, it is possible to argue the legislation has been effectively operating as republican all the time.

Along with the ideas of open citizenship and naturalisation policy the educational reform is the main asset in reshaping the model of living *side by side* (or co-existence) into the *living together* model. The reform of formal education planned to begin in 2007 would hopefully significantly reduce the vertical segregation of society – one of the legacies of Soviet-time colonial arrangement of society. As a result loyalty as basic shared belonging in terms of constitutional patriotism can be developed into the more advanced forms of belonging closer to shared identity, that fits with the communitarian understanding of the functioning of effective nationhood.

3. There are diverging attitudes concerning citizenship among decision makers and multiple citizens/multicultural people: emotional and instrumental. Emotionally, the citizenship is tied to nationhood, patriotism, national culture and Estonian community. Instrumentally, citizenship is mostly connected to the socio-economic everyday issues and seen as a purely legal status, determining person's legal capacity to act and utilisable by everyone keeping in limits to the law. Such dichotomy in attitudes may constitute a potential resource basis for legitimating the possible redefinitions of citizenship in the future.
4. Estonian naturalisation policies are deliberately oriented towards effective integration posing requirements on knowledge of society and official language. Partly, this has meant rejection of the social conception of citizenship in the Bauböckian sense but also surrender of the national communitarian vision (i.a. lowering of language competence barriers for citizenship applicants) in order to improve effective access and flexibility of the rules of obtaining citizenship.

The important feature of effective nation building seems to be consistent observance of minimal republican content of naturalisation requirements complemented by conducting programs supporting integration in order to achieve a certain level of cohesion in society. As there has been a clear progress in concerning the integration of the Soviet time immigrants into Estonian society in terms of citizenship this could be a point of reflection also in Western Europe, especially taking into account the events in the Netherlands and France in recent years.

In the qualitative interviews the multiple citizens and multicultural people generally didn't express considerable problems with regard to conditions for naturalisation. While the interviewees not having taken naturalisation examinations sometimes expressed hesitations concerning examination requirements these with such experience almost unanimously told the requirements were reasonable and possible to meet. Generally, the requirements were seen as justified. Integration as a mainstream policy has in principle become a shared perspective by both main linguistic communities.

5. The reshaping of national citizenship that takes place already in a more open space of EU and at least has a good potential to contribute to the general expectations of the Estonians (both ethnic and non-ethnic) in terms of national security and prosperity. EU also works as some kind of a "softening belt" of globalisation effects, at least for the smaller nations.

The membership of EU can be seen as exerting a positive influence to Estonia also with regard to citizenship policies, strengthening state institutions in some aspects and encouraging them to pursue firmer policies as enjoying more stability with regard to international pressures.

Another aspect is intellectual integration into EU. The Estonian society just in formation is able to enter the pluralist EU space gradually and in a more evolutionary than revolutionary way. Finding adequate approaches in connection with the EU seems to be of critical importance with regard to the ability to participate in the European discussions i.a. on citizenship.

6. EU citizenship by its architecture currently represents a thin supra-national citizenship. Dependence on the rules for acquisition of national citizenship makes the EU citizenship a fluid concept without substantial separate essence. The fact that the construction of the EU citizenship does not contain

¹⁸ This conclusion is supported by comparative analysis of citizenship legislation conducted by Karolin (2006) identifying Estonia as one of the most evident examples of the republican conception of citizenship.

significant supranational features has been helpful for its positive reception in Estonia, as EU citizenship thus is not regarded as a threat to the nation state.

Introduction of the status of EU citizen didn't mean significant changes to Estonian political and legal system as the status of denizens (cf. the content of citizenship) was already well developed. However, the opportunities of the EU citizenship add up to actual scope of rights exercised by Estonian citizens with respect to freedom of movement.

The European Union membership and the evolution of the concept of the EU citizen is a potential agent of change. The integration of Estonia into the EU will likely encourage the state institutions to pursue more consistent policies regarding citizenship and integration. It is also likely to reduce the need for Estonian citizens by birth to use the loopholes in Estonian legislation in respect of European states for acquiring of privileges related to it. The liberalisation of popular attitudes is also possible.

7. Concerning multiple citizenship, Estonia faces practical problems in keeping legislation and practices together. While holding multiple citizenships simultaneously is prohibited by citizenship act the wording of the constitution excludes deprivation of citizenship as a sanction in case of native citizens but not naturalised citizens. Currently, there is no other sanction enacted by law for holding multiple citizenships.

The practices of authorities have evolved towards inactivity in case of both native and naturalised citizens. Thus, multiple citizens are in a situation of silent acceptance but nevertheless also of illegality. Such situation is clearly undesirable with respect to the legitimacy of state institutions and laws.

Another aspect concerning multiple citizenship is a numerous Russian minority builds some kind of irredentism in the North-Eastern part of Estonia. The "Russian factor" is likely to contribute to the perception of multiple citizenship as a threat to national sovereignty.

5.1.2. The content of citizenship

8. The content of citizenship was addressed only partly in the research. Thus it is only possible to bring out some aspects covered by material collected. As demonstrated elsewhere (cf. Kalev 2004, Halling 2005), citizenship is in general relatively well substantiated in Marshallian dimensions in Estonia at least in the formal constitutional level.
9. There were some legal possibilities to differentiate the legal treatment of citizens and non-citizens stipulated in 1992 constitution. In social and economic spheres, these possibilities, however, were not realised, as the later enacted regular laws regulating these spheres did not use the possibilities and treated all residents basically equally. Difference between citizens and non-citizens can be found in political citizenship, such as party membership, electoral rights and public service.

It is worthy to bring out that the Estonian constitution itself contains a kind of conceptualisation of citizenship distinguishing between the rights of everyone and the additional rights of citizens that is not always the case in the bills of rights in other states. However, as regular laws usually not distinguishing between citizens and non-citizen residents specify the constitution this fact has mostly a theoretical importance.

10. Generally, the issues addressed under the title 'citizenship' belong to the sphere of political citizenship. Civil and social citizenship in Marshallian terms are underrepresented and seem to be linked to different vocabulary and discourse in Estonia.¹⁹ Especially the sub-concepts of social citizenship seem to be weak and a political or welfare economic approach more widespread. The decision makers perceive citizenship predominantly as connected to the issues of political citizenship. Multicultural people also speak of citizenship first in this connection but sometimes address also civil and social issues.
11. However, there are some topics where civil and social dimensions contribute to the issues addressed as 'citizenship'. The concept of denizenship has become popular in parts of the scholarly literature to characterise the position of non-citizens in post-colonial framework of Estonian society. Estonian permanent residents have civil and social citizenship rights broadly similar to these of the citizens. Empirically, only minor socio-economic differences can be observed. On one hand, this may be seen as positive in terms of human rights. On another, this may de-motivate naturalisation of people not

¹⁹ In addition to the survey among decision makers and interviews with people with multiple citizenship and multicultural background this finding is supported by the media analysis in Viinapuu 2006.

significantly interested in politics because lack of practical motivation. In the second half of 1990s as the laws were already institutionalised the naturalisation rates decreased in practice. Of course, most likely there were also other factors contributing to such outcome.

After Estonia's accession into EU the larger practical status differences in other EU member states between citizens and non citizens in terms of civil and social citizenship most likely accelerated applying for Estonian citizenship because of the differences between Estonian citizens as EU citizens and Estonian denizens as aliens in working abroad. The naturalisation rates have indeed grown in recent years. As the legal status of EU permanent residents has been considerably improved in socio-economic sphere during the last year, respective motivation to apply for Estonian citizenship will likely decrease. The actual changes in naturalisation rates remain to be seen in the coming years.

5.2. ATTITUDES ON MULTIPLE AND EU CITIZENSHIP

12. The general attitude of the Estonian decision makers concerning multiple and EU citizenship tends to be conservative. It is mostly in accord with the logic of building of modern nation state. Multiple and supranational citizenship are not regarded as positive ideas and are both excluded as alternatives to the national citizenship. Nation state is perceived as the main stronghold of the national community.

At the same time the decision makers were not too much able to calculate practical effects of the different alternatives of citizenship policy on the future of Estonia. Much of the discussion remained to a very general level, with little separation between citizenship and nationality on one hand and purely instrumental positions concerning everyday issues on the other.

The survey among decision makers indicated that the top national decision-makers are the most conservative sub-group, favouring a combination of republican and communitarian understanding of citizenship. In contrast to most of the DCE states, the members of parliament (MPs) constitute a particularly conservative and somewhat more welfare chauvinist category. The age factor informs that a big share of decision makers have been educated in the Soviet era without getting any Western type citizen education, even compared to the relatively modest normal school civics in contemporary Estonia. The civic society leaders seem to be more liberal. The officials are between the MPs and NGO leaders, central government officials being generally more conservative than local officials. But even the NGO leaders have a relatively conservative stand despite of their belonging to the younger age group.

5.2.1. Attitudes on multiple citizenship

13. In the attitudes of Estonian decision makers multiple citizenship is not much welcomed. The main concern seems to be maintaining the control over Estonia's destiny as nation. The position of decision makers in respect to promoting multiple citizenship is determined by the strong concept of nation-state and specific problems related to the post-colonial residents.

There are a considerable number of permanent residents in Estonia of Russian citizenship. Some of their activists and organisations have expressed demands supported by Russia at international level on legalising dual citizenship in their case.

The strong concept of nation state is negative towards any kind of multiple citizenship. Even the immigrants from other EU countries as potential holders of multiple citizenship are not tolerated as an exception. Citizenship is perceived as an institution with the fundamental value and interpreted as a relation of trust and loyalty. Multiple nationality can create concerns about inconsistent loyalties.

14. There are differences between general positions and attitudes on more practical situations. While multiple citizenship is perceived as a threat to national security in general, the respondents agree that multiple citizens should generally enjoy the same rights and duties as other citizens. It is doubted multiple citizens could facilitate social cohesion, contribute to the economic development of the country, or enrich the socio-cultural fabric of nation. At the same time, majority of the respondents do not agree that multiple citizens spoil the national culture.

The attitudes on electoral rights reflect that the practical setting of legal regulation may influence the positions of decision makers. The respondents supported the voting of multiple citizens in their country of residence in local elections but in country of origin in national parliament elections – a situation that is totally in concord with Estonian legislation.

15. Very broadly, the Estonian decision makers accept/understand the necessity to treat multiple citizens as citizens – at least in one of their titular nationality countries. The Estonian decision makers are more eager in bestowing multiple citizens with rights than demanding the fulfilment of obligations (with the exception of conscription). This is especially evident in the sphere of economic and social citizenship and in case of the country of origin. This is a sign of the strong position of liberal understanding of citizenship.

However, the knowledge of official language of the country of residence seems to be the clearest requirement toward multiple citizens. This indicates the importance of national and republican conceptions in Bauböckian sense.

The rights and duties of multiple citizens are expected mainly to be realised in the country of origin as contrasted to the country of residence. The influence of the historical *ius sanguinis* principle is here clearly in the background. In terms of socio-economic citizenship the country of residence is ranked higher. Differences between more general approaches and answers of practical questions obviously refer to the incongruence between normative perceptions and practical experiences.

16. The majority of the respondents of the survey among decision-makers tend to deny or limit the political rights to the holders of multiple citizenship in the country of origin but also in the country of residence. This may be a sign of a strong communitarian approach as reflected by the interest on national survival. However, a possible explanation may also be the strength of republican attitudes in defining the relations between the state and citizens.

The decision makers generally acknowledge the rights of multiple citizens to medical care and social protection. This is not too surprising if the limited scope of Estonian welfare system is taken into account (cf. Mamontov 2004). However, there seems to be conceptual confusion, in which titular state should a dual or multiple citizen meet his/her duties and use the corresponding benefits with most respondents expecting dual contributions and benefits. Nevertheless, the country of residence is ranked higher. This tells us about an ongoing process in interpreting the field of social citizenship possibly leading to more liberal (social) concept in the future.

17. In European comparison, Estonia is quite conservative with regard to multiple citizenship. Attitudes on multiple citizenship appeared to be generally positive in most DCE countries while Estonia and Israel showed negative attitudes. The respondents of Estonia and Israel were also the only ones regarding multiple citizenship as a loyalty problem.

On one hand, Estonia and Israel are the youngest nation states among the DCE countries and their connection to EU is fresh membership in case of Estonia and no membership in case of Israel. At the same time, Estonia is the only state fully prohibiting multiple citizenship in legislation and the attitudes tend to be influenced by the content of laws.

In line with the other DCE EU member states and in contrast with Israel, a considerable agreement prevails among the participants of the study as to multiple citizens having the same rights and duties as other citizens. Thus the attitudes concerning legal position of persons can be seen as remaining on a firmly legal basis in Estonia.

Table 5. Allowance of DC (A); DC should consist of same rights and duties than native citizenship (B) and DC can consist of a loyalty problem (C).²⁰ Source: Toropainen et al (2005), modified

| | (A) Agree % | (A) Disagree % | (B) Agree % | (B) Disagree % | (A) Agree % | (C) Disagree % |
|------------------|-------------|----------------|-------------|----------------|-------------|----------------|
| Estonia | 43.0 | 57.0 | 69.1 | 30.8 | 51.2 | 48.8 |
| Finland | 93.7 | 6.3 | 91.5 | 8.5 | 5.4 | 94.5 |
| France | 85.4 | 14.6 | 94.0 | 6.0 | 20.4 | 79.6 |
| Germany | 78.1 | 21.8 | 95.8 | 4.2 | 17.1 | 83.0 |
| Greece | 85.5 | 14.5 | 94.0 | 6.0 | 15.4 | 84.6 |
| Israel | 19.9 | 80.2 | 18.4 | 81.7 | 84.9 | 15.1 |
| Portugal | 89.8 | 10.2 | 91.8 | 8.1 | 1.1 | 98.9 |
| UK | 95.4 | 4.6 | 92.2 | 7.8 | 6.4 | 93.6 |
| EU/CoE Officials | 90.9 | 9.0 | 95.6 | 4.3 | 8.7 | 91.3 |
| Total | 74.7 | 22.7 | 83.6 | 12.9 | 19.9 | 75.7 |

5.2.2. Attitudes on EU citizenship

18. EU citizenship is welcomed in its current form by the decision makers but it is not held appropriate it would replace national citizenships. The attitudes concerning European citizenship are related to patriotism and interest in preserving national culture. Multiple citizens expressed generally the same topics in the interviews with supplementary emphasis on freedom of movement.

Quite understandably in this context the idea that EU citizenship could eventually replace national citizenships would be unpopular. In such a case the national citizenship would become a residual and subordinate form of membership similar to the regional citizenships that exist in the federal states. This would mean that the EU developed towards a true federation and this perspective is not too popular among Estonian decision makers and even many multiple citizens.

19. The future development towards a more consolidated (federation-like) EU has its supporters and critics in Estonia. Transferring significant political content into EU citizenship (as well as supplying the EU institutions with legislative power) is generally perceived as a danger to the national sovereignty.

The responses to the open ended questions also show that EU is expected to maintain its nature as a liberal “community” and not develop towards a (unitary) state. Popular slogan of EU-critics “From one Union [i.e. from USSR] to other Union [i.e. European Union]” has obvious relevance in the popular mind.

The resistance to some modest kind of western federalism may be smaller if the regulation has features assuring it is possible to maintain the Estonian culture and identity.

20. The issues raised by decision makers in the open-ended questions reflect that absolute majority of the respondents are not informed about EU perspectives. Even some of the decision-makers didn’t know that EU citizenship existed. There was very little knowledge on EU citizenship rights. Thus EU citizenship is in general treated as a vague concept describing EU as an institution.

21. Some information on the attitudes on more practical aspects of EU citizenship can be found by generalising the answers on other issues and analysing open-ended questions. Estonian decision-makers can generally be described as “nationally minded liberals” focused to patriotism, individual rights and legalistic aspects.

This means that effort is required to adapt into the context of the participatory and social “Citizens’ Europe” as generally prioritised in EU, especially by pre 2004 member states. Nevertheless, the attitudes are not incongruent and as the Estonians show a firm appreciation of education a positive development is possible. However, it must be remembered that in order to achieve lasting results learning and adaptation must happen in both sides.

22. Compared to the other DCE countries, the Estonian decision makers hold relatively mainstream positions with regard to European citizenship. It is worthy to mention the scepticism of EU/CoE and Finnish respondents concerning the potential of EU citizenship to make national citizenships unnecessary and the scepticism of Israeli respondents concerning the potential of EU citizenship to strengthen the allegiance between the European nations.

Table 6. EC makes national citizenship unnecessary (A) and EC strengthens the allegiance of European nations (B). ¹¹ Source: Toropainen et al (2005), modified

| | (A) Agree % | (A) Disagree % | (B) Agree % | (B) Disagree % |
|------------------|-------------|----------------|-------------|----------------|
| Estonia | 25.1 | 74.9 | 59.8 | 40.2 |
| Finland | 8.9 | 91.1 | 63.8 | 36.2 |
| France | 35.9 | 64.0 | 92.3 | 7.8 |
| Germany | 25.5 | 74.6 | 84.6 | 15.3 |
| Greece | 21.4 | 78.6 | 78.6 | 21.3 |
| Israel | 82.6 | 17.4 | 19.6 | 80.4 |
| Portugal | 24.4 | 75.6 | 88.3 | 11.7 |
| UK | 26.9 | 73.0 | 63.5 | 36.5 |
| EU/CoE Officials | 13.6 | 86.4 | 85.7 | 14.3 |
| Total | 21.5 | 71.5 | 68.7 | 22.4 |

23. On the basis of complementary open-ended questions it is possible to conclude that it seems that despite the fragility and unequal character of the “European order”, the existing degree and intensity of the European integration is mainly sufficient according to the respondents in both Estonia and other DCE countries and they do not even want the community to be too tight. They want the integrated Europe to create a safe framework, where national cultures are well alive and respected. People want to preserve EU citizenship primarily as a complementary citizenship that must not press different people into excessive uniformity.

The definitions of the participants of the study give the EU an interpretation as a structure but not as a culture (Haller 2000). In most answers, the union is formed mainly as an “enterprise” with economical interests and defence policy, with no place for emotional aspects. In the frame of the famous pair of concepts introduced by Tönnies (1974) it can be stated that despite the occasional appearance of the spirit of Europeanism in the data, the integrated Europe as *Gesellschaft* is good enough for most participants of the study, and people do not even necessarily want to perceive it as *Gemeinschaft* (Toropainen et al 2006, cf. also van Ham 2000).

6. CONCLUSIONS AND RECOMMENDATIONS

The above discussion was aimed to analyse the potential of Estonian citizenship policies to accommodate with the new challenges posed by multiple and European citizenship.

I established that the Estonian citizenship policies and legislation generally are in accordance with the practices of a modern European state. However, the continuous development of the concepts of state and citizenship raise new issues to be addressed. After brief generalising theoretical remarks on the relationships between the concepts I will discuss these issues separately in case of EU and multiple citizenship.

In the previous discussion, we could see the interconnectedness of nation state and citizenship in the theoretical treatments. The connection seems to be especially clear in case of normative treatments structuring political community. The enrichment of the concept of citizenship by many social scientific discourses seems to be in general accordance with the development of the constitutional structuring principles of the state at least in continental European tradition.

However, there exist concepts of citizenship that are not so well in accordance with national citizenship. Of these, the ones of multiple and EU citizenship are of more practical substance. There are conceptual differences between EU and multiple citizenship from the perspective of national citizenship. While a more developed EU citizenship is likely to strengthen EU as a political and legal community and thus substitute national citizenships in a generally nation state like manner, multiple citizenship is conceptually hard to conciliate with a state type political community and can at best be interpreted as a temporary setting including people with real multiple affiliations without significantly challenging the normative basis for the construction of public sphere.

EU citizenship currently contains little demands towards national institutions and there is no legal requirement to introduce multiple citizenship posed by EU. However, there are ongoing initiatives to deepen EU citizenship and various European states, likely to form a new mainstream, have legalised multiple citizenship under certain conditions. There is a necessity for clarification in case of multiple citizenship due to controversies in Estonian national legislation.

6.1. MULTIPLE CITIZENSHIP

There is a clear necessity to clarify the situation concerning multiple citizenship. While it is prohibited by citizenship act the wording of the constitution excludes deprivation of citizenship as a sanction in case of native citizens but not naturalised citizens. Currently, there are no other sanctions and the authorities have become inactive concerning both native and naturalised citizens. Such situation is clearly undesirable with respect to the legitimacy of state institutions and laws. Also, the positions of the other EU DCE states suggest some corrections to be made with regard to multiple citizenship.

Multiple citizenship is not much welcomed by Estonian decision makers. It is perceived as a threat to national solidarity. Such position is determined by a strong presence of nation state ideas and specific problems related to the post-colonial residents. At the same time the practical rights of multiple citizens are accepted in everyday social, educational and economic issues reflecting instrumental approach to citizenship as a legal construct. Such controversies can possibly be utilised for legitimating national policies on multiple citizenship to an extent.

These problems are acknowledged also in international theoretical debate. Multiple citizenship can be interpreted as endangering the integrity of political community. However, the problems may need not to be so fundamental in case of real affiliations and possibly not too significant number of multiple citizens. Also, the practical pressures caused by transnational migration are likely to increase in case of Estonia. Allowing multiple citizenship is an issue to be addressed by every state according to the actual conditions in a given time and space.

It is comprehensible to clarify the situation by changing the constitution enacting clear allowance or prohibition of multiple citizenship. However, it is doubtful whether a rule with such precision should be stipulated by constitution. Keeping in mind the high procedural and material requirements for amending the constitution, the unpopularity of multiple citizenship in Estonia and a similarly difficult challenge when reducing the rights of native citizens, I will focus to the possibilities to change regular laws.

On the basis of empirical material, I suggest that a legitimate solution should pay respect to the integrity of nation state and should combine elements of republican requirements on knowledge of language and constitutional order and, if necessary, enhanced denizenship concerning social, economic and educational issues.

The policy options for Estonia with regard to multiple citizenship would be either enacting effective and constitutional sanctions for holding multiple citizenship or legalising multiple citizenship at least in some cases.

In the first case, much of the situation could remain as it is. Estonian enhanced status of denizenship will moderate the impact of even the sanction of withdrawal of citizenship for naturalised citizens. However, just introducing the sanctions, possible in form of fines and imprisonment, seems relatively hard to conciliate with the general setting of a contemporary European state but also to Estonian constitution based on the principles of human dignity, social justice, democracy, and the rule of law.

In the second case, it seems possible to moderate much practical opposition by paying sufficient attention to the guarantees for the integrity of national political community using the instruments already available in constitution and citizenship legislation. The requirements on knowledge of basic order and official language of current naturalisation legislation interpretable in republican terms could also be understood as possibilities for multiple citizens to show a real connection to Estonian political community. They could be conciliated with the constitutional fundamental duties, such as the ones of education and national defence.²⁰

The public language and basic order tests seem also to be a sufficiently effective filter to reconcile nationalist concerns ensuring both actual deep connection and a not too significant share of multiple citizens of citizenry in total.

There is an option to introduce this solution only in case of native citizenship. It is also always possible to differentiate in the level of sanctions as the constitutional setting differentiating between native and naturalised citizens concerning the withdrawal of citizenship as a sanction remains. However, these could be interpreted as treating citizens unequally.

More liberal solutions regarding multiple citizenship could possibly be regarded as more progressive from the generalised background of the practices of European states as well with regard to the theoretical discussion. However, it is not advisable to forcibly introduce largely illegitimate policies. With regard to the preferences of Estonian decision makers, a moderate solution with sufficient guarantees for their concerns seems to be the best practical next step.

²⁰ It seems to be possible to interpret national defence in terms of defending the cultural or political community (the first being in accordance with national and the second with republican conception of citizenship in Bauböckian sense).

Summing up, my suggestion would be legalising multiple citizenship in case of both native and naturalised citizens while imposing requirements on knowledge of constitutional order and official language, possibly in connection with the fundamental duties for citizens prescribed in constitution. This should be accompanied with enacting effective sanctions for not fulfilling the requirements.

6.2. EU CITIZENSHIP

European Union citizenship in its current thin form is generally well compatible with the both the Estonian policies and attitudes on citizenship. The acceptance of the bonus package is high and thus the option for dismantling existing EU citizenship may be left aside. The influence of the enhanced status of the permanent residents of EU on naturalisation remains to be seen.

Transferring significant political content into EU citizenship (as well as supplying the EU institutions with legislative power) would be unpopular and perceived as a problem for the national sovereignty. However, with regard to the data on attitudes of the DCE survey, there is little support for developing EU citizenship towards a model more of the type of a nation state.

The existing degree and intensity of the European integration is basically seen sufficient and the community is not wished to be too tight. The respondents generally want the integrated Europe to create a safe framework, where national cultures are well alive and respected. There is a clear preference to preserve EU citizenship primarily as a complementary citizenship that must not press different people into excessive uniformity.

With regard to the wording of EU treaty concerning citizenship and the efforts of EU institution there are some possibilities that the federal features of citizenship will be developed. Such features may be accepted to an extent and if they are developed gradually and include visible guarantees for national cultures. In fact, the Soviet time formal (but not practical) situation of federal citizenship providing basic equality, rights and protection and “member state” level citizenship interpretable in the cultural community context may not be totally ruled out as a legitimate option.

All in all, it seems that EU citizenship currently and in the near future requires no excessive policy changes. However, this is not to say that there is nothing to pay attention to. I would suggest paying attention to the compatibility of Estonian citizenship policies to these of the other member states at national level.

Generally, the Estonian national citizenship policies are in accordance with the European practices and resemble these of the other states. Especially the republican content of citizenship legislation fits well into European intellectual and legal space.

On the other hand, the attitudes of decision makers and multiple citizens/multicultural people as characterised by nationhood-oriented connotations and liberal instrumentalism concerning everyday practicalities may need some effort to readjust to a considerably more participatory and social European background. Clearly there is space for enrichment of the concept of citizenship concerning the substantial dimensions expressed in the contemporary social scientific treatments of citizenship.

Thus, my conclusion would be not too principal policy changes need to be made in terms of citizenship legislation but the progress concerning the reception of the European advanced concepts on citizenship is of great practical use for Estonia in order to be able to fully participate in shaping the future of EU and EU citizenship.

MITMIKKODAKONDSUS JA EUROOPA LIIDU KODAKONDSUS VÄLJAKUTSETENA EESTI KODAKONDSUSPOLIITIKALE

Kokkuvõte

Käesolev doktoriväitekiri keskendub kodakondsuse küsimustele. Selles viimastel aastakümnetel kiirelt arenenud uurimisvaldkonnas põimuvad muu hulgas poliitikateadus, õigusteadus, sotsioloogia ja sotsiaal-filosoofia.

Väitekirja eesmärk on analüüsida Eesti kodakondsuspoliitika suutlikkust kohanduda Euroopas levinud suundumustega, konkreetsemalt mitmikkodakondsuse ja Euroopa Liidu kodakondsuse esitatavate väljakutsetega. EL-iga ühinemise järel on Eesti jõudnud uude intellektuaalsesse keskkonda, kus transformatsiooni ja rahvusriigi taasülesehitamise küsimuste kõrvale kerkivad jõuliselt teised, palju pikema riiklus-traditsiooniga riikide poolt tõstatatud teemad. Nii on ka kodakondsuse puhul. Selgitamist vajab meie valmidus sellises protsessis osaleda.

Väitekiri koosneb katusartiklist ja neljast empiirilise artiklist. Viimastes esitatud materjal pärineb Euroopa Liidu 5. raamprogrammist rahastatud uurimisprojektist “Mitmikkodakondsus: Euroopa Liit ning rahvusriigi tulevik” (“Dual Citizenship, Governance and Education: A Challenge to the Nation State”) (DCE), kus osalesid kaheksa riigi – Eesti, Iisraeli, Kreeka, Portugali, Prantsusmaa, Saksamaa, Soome ja Ühendatud Kuningriigi – teadlased. Eesti meeskonna moodustasime mina ja professor Rein Ruutsoo.

Ehkki DCE on väitekirja teoreetilise ja empiirilise käsitluse raamistavaks aluseks ja piirajaks, arendan siinset uurimust märkimisväärselt edasi, lähtudes riigitasandi vaatekohast, tuues sisse palju täiendavaid teoreetilisi käsitlusi ning korrastades empiirilise materjali sellest loogikast lähtudes.

Teoreetiliselt on töö keskne taotlus selgitada erinevate kodakondsuse tahkude, moodsa rahvusriigi ja praktiliste riigijärgsete kodakondsuskäsitluste²¹ suhet. Selle kaudu kujuneb üldine ühisalus aruteluks ning artiklite materjali mõtestamiseks.

Empiirilisel on töö eesmärgiks tuvastada põhilised kodakondsuse-alased mustrid Eesti sotsiaalajaloolises ja õiguslikus kogemuses, samuti Eesti otsustajate suhtumistes, ning suhestada need tänase Euroopa taustaga. Praktiliselt adresseerin ma järgmisi küsimusi:

1. Kas Eestil on õiguslikke vajadusi teostada poliitikamuutusi mitmikkodakondsuse ja Euroopa Liidu kodakondsuse osas?
2. Missugused tegurid võiksid Eestis omada legitimeerivat tähendust mitmikkodakondsuse ja Euroopa Liidu kodakondsusega seoses?

Töö käigus tutvustan kõigepealt DCE projekti teoreetilisi ja metodoloogilisi aluseid. Seejärel analüüsin teoreetiliselt riigiehitamise ja kodakondsuse suhet, samuti klassikalise kodakondsuskäsitluse suhestumist uute teooriatega, eriti mitmikkodakondsusest ja Euroopa Liidu kodakondsusest tulenevate väljakutsetega.

Täiendan DCE kontseptuaalset raamistikku teemade ja tahkudega, mis aitavad analüüsida Eesti juhtumit, ning toon välja kaks analüütilist raami, mille abil korrastan ühtsel alusel artiklite empiirilise materjali Eesti kodakondsuse kohta. Töö lõpetavad järeldused ja soovitusel, mis on suunatud uurimisküsimustele vastamisele.

Mitmikkodakondsuse puhul on täheldatavad Eesti otsustajate valdavalt negatiivsed üldsuhtumised, mis muudab selle seadustamise raskesti legitimeeritavaks. Euroopa Liidu õigusaktid muutusi ei nõua, ent Euroopa riikide praktika ja otsustajate hoiakud viitavad, et mitmikkodakondsus on kujunemas Euroopas teatud piirini aktsepteeritud nähtuseks.

Samas avaldub selgelt õiguslik vajadus olukorda korrastada – seejuures ennekõike siseriiklikul tasandil põhiseaduse ja kodakondsuse seaduse osalise vastuolu ning mitmikkodakondsuse keelatud realiseerivate sanktsioonide ebatäiuslikkuse tõttu. Otsustajate suhtumistes mitmikkodanike puhul ilmnev instrumentaalsus igapäevaküsimuste osas viitab teatavale legitimeerimisruumile. Samuti võib ettevaatlikkust tasakaalustada reaalse sideme olemasolu, mis on enamasti oluline tingimus mitmikkodakondsuse lubatuse teoreetilistes õigustustes.

Kokkuvõttes panen ette seadustada mitmikkodakondsus piiratud kujul, esitades mitmikkodanikele naturalisatsioonile sarnanevaid tingimusi oma reaalse sideme tõestamiseks Eesti poliitilise kogukonna ja

²¹ Seejuures on silmas peetud Eesti puhul endast praktilisi väljakutseid kujutavaid riigijärgse kodakondsuse mudeleid, s.t mitmikkodakondsust ja Euroopa Liidu kodakondsust

avalikkussfääriga ning kehtestades muus osas põhiseadusega kooskõlas olevad sanktsioonimehhanismid. Euroopa praktikat arvestades võiks lähenemine olla liberaalsem, ent Eestis levinud hoiakuid arvestades oleks mitmikkodakondsust tänases seisus vaevalt võimalik ulatuslikumalt legitimeerida.

Euroopa Liidu kodakondsuse puhul on tänane õhuke ja liikmesriikide kodakondsusest määratud mudel Eesti otsustajatele teretulnud, samas kui riigitaoliste joonte olulist laiendamist peetaks valdavalt ohuks rahvusriigile. Ka teiste uuringus osalenud Euroopa Liidu riikide otsustajad eelistavad jääda EL-i kodakondsuse tänase korralduse juurde, mistõttu antud valdkonnas lähemas tulevikus arvestatavat muutmisvajadust ei paista.

Arvestades Eesti varasemaid ajaloolisi kogemusi, pole riigiülesemate joonte juurutamine täiesti välistatud, ent selliste lahendite legitimeerimisel on oluline esitada nähtavad tagatised rahvuskultuuri ja rahvusriigi säilimisele. Mure viimaste pärast on nähtavalt Euroopa Liidu kodakondsusse suhtumise tagaplaanil.

Eesti otsustajate, mitmikkodanike ja multikultuursete isikute hoiakuid iseloomustab modernse riigi või rahvusriigi diskursuse, ka kodakondsuse klassikalise käsitluse domineerimine, lisaks küllalt vähene teadlikkus kodakondsuse erinevate tahkude suhtes. Eestil on ruumi Euroopas esinevate arenumate kodakondsuskäsitluste retseptiooni osas, süvendamaks ja rikastamaks kodakondsuse sisu riigi tasandil ning osalemaks täisväärtuslikumalt Euroopa Liidus toimuvates aruteludes ja EL-i kodakondsuse tuleviku kujundamises.

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