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MARMARA UNIVERSITY
EUROPEAN UNION INSTITUTE
DEPARTMENT OF EUROPEAN UNION POLITICS AND INTERNATIONAL
RELATIONS

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FROM A SECURITY PERSPECTIVE

YÜKSEKLİSANS TEZİ

Filiz DOĞAN

İstanbul - 2010

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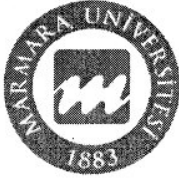**RELATIONS**

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Danışman: Doç. Dr. Çiğdem Nas

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AVRUPA BİRLİĞİ ENSTİTÜSÜ

ONAY SAYFASI

Enstitümüz AB Siyaseti ve Uluslararası İlişkiler Anabilim Dalı Yüksek Lisans öğrencisi Filiz DOĞAN'ın **"THE CHANGING CITIZENSHIP POLICIES IN THE EU FROM A SECURITY PERSPECTIVE"** konulu tez çalışması **05 Mart 2010** tarihinde yapılan tez savunma sınavında aşağıda isimleri yazılı jüri üyeleri tarafından oybirliği/ oyçokluğu ile başarılı bulunmuştur.

Onaylayan:

Doç. Dr. Çiğdem NAS   Danışman

Yrd.Doç. Dr. Nedime Aslı ŞİRİN   Jüri Üyesi

Yrd.Doç. Dr. Ebru OĞURLU   Jüri Üyesi

Onay Tarihi

Prof. Dr. Muzaffer DARTAN

Müdür

\8./03./2010.....tarih ve 2010./.V... Sayılı Enstitü Yönetim Kurulu kararı ile onaylanmıştır.

ABSTRACT

This master thesis, titled as "Changing Citizenship Policies in the European Union (EU) from a Security Perspective", aims to research current citizenship policies in the EU member states with regard to security. In that research, by defining theoretical basis of citizenship concept, some citizenship regimes through the examples of some of the basic European states are examined. Then, changing understanding of citizenship in Europe is mentioned and the study mainly focuses on the relationship between security and citizenship in today's Europe. Through a detailed research of the concept of citizenship within the EU context and presentation of the changes in France, Germany and Britain in the sense of citizenship, this study will try to reveal that many European states are interrogating and penetrating citizenship concept by paying attention to the security.

Generally, citizenship policies in Europe have been shaped by the impact of political integration within the EU, by the standards in international law, by concerns about nation-building and traditions. In recent years, increasing migration movement, formation of "EU Citizenship" by the Maastricht Treaty and deepening question of security made the situation reviewed and become reasons of this study.

This study is built upon three main research questions which are "Considering the basic dynamics of citizenship, generally which notion of citizenship do European states have", "What kind of developments did EU make in order to build its own citizenship policies" and "What are the current transformations of the EU member states' citizenship policies and where security is located in those policies". In order to answer to those questions, articles and views of academics related with this subject were reviewed and official documents such as Presidency Council documents and Commission reports were examined.

ÖZET

"Changing Citizenship Policies in the European Union from a Security Perspective" (Güvenlik Açısından Avrupa Birliği'nde Değişen Vatandaşlık Politikaları) adlı bu yüksek lisans tezinin amacı Avrupa Birliği (AB) üye devletlerindeki güncel vatandaşlık politikalarını güvenlik olgusunu göz önüne alarak araştırmaktır. Bu çalışmada ilk olarak vatandaşlık kavramının teorik bir altyapısı çizilerek bazı temel Avrupa devletleri örneğinde belli vatandaşlık türleri incelenmiştir. Daha sonra Avrupa'da değişen vatandaşlık anlayışının tarihsel ve hukuksal boyutu Avrupa Birliği çerçevesinde ele alınmış, temel olarak günümüz Avrupa'sında güvenlik ve vatandaşlık ilişkisine yönelik çalışmalara odaklanılmıştır. Vatandaşlık kavramının Avrupa Birliği çerçevesinde detaylı olarak incelenmesi ve Birliğin önemli devletlerinden Fransa, Almanya ve İngiltere'nin iç politikasında vatandaşlık anlamında yaşanan değişimlerin sunumu ile çalışmamız Avrupa devletlerinin çoğunun son yıllarda ağırlıklı olarak güvenliği dikkate alarak vatandaşlık kavramını sorguladıkları ve şekillendirdikleri yönündeki görüşü ispat etmeye çalışmaktadır.

Genel olarak Avrupa'daki vatandaşlık politikaları, AB içinde politik entegrasyonun yarattığı etki, uluslar arası hukukun getirdiği standartlar, ulus oluşumuyla ilgili endişeler ve gelenekler ile şekillenmektedir. Son yıllarda Avrupa'da küreselleşmeye bağlı olarak artan göç hareketleri, AB'nin Maastricht Antlaşması ile "Birlik Vatandaşlığı" tanımını oluşturması ve derinleşen güvenlik sorunu bu durumun tekrar gözden geçirilmesine yol açmış ve bu çalışmanın yapılmasına neden olmuştur.

Bu çalışmada üç ana araştırma sorunu üzerinde durulmuştur. Bunlar "Vatandaşlığın temel dinamikleri göz önüne alındığında genel olarak Avrupa devletleri hangi vatandaşlık anlayışına sahiptir?"; "AB, kendi vatandaşlık politikalarını oluşturmada ne gibi gelişmeler göstermiştir?" ve "AB bazında devletlerin vatandaşlık politikalarındaki güncel dönüşümler nelerdir ve güvenlik nerde yer almaktadır?" soruları olarak gösterilebilir. Bu sorular konuya ilişkin yazın taraması, uzman görüşleri ve Konsey dokümanları ve Komisyon Raporları gibi resmi kaynakların incelenmesi ile yanıtlanmaya çalışılmıştır.

CONTENTS

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LIST of ABBREVIATIONS

CDU	Christian Democratic Party
CFSP	Common Foreign and Security Policy
EC	European Community
ECHR	European Convention on Human Rights
ECJ	European Court of Justice
EPC	European Political Cooperation
EP	European Parliament
ESDP	European Security and Defence Policy
EU	European Union
EUMC	European Union Military Committee
EUMS	European Union Military Staff
FRA	European Fundamental Rights Agency
IGC	Intergovernmental Conference
JHA	Justice and Home Affairs
ibid	ibidem
NGOS	Non-governmental Organizations
p.	page
pp	pages
PSC	Political and Security Committee
SDP	Social Democratic Party
SEA	Single European Act
SSHD	Secretary of State for the Home Department
TEU	Treaty of European Union
UK	United Kingdom
US	United States
WEU	Western European Union
WMD	Weapons of Mass Destruction
WWI	World War I
WWII	World War II

INTRODUCTION

In recent years, there has been a growing interest in citizenship concept among social scientists and political theorist. There are number of reasons for that such as mass immigration from East to West Europe by the collapse of Soviet Union, unification of Germany and liberalization of East Europe; increasing transnational economic exchange, competition and communication as well as changing nature of participation and security; and European integration question through the developments in the European Union (EU). All of those events have weakened state sovereignty and transformed many nation-states from a territory-based system to a de-territorialized one. Besides, those have challenged the old forms of identity based on nation and class as well as challenging the concept of relationships between individuals and political communities. Thus, in order to respond the challenges, traditional citizenship has to find a solution to conform and transform itself to newly emerging post-national understanding of citizenship. As a result, it was crucial to revise and revaluate the existing definitions of citizenship.

In that regard, scholars such as multiculturalists claimed that multicultural model of citizenship can answer to the weaknesses of traditional citizenship in immigration problem while opponents of multiculturalism emphasized that multiculturalism damages traditional citizenship with regard to sustaining cultural differences. On the other side, post-nationalists asserted that nation-state has lost its importance by widespread migration movements and deepening security perspective while some other scholars insisted strict national citizenship policies. In that sense, post-nationalists created a new model of citizenship: post-national membership. Those discussions have broadened and led to the emergence of many types of citizenship such as neo-republican, cultural, active, race-neutral, gender-neutral, global, post national, multicultural, European and ecological citizenship[1].

Within all those arguments, it is obvious that citizenship has become the main focus of any kind of questions and problems related with security, identity, migration

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[1] P. Close, *Citizenship, Europe and Challenge,* (Basingstoke: Macmillan, 1995), p.1

and integration in Europe. Therefore, in order to understand changing perception of current citizenship policies and security in Europe, it is essential to examine European citizenship concept. In this study, the aim is to examine recent developments on the citizenship policies of the EU by studying some important EU states and their traditions, by looking the evolution of the Union citizenship and its limits, by considering the notion of security and its place in the EU, and by mentioning recent problems that both citizenship of the EU and national citizenship regimes of the member states has faced.

Generally, as I mentioned in the abstract, my research questions are generally which notion of citizenship European states have, what kind of developments EU made in order to build its own citizenship policies, and what the current transformations of the EU member states' citizenship policies are and where security is located in those policies- are considered to key points of the thesis.

This study will begin with the first chapter that examines the notion of citizenship in a conceptual framework. Then, it will focus on different citizenship theories such as liberal, communitarian and republican citizenship. After that, the study will examine two types of national citizenship regimes such as jus soli and jus sanguinis by giving examples from two main European countries: France and Germany. In this sense, with regard to the changes in the definition of both security and citizenship, this study will stress on the elements of post-national citizenship and neonational citizenship. Then, multiculturalism will be studied with the examples of Britain and its citizenship tradition.

In the second chapter of the study, European citizenship will be analyzed with regard to its historical development that will take Maastricht Treaty as a basic factor for historical evolution of the Union citizenship. After that, the general outline of the citizenship of the EU will be investigated with regard to rights and protection mechanisms that it has introduced. By doing that, this study also will stress on the limits of the Union citizenship in particular. The part entitled content and limits of the European citizenship will discuss the existing structure of European citizenship and point its drawbacks in order to find an answer to the question of what kind of problems the Union citizenship has and what the reasons of those problems are.

In the last chapter of this study, concept of security will be studied with regard to two important theories called social constructivism and critical theory. After that, the study will research the evolution of security in the EU in external manner starting with Common Security and Foreign Policy (CFSP). After looking at recent developments such as CFSP's transformation to the European Defense and Security Policy (EDSP) and European Security Strategy Paper, this study will focus on security in the EU with regard to Justice and Home Affairs (JHA), Hague Programme and recent Stockholm Programme to understand the increasing relationship between security and citizenship in the EU. Then, this study will examine recent problems related with the citizenship in the EU. In that case, three problems such as European identity, securitization of migration and third country nationals will be studied in order to create a connection between security and citizenship policies and to identify the problems of the Union citizenship and citizenship policies of the member states.

Finally, in the conclusion part, data and comment on current political situation of the EU citizenship policies, integration process and security will be summarized.

I.   CITIZENSHIP

In every community, there are common understanding of who belongs and who does not. Thus, the notions of citizenship are framed by each state with regard to common ideals such as common ancestry, common customs and beliefs, common inheritance of the blood and so on. In terms of those commonalities, every state regulates their own definition of citizenship to specify its unique membership and establishes a conceptual, legal and ideological boundary between its citizens and foreigners by reserving certain rights and obligations for its citizens. Accordingly, it is seen that citizenship is a contested concept which has different aspects. Turner states that there's not a unique and a universal definition of it that scholars agreed upon. He explains as follows:

> " …although there's a considerable tradition of thinking behind the idea of citizenship, it would be a mistake to suggest that as yet we possess a complete or elaborate idea of citizenship. There are many typologies and classifications of citizenship but, there's no great body of systematic theory[2]."

In other words, citizenship differs according to the paradigm that shapes it such as "if it's shaped by individualism, those citizenship model stresses on the status of the individual as an autonomous actor and private entitlements"[3]. Heywood defines, for example, traditional citizenship as a relationship between the state and the individual that is based on reciprocal rights and responsibilities[4]. Jürgen Habermas describes it as a tool of boundary of a person to a certain nation and object of a legitimate authority of a state[5]. Moreover, Brubaker identifies citizenship in the nation-state and mentions five key points of it as necessary elements such as egalitarian, sacred, democratic, unique, nation-based characters[6]. In addition, Charles Tilly

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[2] Bryan Turner, "Outline of a Theory of Citizenship" in B. Turner and P. Hamilton (eds.), *Citizenship – Critical Concepts,* Vol. II (London and New York: Routledge, 1994), p.199

[3] Andrew Heywood, *Political Ideas and Concepts: An Introduction*, (New York: St.Martin's Press, 1994), p.155

[4] Andrew Heywood, *Politics,* (Basingstoke: Macmillan, 1995), p.1

[5] Jürgen Habermas, (W. Rehg, Trans.), *Faktizat und Geltung: Beitrage zur Diskurstheorie des Rechts und des demokratisches Rechtsstaates (Between Facts and norms: Contributions on a Discourse Theory of Law and Democracy)* (Cambridge: Polity Press, 1992/1996), p.345

[6] Quoted in Yasemin Soysal, *Limits of Citizenship: Migrants and Postnational Membership in Europe*, (Chicago: University of Chicago Press, 1994), p.138

examines citizenship into four parts: a category, a tie, a role, and an identity[7]. Finally, Dahrendorf differentiates citizenship in a three way such as a chance to participate in the life of the community, as a right to take part in the shaping of the conditions which determine the community and as a generalized right.

Through all different definitions, T. H. Marshall's study is essential that constitutes a cornerstone on both the citizenship studies and recent citizenship debates in the Europe. Marshall describes citizenship as "a status denoting full membership in a community to which is attached rights and duties[8]". According to this definition, citizenship deals with rights on the one hand and with obligations on the other. Besides, as Marshall points out, citizenship is seen as the legitimate point of the unification of people around a state in the name of building of a nation and the leveling of ranks by the creation of universal rights[9].

Within that regard, Marshall developed his argument by mentioning three types of rights which are civil, political and social rights and their historical development. According to him, civil rights are important for individual freedom and they include freedom of speech, freedom of movement, freedom of conscience, freedom of assembly, the right to equality before law and right to own property[10]. Another type of Marshall's rights is political rights such as the right to vote, the right to stand for election and the right to hold a public office. Lastly, social rights consist of wide range rights from economic welfare to social security such as health opportunities, social insurance, unemployment fees and access to education in public schools that all of which seem complimentary to the civil and political rights.

After a detailed examination of the evolution of those three rights, Marshall takes citizenship on the basis of class system and indicates that citizenship should be understood in

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[7] See details in Charles Tilly, "Citizenship, Identity and Social History" in Charles Tilly (ed.) *Citizenship, Identity and Social History,* (Cambridge and United Kingdom: Press Syndicate of the University of Cambridge, 1996),

[8] Quoted in Miriam Feldblum, "Reconfiguring Citizenship in Western Europe" in C. Joppke (ed.), *Challenge to the Nation-State: Immigration in Western Europe and the United States* (New York: University of Chicago Press, 1998), p. 234

[9] Quoted in Haldun Gülalp, "Introduction: Citizenship vs. Nationality?" in H. Gülalp (ed.) *Citizenship and Ethnic Conflict: Challenging the Nation- State* (London and New York: Routledge, 2006), p.2

[10] T. H. Marshall, *Class, Citizenship and Social Development*, (Wesport CT: Greenwood Press, 1973), Reprinted ed., p.71

terms of a national state. In order to do that, Marshall suggested ability to participate in the democratic political process. Marshall's approach made some strong arguments among the scholars such that Anthony Giddens[11] criticizes him for describing the development of citizenship rights so evolutionary and Rogers Brubaker[12] challenges his progressive understanding by showing migrants-resident foreigners as an example that enjoy the citizenship rights. Besides, his study could not take into consideration changing nature of security which challenges relationship between citizenship and nation-state. However, his analysis has still been a basis and the most influential one for the citizenship studies.

Take into consideration to all definitions and Marshall's work; we can generally say that, regardless of the globalization and its outcomes, a citizen is a member of a particular political community that refers to broadly a nation-state in today's world. Moreover, citizenship confers rights and obligations to the members of the community that makes membership institutionalized through those set of rights and obligations.

After Marshall's study, the meaning of citizenship has shifted from a strict political definition of a citizen with emphasis on its relations with the state to a broader definition with a greater emphasis on the relationship of the citizen with society as a whole. At that point, Will Kymlicka and Wayne Norman's study is one of the good examples of that shift. They pointed that citizenship has a multidimensional aspect by defining three main dimensions of citizenship[13].

With regard to Marshall's three types of rights, first dimension sees citizenship as rights, as legal status and as identity. Rights give equal treatment of everybody in the society as well as legitimacy to citizenship by shaping its perception and bringing duties to it. Those lead the feeling of belonging and institutionalization in the public realm. As a result, from a

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[11] Quoted in D.Held and J. B.Thompson, *Social Theory of Modern Societies: Anthony Giddens and His Critics* (Cambridge: Cambridge University Press, 1989), p.166

[12] Rogers Brubaker, "Immigration, Citizenship, and the Nation-State in France and Germany: A Comparative Historical Analysis*", International Sociology*, Vol. 5, No.4, 1990, p.384

[13] See details in Will Kymlicka and Wayne Norman "Citizenship in Culturally Diverse Societies: Issues, Context, Concepts" in W. Kymlicka and W. Norman (eds.), *Citizenship in Diverse Societies*, (Oxford: Oxford University Press, 2000), pp.1-41

security perspective, there become a structure drawing boundaries of sovereignty between citizens and foreigners.

Second dimension states that citizenship refers to some kind of specific social roles performed by citizens and within that way, citizens express their choices regarding the public opinion and participate in government. In that regard, citizens have some sort of access to the political system[14].

The final dimension is that citizenship is a set of moral qualities that the aim is to define the good citizen. In that regard, recognition of the existence and primacy of a public interest become crucial factor for accepting a person as a citizen.

Considering Kymlicka and Norman's analysis, it can generally be observed that understanding citizenship leads to realizing its constitutive paradoxes and differences between dimensions of citizenship. Generally, these differences are based on four disagreements: over the clear definition of each dimension, over their relations with one another, over their importance, and over specific normative standards. In that regard, the paradoxes of citizenship combined with the plurality of its approaches, varying from one country to another, evoke to formation of different theories of citizenship and the tension between them. For example, citizenship stresses the individual and rights and political participation is based on liberal ideas in liberal citizenship theory whereas citizenship is based on duties that emphasize the importance of the state in communitarian paradigm[15]. Thus the idea of citizenship becomes contested and searches for points of equilibrium between different models which penetrate it. Moreover, security plays a distinctive role in each citizenship theories such as individual's security, with regard to respect to the other's freedom, is important in liberal understanding while community's security comes first in communitarian citizenship theory.

Under those conditions, in this section, this study will have a brief look at three basic theories of citizenship which emphasize different elements of features of citizenship such as

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[14] Marco Martiniello, "Citizenship in the EU" in A. T. Aleinikoff and D. Klusmeyer (eds.), *From Migrants To Citizens: Membership in A Changing World,* (Washington DC: Brookings Institution Press, 2000), p.345

[15] Emily Pia and Michael Lister, *Citizenship in Contemporary Europe*, (Edinburgh: Edinburgh University Press, 2008), p.9

liberal citizenship, communitarianism and republicanism to understand functional system of citizenship.

1.1 THEORIES OF CITIZENSHIP

1.1.1 Liberal Theories of Citizenship

Liberal theories of citizenship deals with producing or encouraging membership and belonging and it seeks to feed membership of a community through the equality principle which means giving equal rights to all members of a society. In this case, we can say that liberal citizenship has an egalitarian logic in its root[16]. That egalitarian understanding reveals that individuals define their own destiny by their own efforts rather than heritage or birth. Within that regard, individuals should have same rights to continue their life without interfering others and those rights should create both civil and political equality in the society in order to prevent concentration of power or absolutism. Thus, liberal theories offer the notion of freedom of individuals and security is concentrated on every individual in the society.

Generally, liberal citizenship seeks to prioritize the individual that exists prior to society and produces that society[17]. Considering liberal characterization of law of the nature based on liberal thoughts such as individualism, equality, and positive understanding of law of nature and property individuals become members of the political community through the obligations based on their choice. The purpose of liberal understanding is the protection the individual from the extreme power of the state. Therefore; freedom and liberty are appeared as the main characters in liberal citizenship and rights are the instruments of securing the individual. As a result, security takes place in liberal theory through the rights of individuals considering liberties of them.

The most developed representation of liberal citizenship concept comes from the Marshall's study. As we mentioned before, Marshall divides citizenship rights into three categories and stresses the importance of social rights that represent the extension of equality

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[16] Ibid, p.9

[17] Ibid, p.9

principle to the social area. In this sense, we can say that Marshall provides membership of the community by the establishment of equal rights. However, Delanty criticizes Marshall in some points such that he sees citizens in a passive position in the development of citizenship and he speaks of a connection between the nation and state that citizenship rights are provided only by the state[18].

In that regard, liberal citizenship could be criticized about neutrality of the state and its laws in order to create equality. Although this equality gives shape to the pluralist understanding in the society, citizens remain ineffective to decide or take part in political process. This situation can create isolation among citizens without touching each other's area. From a security speech, this can lead to 'otherness effect' between communities that citizens live in. It is a real destroying effect for any kind of state.

In Europe, many countries such as France have liberal understanding of citizenship that they have social and political orders based on liberal ideas. Besides, some elements of liberal citizenship such as protection of the individuals' rights against the influence of their own states can be found in the concept of European citizenship.

1.1.2 Communitarianism

As we have seen, liberal citizenship seeks to form membership through the protection of rights. Communitarianism, however, stresses to the obligations of citizenship and emphasizes that community comes first than the individual. In other words, it means that membership is prerequisite for rights. Communitarian understanding of citizenship is different from liberal understanding in three ways. Firstly, obligations come first than rights. Secondly, communitarianism gives importance to both identity and membership while liberal theory insists on freedom. Finally, communitarian approach seeks to compensate the need for essential notion of the good life[19].

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[18] Gerard Delanty, "Beyond the Nation-State: National Identity and Citizenship in a Multicultural Society-Response to Rex*", Social Research Online*, Vol.1, No.3, 1996, retrieved from

http://www.socresonline.org.uk/socresonline/1/3/1.html [08.05.2009]

[19] Emily Pia and Michael Lister, p.18

In the first difference, communitarianism was formed as a response to the shortcomings of the liberal thought. Communitarians are against to the notion that individual creates the community and they argue that individual is incorporated in and formed by social communities. In other words, the individual is constituted by the community. They also indicate that individual cannot fully realize itself without a particular social context. Therefore, the interests of the individual should not confront with the interests of the community. In terms of citizenship, the emphasis on community rather than the individual makes stress on more obligations of citizenship than rights.

In that regard, Amitai Etzioni's work is one of the most related one with the communitarian ideology. Etzioni argues that there is an imbalance between rights and responsibilities[20]. Therefore he offers postponing of adopting new rights, reconnection of rights to obligations, and readjustment of the interpretation of rights. By the Enzioni's study, many communitarians argue about shortening of some rights in order to provide public safety.

In the second difference, communitarianism, unlike liberalism, states that there can be no universal concept of citizenship. In this sense citizenship always belongs to a particular place and thus different communities have different notions of citizenship. Therefore only community can provide a strong conception of citizenship and membership, which is a founder element of the citizenship to the community.

In the final difference, communitarianism criticizes state neutrality. According to communitarians, community defines common good or values and guides individuals to provide themselves with their own moral identity. In that case, as the community is founder of the individual and decisive to ethics, the state cannot be neutral for communitarians. Thus, states encourage people to adopt the good which conform to the community and discourage the good which confront with the community. In terms of citizenship, this means that a private understanding is not probable.

There are two criticisms about the communitarian understanding of citizenship. We firstly say that too much emphasis on obligations may place the individual in a hard situation that, for instance, individuals who are opponents to the situation of the community could be

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[20] Quoted in Emily Pia and Michael Lister, p.18

enforced to obedience. This could also damage the security of those opponent citizens. The other criticism is that communitarians have a little speech on the role of the state. However, in terms of citizenship, as the state comes first than individual it should have a decisive role about who belongs or who doesn't.

Many European countries except Eastern Europe don't have communitarian understanding in their roots. Moreover, Eastern Europe adopts liberal thoughts and transforms its communitarian understanding of citizenship. We cannot also see communitarian approach in the formation of European citizenship.

1.1.3 Republican Citizenship

Republicanism shares the same concern with communitarianism that liberal citizenship gives too much attention to privacy and individual rights. Unlike communitarian understanding, republicanism relies upon public participation in the community. It gives same attention to the individual liberty like liberalism, but it seeks to encourage positive freedom to create conditions for self-governing. Thus, for republican ideology, citizenship includes freedom and membership through the sense of self-government in that the individual exercise participation in public realm and integrate with other members of the community[21]. In that regard, participation plays an important role in sustaining freedom and membership.

Republican citizenship is interested in encouraging freedom. The aim is to provide basic rights to sustain freedom of the individual. According to republican ideology, non-involvement does not create freedom and interference does not reveal a constraint on liberty. The answer is based on the idea of civic virtue and public participation. In fact, republican citizenship has hesitations about the idea of participation as a good one and participation as a means to an end and therefore it tries to find a solution to that problem. However, for republican citizenship, the most important thing is public participation which is the foundation of freedom and the key point of membership. For instance, when we participate in community affairs, we cooperate with other people. Those interactions create some kind of a rapprochement and a trust among the people, because people are more likely to trust with the people that they do something together. A more trusting environment creates a more trusting

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[21] Ibid, p.23

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citizenship which means a more effective and efficient society. Briefly, participation in public affairs integrates citizens and makes societies to be more effective. In addition, participation has leaded more integration and cooperation with other citizens, securitization of individual's freedom and enrichment of capacities of the individual.

Republican citizenship is criticized from very different perspectives. One of them is that it is unrealistic because people get their identity essentially from their private realm not from the public interactions. In this case, we can say that participation has only a supportive effect on citizenship. Another criticism is the problem of stress on the common good and civic public that can exclude or ignore the different ones such as women and minority groups[22]. As a result, that exclusion can be a threat to the society in terms of security.

Republican citizenship is already seen in many countries in Europe. Especially, with regard to the French Revolution, France is the founder of those understanding. However, the most impressive example of Republican citizenship is observed in the United States.

In sum, three theories of citizenship we discussed above have different elements to prioritize such that liberal citizenship deals with rights while communitarian theories of citizenship give importance to the community and republican citizenship emphasizes political participation. Regarding the differences between those three main theories, it is essential to highlight that there are some hybrid theories such as liberal communitarians and liberal republicans. The aim is to try to give same emphasis on different elements of citizenship. Apart from that, theories of citizenship also help national citizenship regimes in the definition of their elements and their general frameworks. In order to see the interaction between them, it is vital to look at national citizenship regimes.

1.2 NATIONAL CITIZENSHIP REGIMES

As we mentioned in the definition of citizenship, it belongs to a nation-state except the recent trends that transform shape of belonging which will be mentioned later. Generally, modern national citizenship is formed with the French Revolution. It shaped institutions of citizenship in several ways such that it institutionalized political rights as citizenship rights,

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[22] Ibid, p.29

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transposing them from the city-state to the nation-state, and transforming them from a privilege to a general right[23]. In this case, citizenship replaced from a direct form of state membership to an indirect one when the Revolution caused to the creation of nation-state and nationalism. From now on, the development of modern institutions of national citizenship began to go in the same direction with the development of modern nation-state.

Concerning those developments with the differentiation and hybrid nature of theories of citizenship, it is clear that every community has its own unique citizenship concept and builds their citizenship regimes upon their definition of citizenship. Thus citizenship concept varies from state to state, country to country and nation to nation. However, national citizenship is, in general, acquired through the four ways: by descent (*jus sanguinis*), by birthplace (*jus soli*), by naturalization and by registration.

There are two main principles in getting citizenship by birth place which are *jus sanguinis* and *jus soli*. The typical example of *jus sanguinis* country in the Europe is Germany while France seems to the representative of the *jus soli* principle. Before we examine these two principles, it is essential to say that *jus sanguinis* and *jus soli* are classified as four classes: strict *jus sanguinis*, flexible *jus sanguinis*, limited *jus soli* and unconditional *jus soli*[24]. These classifications do not mean that a country implements, for example, *jus soli* principle word for word, but overall tendency about its citizenship policies can be defined by using those categorizations. Besides, recently, many countries have a mixture of *jus sanguinis* and *jus soli* principles including United States, Canada, and Israel.

Citizenship acquisition after birth is generally explained in two ways: naturalization and registration, in other words, *jus domicile* (rights of the domicile). Naturalization is a principle by which citizenship is based on long-term residence rather than origin. Basic requirements for naturalization are that the applicant should be legally a full-time resident for a minimum period of time and that the applicant should commit himself to obey the state

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[23] Rogers Brubaker, *Citizenship and Nationhood in France and Germany*, (Cambridge, Massachusetts, London: Harvard University Press, 1992), p.43

[24] Zig Layton-Henry, "Patterns of Privilege; Citizenship Rights in Britain" in A. Kondo (ed.), *Citizenship in a Global World: Comparing Citizenship Rights in Ten Countries*, (Houndmills, Basingstoke, Hampshire, New York: Palgrave Macmillan, 2001), p. 228

laws[25]. Some countries also require the renunciation of former citizenship for the applicants such Germany[26].

Naturalization was occurred in order to integrate citizenship laws because of increasing international migrations by the end of WWII. Rise of international migrations led to the rise of refugee populations and blurring the concepts and definitions of migration. It also created some kind of non-citizens, called denizens which I will examine later. Within that regard, many states constituted laws that allow having citizenship after birth such as, by having parents who are nationals of that state or by marriage to the citizen of that country.

In that case, registration is different from naturalization process that citizenship acquisition by registration may include shorter residence than naturalization.

1.2.1 Jus Soli Principle

As we mentioned above, *jus sanguinis* and *jus soli* are the principles of classical idea of nation-state citizenship that occurred in the French Revolution. *Jus soli* is a policy by which citizenship is acquired by birth within the territory of the state. In other words, individuals become citizens automatically when they born in the boundary of the state where *jus soli* is valid[27]. It was the dominant criterion of citizenship process in the 18th century in Europe and two main countries, France and the United Kingdom (UK), were typical examples of it.

In *jus soli* principles, all residents live in the same territory have the same rights regardless of looking at the origin of their ancestors. The regime is based on the idea of a civic community that is formed by loyalty on common political values and residence on the

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[25] Britannica Concise Encyclopedia, Naturalization, Retrieved from
http://www.britannica.com/EBchecked/topic/406487/naturalization [08.05.2009]

[26] Federal Foreign Office "Law on Nationality" Retrieved from

http://www.auswaertiges-
amt.de/diplo/en/WillkommeninD/EinreiseUndAufenthalt/Staatsangehoerigkeitsrecht.html [08.02.2010]

[27] Patrick Weil, "Access to Citizenship: a comparison of twenty-five nationality laws", in A. Aleinikoff and D. Klusmeyer (eds.) *Citizenship Today: Global Perspectives and Practices,* (Washington DC: Brookings Institution Press, 2001), p.17

territory[28]. This means that foreign nationals or immigrants can acquire citizenship easily and their children can also get citizenship by birth.

Generally, *jus soli* requires some entailments such as legal residence of parents or at least one of the parents born of the country. For instance, as it will be mentioned, a child born in France from foreign parents becomes citizen at the age of majority. On the other hand, the child born in France from foreign parents, but at least one of the parent born in the country, gains citizenship by birth.

In fact, increase in the migrant population has softened the sharp lines between *jus sanguinis* and *jus soli*. In that regard, some elements of *jus soli* have taken part in *jus sanguinis* such as the extension of citizenship to third-generation immigrants by birth and reformulation of citizenship regimes. Similarly, some parts of *jus sanguinis* principle has seen in *jus soli* such as the requirement of one of the child's parents nationality of the state or legal permanent resident of the state at the child's birth. Generally, pure citizenship regimes are rarely seen in today's world.

In Europe, *jus soli* regime has still been the dominant principle in many European countries and currently, pure *jus soli* principle exists in the Ireland. However, French citizenship model is accepted from many scholars as good examples of *jus soli*.

1.2.1.2 French Citizenship Regime

As it is mentioned, French citizenship law contains essential elements of *jus soli* principle although French citizenship policy has been influencing from many recent events that changed its citizenship approach from *jus soli* to *jus sanguinis.*

French citizenship is acquired at birth or mostly, attributed at birth to children born in France of at least one parent who is also born in France. It means that most of second and third generation immigrants can be able to acquire French citizenship. However, as Feldblum

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[28] R. Koopmans and Paul Staatham, "How National Citizenship Shapes Transnationalism: Migrant and Minority Claims-making in Germany, Britain and the Netherlands" in Christian Joppke and E. Morawska (eds.), *Towards Assimilation and Citizenship; Immigrants in Liberal Nation States* (New York: Palgrave Macmillan, 2003), p. 208

states, French citizenship regime is not a pure form of *jus soli regime* in practice[29]. For instance, while only third generation with one parent born in France is bestowed citizenship automatically, second generation can get citizenship at the age of majority as their parents born in another country.

Moreover, France has a citizenship approach that has relationships between different institutions and territorial framework of the state. In that regard, nationhood is a political fact and the concept of citizenship strengthens the political meaning of national unity in France unlike in Germany. As a result, French citizenship law is based on the state-centered, expansive and assimilationist understanding.

One of the explanations of having such kind of a citizenship approach is the experience of an institutionally established state, particularly its territorial stability[30]. In order to understand the logic and reasons of the creation, transformation and current tendencies of French citizenship policy it is crucial to have a brief look at the historical content of French citizenship regimes.

According to Soysal, the modern history of citizenship begins with the French Revolution[31]. It introduced a political meaning of the nation which is based on the idea of unity of free individuals with their equal rights. It changed the understanding of nationality by revaluating and shifting legal and political meaning of citizenship. Within that case, it was sufficient to have been born in France or have French father to get French citizenship. The 1791 Constitution systematized citizenship rules by recognizing socially integrated foreigners as citizens after 5 years residence and by allowing the descendants of religious migrants to claim citizenship by building their residence in France[32]. This reveals us that foreign nationals could join France without considering their nationality. It was also first attempts to form

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[29] Miriam Feldblum, p. 247

[30] Dieter Gosewinkel, "Citizenship in Germany and France at the Turn of the Twentieth Century: some new observations on an old comparison" in George Efey and Jan Palmowski (eds.), *Citizenship and National Identity in Twentieth Century Germany* (Stanford, California: Stanford University Press, 2008), p.38

[31] Yasemin Nuhoğlu Soysal, *Limits of Citizenship: Migrants and Post national Membership in Europe*, (Chicago: University of Chicago Press, 1994), p.139

[32] Rogers Brubaker, 1992, p.87

citizenship policies by both recognizing foreign nationals and considering security issue in France.

Continuously, in order to define who is French and who is foreign, some important elements of *jus sanguinis* were adopted in the 19th century. For instance, 1851 Law stated that a child born in France to a foreign parents gained citizenship automatically. It also provided the recognition of the assimilation and acculturation in the French citizenship[33].

In fact, we see limited ethnic understanding in those early citizenship laws. The reasons behind that are tolerance towards national movements, revaluation of basic elements of the French Revolution during 19th century, and neutral understanding of racial and ethnic categories. Besides, unified political and geographical position of France shaped the political and cultural environment of French citizenship in this way. Thus, citizenship reinforced its assimilationist and political character until European integration process and security question took part in.

In addition, preference for *jus sanguinis* remained limited because of the objection to the attribution of citizenship on the basis of the single fact of birth at that period[34]. For instance, 1889 Law presented that a child born in France to foreign parents who were born outside the France would be able to acquire citizenship at the age of majority. As a result, many French migrants become French citizens whereas a few German immigrants are granted German citizenship.

At the beginning of 20th century, French citizenship regime expanded its dimensions and gained some privileges including unemployment insurance and pensions. These developments also led to the rise of internal security question and the security of citizens. As a result, under the name of ethnicity question over citizenship, those questions took place in France during that time. Subsequent revisions of citizenship law in 1927, 1945, 1958 and 1973 show us that concern about security in their modifications about provisions of marriage, naturalization and jus sanguinis. For instance, it was forbidden to categorize people according to their ethnic origins in 1958 Law as well:

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[33] Dieter Gosewinkel, p.32

[34] Rogers Brubaker, 1992, p.110

France shall be an indivisible, secular, democratic and social Republic. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs. It shall be organized on a decentralized basis[35].

Besides, a law limiting mobility of foreign nationals and settlement without permission was passed in 1973 Law even *jus soli* was regarded as a basic principle in the same law[36].

During the mid-1970s, security issue combined with mass migration and economic pressures and French citizenship started to use a policy that had three folders: seeking to implement limits on immigration, promoting return of immigrants to their homeland, and facilitating the integration process of second and third generation migrants. However, attempts to promote return of migrants and restrict family unification were confronted with domestic resistance and thus those regulations were rejected by French Law.

In 1980s, rights that were attached to residence and membership were separated from racial, historical, geographical and cultural limitations. I think the reason was to prevent racialization of citizenship principle and to preserve basic elements of *jus soli*. However, in the mid 1980s, *jus soli* became under attack from the Right[37]. The primary reason behind this opposition came from the loss of confidence about the role of citizenship regimes in the integration process of the EU. In other words, many European states did not know which policies/regimes could be transferred to a supranational level and which could stay at national level. Generally, the problem was to deal with questions of to what extent a possible European unity could be formed, who the European is and where the future of nation-states will go. In that case, regulations about identity, belonging and security at national level in many European countries were not enough to compensate the needs and focal point became the migrants.

As I mentioned above, the attack on *jus soli* and the emergence of political speech on French identity were seen as a defense of the basic elements of nation-state, but speech was about the assimilation problem of migrant population. Besides, this attack also came from the

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[35] 1958 French Constitution, October 4, 1958, Preamble Article I, Retrieved from

http://www.assemblee-nationale.fr/english/8ab.asp [23.01.2008]

[36] Rogers Brubaker, 1992, p.112

[37] Ibid, p.138

loss of second generation migrants who are the facilitators of integration. In addition, three important ideological and political facts in France were important for shaping events of that period: emergence of immigrant problem, ambiguity of European idea as a project that overshadows the future of French nation-state model and national feeling and sudden appearance of national-blended conflicts based on identical, ethnic, cultural and linguistic basis.

As a response, citizenship regulations in France changed that second generation immigrants would have to demand French citizenship formally between the ages 16-20 and it should be accepted by the country. However, problems were still there. By the mid-1980s, combined with family unification problem and fear of Islamic identities, France became increasingly concerned with the question of Algerian immigrants. According to French intellectuals, Islam threatens assimilation process because of its involvement to public sphere. Therefore, they thought that integration of migrant Muslim people into a largely Christian and secular country like France is difficult. This belief gained support by headscarf affair[38] in 1986. In the late 80s, situation in France was complicated that there should be some changes on migration and citizenship policies.

Within that atmosphere, first attempts for assimilation process and citizenship regulations emerged immediately. One alternative was a separation of notions of nationality and citizenship by lifting its cultural and historical attachments. The other alternative was to take German citizenship concept, which led to decline of second and third generation naturalization rate[39], as a model for new regulations.

At that period, Chirac government did three things as a response to those debates such as making strict limits on the anti-immigrant speech, bringing the draft of 1993 Pasqua Law to strengthen the migration rules towards illegal migrants and trying to modify French citizenship code. However, reform of the Article 44 -automatic citizenship of third generation

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[38] See details in Joan W. Scott, "Symptomatic Politics: The Banning of Islamic Headscarves in French Public Schools" in Nalini Persram (ed.) *Post colonialism and Political Theory* (USA: Lexington Books, 2007), pp.163-192

[39] Adrian Favell, *Philosophies of Integration: immigration and the idea of citizenship in France and Britain,* (Hampshire, New York: Palgrave, 2001), p. 167

at the age of majority[40]- created harsh debates such as a student protest in 1986. Thus, the proposal was withdrawn and Committee published a report called *Code de la Nationalite* in 1988. This report asked for the national integration of migrant people, acceleration of naturalization process and refreshment of automatic citizenship acquisition for third generation at the age of majority. This report was a prediction of new perceptions of identity, security and citizenship which will take part in the debates and conflicts of 1990s. It also became a model for the establishment of Pasqua Law in 1993.

As I mentioned before, 1990s were years of ethnic conflicts and identity questions of European states. Security policies is no longer planned, prepared or designed against only one enemy, because there is not only one enemy for nation-states. Besides, newly emerged states in Eastern Europe started to deal with problems based on identity. In addition, European integration process faced with the problem of integration of those states while it was questioning its future. Thus, like many European states, France had to make some revisions in its citizenship policies. Pasqua Law was an important document for reflecting the aura of that period.

The main changes of Pasqua Law were lifting the automatic acquisition of citizenship by second generation at the age of majority, introduction of declaration of will between 16 and 21 and a removal of automatic French citizenship acquisition for the people coming from former colonies. Other changes were lengthening waiting period of family unification and mixed marriages (between a foreign national and a French citizen), requirement of clean record for citizenship and passing a new immigration law to bring French legislation into line with the Schengen Acquis.

The most controversial feature of Pasqua Law was the declaration of second generation migrants will to be a French citizen, if not; they could not be naturalized according to Article 44[41]. I think the reason was to give importance to French identity and avoid 'taken granted' citizenship for second generation. Besides, lengthening the process of family unification and mixed marriages were results of fear about foreign people −'the other' under

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[40] Rogers Brubaker, 1992, p.140

[41] Randall Hansen and Joseph Koehler, "Issue Definition, Political Discourse and the Politics of Nationality Reform in France and Germany", *European Journal of Political Research*, Vol. 44, No.5, 2000, p. 633

the idea of preventing fake marriages. In addition, reconciling migration law with the Schengen Acquis was both internalizing European integration process and an indicator for ending migration policies at low level and naming them in high-level politics. As a result, Pasqua Law paved the way of rise of the Right in 1993 elections that changed general understanding of French politics. Accordingly, many recent problems related with citizenship, identity and security can be traced back to that period.

On the other hand, introduction of European citizenship and three-pillar system by the Maastricht Treaty had brought new dimensions to the national citizenship and security policies in European states. The result for French identity and citizenship was that they tend to fuse, because European integration process challenges basic elements of French nationality by reducing state autonomy and attacking national identity. The concern was about maintaining national sovereignty. In that sense, identity and citizenship weren't seen under attack from the EU.

As a response, Pasqua Law was reformed and continuously, 1998 Civil Code was established. It states that a child born in France to foreign parents acquires French nationality at his majority, if he/she provided that at least 5 years, from age of 11, residence[42]. It was seen that conditions of residence became more flexible and declaration of will for second generation had been abrogated. Civil Code also lessened the waiting period to the claim of French citizenship in terms of marriage. In that regard, loss of French nationality was based on the declaration of will and also a long term settlement abroad.

By 1998 Civil Code, France started to seek reconciliation between its national citizenship policies and migration question and Europeanize its citizenship policies. However, September 11th 2001 events changed the direction of those reconciliation and Europeanization process. From now on, foreign nationals, migrants and Muslims have been regarded as a threat to the French nationality. For instance, in terms of marriage, waiting period of getting French citizenship for a foreign national married to a French citizen was two years until 2003. However, in 2006, waiting period was lengthened for four years. In fact, French politicians

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[42] Benot Guiguet, "Citizenship Rights for Aliens in France" in A. Kondo (Ed.), *Citizenship in a Global World: Comparing Citizenship Rights in Ten Countries*, (Houndmills, Basingstoke, Hampshire, New York: Palgrave Macmillan, 2000), p. 75

caused to those changes in citizenship policies by exaggerating security problems and trying to form 'threats'. As Brouard and Tiberj point that transnational, religious or ethnic identities do not confront with the national sense of belonging; representation and reality differ greatly in France[43]. Therefore, from now on, France has fears from foreign nationals and migrants and expects their citizens to belong to the "dominant culture"[44] of itself. Therefore, France rejected Constitutional Treaty in 2003 with visions of 'Polish plumbers' invading France[45].

Generally, French citizenship policy is slipped from a universalist and egalitarian understanding to an integrationist and assimilationist model with regard to adjust itself to European integration process. In that regard, it has interacted with *jus sanguinis* such as restricting naturalization laws and remaining children born in France of foreign parents as a foreign national until at the age of majority. Besides, it reconciled its migration policy with the Schengen agreement and concerned its national sovereignty rather than national identity. At that point, *jus sanguinis* is important to be examined in order to see the convergence with *jus soli* principle.

1.2.2 Jus Sanguinis

Jus sanguinis is a policy by which citizenship is determined by having an ancestor who is a national or citizen of the state which is contrasted with the *jus soli*. It looks for belonging to the nation and exclusive meaning of citizenship. It generally applies in states where there was a distinct group of people before the creation of the modern nation-state, whereas the jus soli is seen in nations built through immigration, where no nation state existed prior to the arrival of these immigrants[46].

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[43] Sylvain Brouard and Vincent Tiberj, "The Challenge to Integration in France" in A. C. d'Appollonia and S. Reich (eds.), *Immigration, Integration and Security,* (Pittsburgh: University of Pittsburgh Press, 2008), p. 299

[44] Richard Caplan and John Feffer, "Introduction" in R. Caplan and J. Feffer (eds.), *Europe's New Nationalism – States and Minorities in Conflict* (Oxford: University Press, 1996), p. 6.

[45] Tony Wesolowsky, "Fear of the Polish Plumber", *In These Times*, April 13th 2006, Retrieved from http://www.inthesetimes.com/article/2557/ [18.05.2009]

[46] Kimberly Twist, "Citizenship Policy in Europe", presented at the WPSA Annual Meeting 'Ideas, Interests and Institutions', Vancouver, BC Canada Online, Retrieved from: http://www.allacademic.com/meta/p316972_index.html [05.04.2009]

At the end of the 19th century, nation-states in the Europe divided into two camps about granting nationality: *Jus soli* and *Jus sanguinis*. France was a typical example of jus soli while Germany was a *jus sanguinis* country. However, most European countries preferred jus sanguinis in that they could maintain their culture and national identity by preserving ethnic homogeneity. Thus, they opposed to the nationality concept that reflects the importance of state power rather than individual rights and family.

As states developed their nationality laws, citizenship became questioned. Conflicts resulting from the opposing principles of *jus soli* and *jus sanguinis* led some individuals to become stateless while others received more than one nationality. By the end of the WWII, citizenship laws have converged due to the mass immigration to the European countries. This also paved the way of permission of second and third generation migrants to access citizenship easily.

As a result, as I mentioned in the *jus soli* part, *jus sanguinis* has gained some *jus soli* elements. German citizenship policy, as a typical model, is a good example for the transformation of *jus sanguinis*.

1.2.2.2 German Citizenship Regime

German citizenship regime represented one of the best examples for the jus *sanguinis* principle. German citizenship understanding has been always ethnic-based, exclusionary, differentialist and opposite to the territorial understanding of citizenship (*jus soli*). It is explained only on the basis of descent and birth and long-time residence have no effect on the acquisition of citizenship. The reason is that citizenship developed in the space between the supra-national Empire and the sub-national profusion of sovereign and semi-sovereign political units[47]. In that regard, security question became an indispensable case on the agenda of German politics. Thus, German citizenship became nationalized and gained ethnocultural perspective.

The first German Law was the law of North German confederation in 1870 that regulated citizenship in the German states. However, a real German citizenship law did not

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[47] Rogers Brubaker, 1990, p.318

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come into effect until 1913. 'Nationality Law of the German Empire and States' in 1913, rested till 2000, stressed on ethnic dimension of citizenship by allowing Germans living outside of German borders (*Aussiedler*) to continue their German nationality while denying foreigners born in Germany and lived there (*Ausländer*) for citizenship acquisition.

Continuously, throughout Weimar period (1919-1933), this law was criticized and debated such that seeking to extension of rights of active citizens on the one hand and seeking to restrict citizenship rights in the name of republicanism on the other. Although the aim was to sublimate the cultural understanding of citizenship against ethnic approach, there was an ambiguity about the definition of citizenship based on three questions. First question was who a citizen is; second one was how citizen and state relates and final question was what the polity should look like[48]. Besides, citizenship generally matches the understanding of belonging to a state, in German words, *Staatsangehörigkeit*. By the Weimar period, nationality was somewhat departed from *Staatsangehörigkeit*. Moreover, at that time, there was an immigration problem and military defeat in the WWI induced loss of many lands with former German citizens. As a result, destabilization of relationship between German identity and citizenship was increased and nation and state started to have been privileged over citizenship in Germany.

After the victory of Nazi Party in 1933, Nuremberg Laws came into being. It implemented a kind of citizenship based on the state of belonging and identity rather than a set of rights and duties. In fact, German citizenship has been developed more often by the need to reorder, and to design state and to provide a security after the catastrophes of two world wars. In this sense German citizenship under Nazi rule was the most important breaking point when state of belonging was based on racial privilege. However, the defeat of Germany in WWII resulted in the destruction of its political and economic situation. Germany divided into two zones in 1949: The West and the East. In the same year, the idea of the German Basic Law was formed by Allies. It protected the ethnic concept of citizenship based on the 1913 Law and sustained the principle of descent rather than principles of birth or residence. At that regard, German citizens in the boundaries of before the WWII gained

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[48] Peter C. Caldwell, "The Citizen and the Republic in Germany, 1918-1935" in George Efey and Jan Palmowski (eds.), *Citizenship and National Identity in Twentieth Century Germany* (Stanford, California: Stanford University Press, 2008), p.45

automatic rights of citizenship and residence in West Germany[49]. It was a sign of legitimization of those people's return to the West. That did not mean establishing a separate West/East citizenship in Germany. The aim for both two parts was to combine all Germans in one state and continue a single German citizenship[50]. Thus, we can say that German citizenship was exclusive towards foreign people while it was inclusive for ethnic Germans and East Germans.

However, Germany faced a labour shortage problem and a dependence on foreigners. As a solution, it imported foreign labour during 1950s and 1960s. This policy was called guest worker (*Gastarbeiter*) system and in that policy these people were always seen as guests that would return their countries. Therefore, there was no speech about citizenship acquisition of a foreign person and regulation of family reunification. When mass migration especially under the name of family unification was increased, both government and the constitution tried to stabilize their situation according to 1949 Basic Law. Again, there was no relation between security and identity regulations at that time.

Due to the oil crisis and economic slowdown in 1973, labour migration was limited and the question of guest workers was debated outside the framework of nationality law. From now on, security played a leading role in those debates. In that regard, cultural citizenship notion started to be used as a weapon to arrange the consideration of citizenship applications coming from foreigners[51].

In order to regulate the question, some guidelines for naturalization of foreign nationals were prepared that required ten-year living in Germany, no immigrant political organization membership, and willingly orientation towards Germany for naturalization. Moreover, naturalization should be realized for the benefit of Germany. In addition, even if the foreigner was second or third generation migrants, he/she could not be granted German

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[49] Jan Palmowski, "Citizenship, Identity and Community in the German Democratic Republic", in George Efey and Jan Palmowski (eds.), *Citizenship and National Identity in Twentieth Century Germany* (Stanford, California: Stanford University Press, 2008), p.75

[50] Ibid, p. 76

[51] Annemarie Sammartino, "Culture, Belonging, and the Law:Naturalization in the Weimar Republic" in George Efey and Jan Palmowski (eds.), *Citizenship and National Identity in Twentieth Century Germany* (Stanford, California: Stanford University Press, 2008), p.72

citizenship without naturalization process. The reason behind those difficult regulations was the old fear or opinion about a possible collapse of Germany by foreign people. It was nourished with the continuing division of Germany at that time. As a result, immigrants continued to remain foreigners and the number of foreign nationals increased because of family unification and increasing birth rate among migrants.

In early 1980s, with regard to have the lowest naturalization rate in the Europe, German society faced with the dilemma that there was an acceptance and integration of ethnic Germans on the one hand and, there was a denial of full citizenship rights for non-German residents who were lived in the country even for three generations on the other hand. Besides, those foreign residents were never approved as a part of German society instead they were used as a tool of populist policies of the next German governments.

By the unification in 1990, both the major right and left-wing political parties had begun to consider citizenship regime. Social Democratic Party (SDP) discussed the *Aussiedler's* acquisition of citizenship and supported inclusive ethnocultural citizenship principle while and Christian Democratic Party (CDU) advocated the exclusive understanding of citizenship. In this political environment, citizenship was seen as an integration tool for the second and third generation like other European states. In fact, the problem was how and to what degree German citizenship law should be reformed with regard to formation of European Union[52]. Besides, adjusting German citizenship policy to the European context was not as rapid as in France. The pace of change was slow and contested because there was a strong sense of 'German' identity.

We see first attempts of Europeanization of German citizenship in 1990 Foreigner Law (Alien Act). In that regard, naturalization procedures were smoothened to regulate flow of immigration and facilitate integration of foreigners. For instance, foreigners aged between 16 and 23 could apply for German citizenship or naturalize if they provided those requirements such as renunciation of former citizenship, residence in Germany for at least 8

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[52] Jeffrey T. Checkel, "Europeanization of Citizenship?" in James Caporaso and Thomas Risse (eds.), *Transforming Europe: Europeanization and Domestic Challenge*, Maria Green Cowles, (Cornell University Press, 2000), p.181

years, attendance to a school in Germany for at least 6 years and had no criminal record[53]. However, system of *jus sanguinis* still remained and became main obstacle for incorporation of immigrants in Germany. Moreover, number of foreign nationals continued to increase[54] and non-German began to be identified as competitors for social goods[55]. Within that regard, racial hostility and attacks on migrants as well as other violence against guest workers rose and led to the restriction of asylum right.

Under those events, a double jus soli idea was firstly occurred in the mid-1990s in order to grant nationality to a child born with foreign parents one of whom born in Germany, and solve migration and security problem. In that regard, a child at the age of 18 had right to choose between German citizenship and the citizenship of the country of his/her parents. Continuously, in 1999, the new coalition government made some important changes in Germany's nationality law.

The main improvement was the jus soli supplementing the jus sanguinis principle which was very important change for the integration issue and for the citizenship policies. Besides, it introduced German citizenry for second generation were born after January 1st, 2000 and dual citizenship. The naturalization of foreigners has been also eased and benefits for integration of migrants were provided by that law. In that regard, citizenship has been moved from exclusive and ethnic understanding to an inclusive and civic one and *jus soli* principle became accepted regime in Germany. However, dual citizenship proposal deepened the question of German identity and accelerated public disagreement. Thus, it was abolished under the name of difficulty of cultural assimilation of Turkish migrants.

On the other hand, as Checkel points, those changes and attempts in German citizenship could be related with the power of Europeanization, because he believes that client

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[53] Kay Hailbronner, "Citizenship Rights for Aliens in Germany" in A. Kondo (ed.), *Citizenship in a Global World: comparing citizenship rights in ten countries* (Houndmills, Basingstoke, Hampshire, New York: Palgrave Macmillan, 2000), p.103

[54] Ibid, p.104

[55] Elliot Neaman and Hajo Funke, "Germany: The Nationalist Backlash", *Dissent Magazine*, Vol.40, winter 1993, pp. 11-15.

politics, generational turnover and pressure of Europeanization caused the transformation process in Germany[56].

Generally, German identity has been always had ethnic dimension rather than the political one. Throughout the history, any attempt to bring assimilatory and inclusive citizenship policy faced resistance from German society. As a result, German citizenship model have been mobile, exclusionist, highly contested and always under construction. With the introduction of jus soli in 2000, it started to contact with jus sanguinis. As a result, Germany has been dealing with conflicts between different agencies and ministries to make a common point in both migration and citizenship issues. Besides, ongoing European integration process made some changes in German citizenship policies. Since then, Germany has been dealing with the challenge to encourage an identification of its new citizens with the German institutions, its fundamental principles, and its constitution and to help them develop a feeling of responsibility[57].

1.3 POSTNATIONAL CITIZENSHIP

Although many European countries have *jus soli* or *jus sanguinis* or variations of them, they have been in between two different lines of convergence in citizenship laws and questioned to implement one of them in their citizenship principles. Besides, there is an ongoing debate about lifting provisions for the acquisition of citizenship through marriage because of concern about fake marriages. Moreover, many countries became more tolerant towards dual citizenship that formerly refused to accept it. In addition, formation of European citizenship has blurred identity and citizenship perception. Thus, naturalization process has turned out to be more divergent in Europe. In this sense, some countries provide many social and economic rights to second and third generation immigrants without giving them citizenship while some others forced foreigners and minorities to return to their home country by exerting legal sanctions.

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[56] Jeffrey T. Checkel, p.194

[57] Riva Kastoryano, "Redefining German Unity; From Nationality to Citizenship" in H. Gülalp (ed.), *Citizenship and Ethnic Conflict: Challenging the Nation-State* (London and New York: Routledge, 2006), p.36.

There are some reasons of those policies such as social movements from the beginning of 1970s, expansion of international conventions and treaties that led to the spread of the foreigners' rights and internationalization of human rights and so on. In this case, Yasemin Soysal mentions that mass migration has transformed national and ethnic context of European states and led to an increase in the dependency on more than one country[58]. Besides, expansion of transnational instruments and transnational speech, increasing legitimacy of the right to one's own identity and culture and the loss of some of state's authority to supranational and international organizations were important factors that caused division of sovereignty, emergence of multi-level policies and negative impacts on traditional citizenship[59]. As a result, citizenship has now dealing with the questions such as the nature of social membership in highly-differentiated societies and the problem of efficient and equal allocation of resources[60].

Recently, people have depended on more than one country in terms of membership and the absolutization of nationality and national values constitutes dissolution of personal, social, and political rights which are the core mechanisms of modern citizenship[61]. In this sense, the discourse of postnational citizenship emerged and raised the questions about nation-state citizenship. It was also considered by the deterritorialization of citizenship practices in recent years. Actually, the term 'postnational citizenship' or 'transnational citizenship' has been the product of the globalization that tradition of state building has been changed by the process of globalization. Thus, granting many social and cultural rights, belonged to citizens, to foreigners has required a new citizenship basis.

We can relate postnational citizenship with the understanding that is beyond the nation. As it is seen in the Figure 2.1, it differentiates from national citizenship in many ways[62]. However, as Lister and Pia said, there is no systematic theory of postnational

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[58] Yasemin Nuhoğlu Soysal, "Citizenship and Identity: Living in Diasporas in post-War Europe?", *Ethnic and Racial Studies*, Vol.23, No.1, 2000, p.1

[59] Ibid, p.1

[60] Bryan Turner, "Contemporary Problems in the Theory of Citizenship" in Bryan S. Turner(ed.), *Citizenship and Social Theory* (London: Sage Publications, 1993), p.2

[61] Emily Pia and Michael Lister, p.57

[62] Yasemin Soysal, 1994, p.140

citizenship[63]. In that regard it is essential to have a look at postnational citizenship through the lenses of legal status, rights, political activity, and identity.

As a legal status, although nationality seems to provide individual rights by connecting them to the state, recent political events like occurrence of the European citizenship, extension of membership rights to foreigners and increasing multiple citizenships led to talk about de-nationalization of citizenship status and postnational citizenship.

Dimension	National	Postnational
Time Period	19th to mid-20th	postwar
Territorial	nation-state	Fluid boundaries
Congruence btw. Membership and territory	Identical	Distinct
Rights/Privileges	Single status	Multiple Status
Basis of membership	Shared nationhood (national rights)	Universal personhood (human rights)
Source of legitimacy	nation-state	Transnational community
Organization of membership	nation-state	nation-state

Figure 2.1   National Citizenship and Postnational Citizenship[64]

As an aspect of rights, due to the expansion of human rights conventions, state has lost its sovereignty of being provider of rights. However, that does not mean the total disappearance of the state. However, rights have shifting from nation-states to individuals hands. Thus, post-national understanding has emerged.

As the political activity, postnational citizenship reflects political participation of citizens which takes place beyond the national territories. In this sense, it has been raised under the activities of non-governmental organizations (NGOs). At that point, European Union is a good example that citizenship takes beyond the nation-state by participation in European public realm.

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[63] Emily Pia and Michael Lister, p. 59

[64] Taken from Yasemin Soysal, 1994, p.140

Finally, as an identity, emergence and rise of transnational activism caused the idea that 'the understanding of forming identities could open up the possibilities for being and thinking'[65].Thus, postnational citizenship reflects stratified understanding of identity. The best example is emerging European citizenship as a multiple form which is explained through the complex combination of EU institutions and states' aspects.

Beyond emergence of postnational citizenship and nationality revisions, we see the practice of extending rights and benefits to non-citizens. Thomas Hammar names it *denizenship* that are long-term resident aliens, have some privileges and social cultural rights, but no political rights[66]. In this case, *denizenship* is believed to be an irregularity among the scholars, because this situation has contradicted with the traditional citizenship regimes. For instance, extension of local suffrage to long-term foreign legal residents in many European states causes more fluid boundaries, but it does not mean that they become citizens. Conversely, post nationalist understanding of citizenship sees denizenship as the messenger of the new citizenship model[67].

In my opinion, citizenship is still the only way of reflecting national identities and supplying security. In other words, only citizenship guarantees the non-national ethnic and minority populations with a sense of belonging and security[68]. Thus, *denizenship* status does not provide equal conditions with citizenship. Furthermore, I agree with Joppke's interpretations that postnational tendencies are getting decreased because it has weaknesses in four ways: it tries to carry the periphery or margin into the core by giving rights to the migrants and non-nationals; it has lack of a spatial marker; it creates disagreement between nation states and individual rights that is wrong; and it has no way to go further[69].

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[65] Ibid, p. 77

[66] See details in Tomas Hammar, *International Migration, Citizenship and Democracy,* (Aldershot: Gower, 1990)

[67] Yasemin Soysal, 1994, p.139

[68] T. K. Oommen, *Citizenship, Nationality and Ethnicity: reconciling competing identities* (Cambridge: Polity Press, 1997) p. 28

[69] Christian Joppke, "Immigration Challenges to the Nation State" in C. Joppke (ed.), *Challenge to the Nation-State: immigration in Western Europe and the United States* (New York: Oxford University Press, 1998), p. 28

Neonational Citizenship

Postnational understanding is insufficient to correspond and regulate current transformations of both European and nation-states citizenship policies. Thus, we see other trends in Europe such as *neonational membership*. It can be one of the interesting trends in the political processes of the new citizenship policies. Like postnational citizenship, it leaves with traditional understanding of citizenship and its referents and parameters develop beyond the state. In this sense, European citizenship and European identity seem as neonational understandings which are perceived reconfiguration of national ideas.

In comparison, postnational citizenship regulates national state citizenship while neonational citizenship arranges redefinition of national membership. However, we cannot say postnational and neonational membership contradict with each other easily, because the rise of new social movements and changing demographical, political and economic factors have produced postnational citizenship as well as neonational phenomena. In that regard, both of them have created a citizenship crisis in Europe and challenged the content of traditional citizenship.

Generally, connection between national identity and legal citizenship has been diversifying by facilitation of the acquisition of citizenship. In that case, citizenship rights without citizenship have indicated important changes in the institutionalization of citizenship. With regard to security, it seems a solution for integration of immigrant and foreign population to the states. However, although there are variations of citizenship whether as a solution or an alternative, recently, general understanding in Europe is to regulate modern citizenship through the arrangement of only one citizenship practice. This is not a denial to the possibility of different levels of citizenship, but one of them takes place in the core. For example, a person can be an EU citizen, a German citizen and a citizen of one of the länder in Germany at the same time[70]. Again, today's Europe has defined these levels through different identities and these identities make multinational states. In this sense, multicultural citizenship plays an important role recent debates and transformations of citizenship and security issues in Europe.

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[70] T. K. Oommen, p. 224

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1.4 MULTICULTURAL CITIZENSHIP

As Marshall mentioned national consciousness stated the rights that entail citizenship[71]. This reveals us the cultural aspect of citizenship that reflects the culture of nationals. Thus, migrant and foreign people could only gain citizenship in a real sense by adopting the culture of nation. In that regard, a state must treat their citizens equally and respect to the differences of people. However, even in the most liberal state, we see that dominance of the culture belongs to the culture of ethnic majority group such as official language. This created multiculturalist argument which aims to regulate their needs within the framework of citizenship. As a result, demand for multiculturalism has become an important concept in the contest of the citizenship definitions.

Citizenship is generally formed through the relationship between the individual and the state. Multicultural understanding brings into the third component that is the identity groups[72]. Multicultural citizenship aims to build a kind of citizenship principle that recognize and approve the differences of identity groups and their cultural aspects which creates a legitimate environment within the citizenship context. The main idea is to provide an environment for people in that they can take part in public sphere without hiding their differences. However, it does not accept pure assimilation and uses naturalization policy without depending on assimilation. In that case, citizens can continue their differences and identities and use them in the public realm in order to protect their identities.

Will Kymlicka is the most important scholar of multicultural citizenship. In his study, *Multicultural Citizenship*, he points that increased connections caused rise of identity and questions of rights and there are many people who want to become the citizens of Western states, but they remain outsiders because of their differences such as in their birthplace and descent[73]. Besides, he stresses that distributing rights on the basis of citizenship

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[71] T. H. Marshall, p.84

[72] Martin Schain, *"*Minorities and Immigrant Integration in France" in C. Joppke and S. Lukes (eds.), *Multicultural Questions* (New York: Oxford University Press, 1999), p. 89

[73] see details Will Kymlicka, *Multicultural Citizenship: a liberal theory of minority rights,* (Oxford: Clarendon Press, 1995),

is to treat people differently on the basis of their group membership[74]. Thus, he supports that granting rights to the identity groups will be a complementary tool for existing citizenship regime, because it corresponds those people's needs.

In addition, Kymlicka argues that equal rights of citizenship seem to be inadequate for integration process, because of inequality based on some people's differences and thus, polyethnic rights should be used for creating equality among people.[75]. In my view, polyethnic rights such as Muslim girls' attempt to attend school with headscarves have become the most controversial topic of multicultural citizenship, because such tries could create a kind of fear among the society in terms of security and losing the official identity.

In fact, identity groups' demands on the basis of their ethnic differences such as language rights and political representation constitute a challenge towards traditional understanding of citizenship-based on unitary perception. In this sense, supporters of multicultural citizenship points that demands coming from ethnically and culturally different people reveal inequality of them in the existing societies. They believe that a citizenship strengthened with multicultural policies will provide best outcomes for the integration of those migrant people[76].

Multicultural citizenship, unlike postnational citizenship, points out that national citizenship is the primary tool for integration of people with some regulations. In that regard, some scholars see multicultural understanding as the sign of the change in the citizenship regimes. However, multiculturalism has been interpreting in many different ways. For instance, Soysal[77] sees it as a supporting tool of her study of postnational citizenship while Kymlicka[78] considers that it should be used for integration, in order to regulate inequalities.

In Europe, we can see that Britain, Netherlands and Sweden have been used multicultural citizenship principles. However, multicultural citizenship in Europe is not as

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[74]Ibid., p.123

[75] Ibid., p.31

[76] Christian Joppke, "How Immigration is Changing Citizenship: a Comparative View", *Ethnic and Racial Studies*, Vol.22, No.4, 1999, p.630

[77] Yasemin Nuhoğlu Soysal, 1994, p.154

[78] Will Kymlicka, 1995, p.36

successful as in the United States (US), Canada and Australia. In this sense, Muslims are viewed as hard groups to integrate in Europe. According to Joppke, reason was that, unlike US and Canada, unskilled and less-educated Muslim people moved to Western Europe and when they faced with discrimination and isolation in there, religion has become the most important thing for mobilization and socialization[79]. Furthermore, as Guiraudon mentioned[80], separation of church and state was not completed in Western Europe. Thus, European societies are mainly Christian societies and are not very tolerant to the Muslim people. Finally, understanding in Europe is different that immigrants could only enter into the European societies by assimilation. As a result, multiculturalism in Europe continues to separate minority and majority groups which live together in the society without involving each other's area.

Nevertheless, developments in Europe where multicultural policies have been started to use revealed that multicultural citizenship cannot work for migrant people. In fact, European states have regulated their citizenship regimes to make them more inclusive and most of European states can grant citizenship to the second generation immigrants without assimilation. However, they can continue their identities as long as those identities remain ethnic rather than national one. For example, Turkish migrants in Germany are expected to become Germans nationally even they can continue their Turkish identity in an ethnic matter. As a result, multiculturalism has faced resistance from the European societies.

Generally, EU has an opportunity to create multicultural society in where immigrants and foreigners can acquire political citizenship. In other words, it is seen an important reference point for the solution of citizenship problems in nation-state. It is because that it establishes a kind of political community that goes beyond integrating its citizens. At that point, UK is an important case country to be examined in order to understand multicultural citizenship practices.

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[79] Christian Joppke, 1998, p.37

[80] Virginie Guiraudon, "Citizenship Rights for Non-Citizens: France, Germany, and Netherlands" in C. Joppke (ed.), *Challenge to the Nation- State*: *Immigration in Western Europe and the United States* (New York: Oxford University Press, 1998), p.280

British Citizenship Regime

British citizenship principle is based on limited *jus soli* regime that one parent must be a citizen of UK[81] or permanent resident of the state. As a result, most second generation immigrants can get citizenship by residence which reveals us unproblematic national identity in the UK. In fact, citizenship concept is seen as a weak notion in British history and the key concept is British subject status rather than citizenship or nationality until the last decade of 20th century.

Historically, 1844 and 1870 Naturalisation Act was first attempts to naturalise people who wanted to settle in Britain. In that regard, both of them did not require renunciation of former citizenship in order to acquire British citizenship. At the end of 19th century, intensification of economic struggle with other European states caused perception of an exaggerated understanding of Britishness. This perception led to 1914 British Nationality and Status of aliens Act which defined *jus soli* as basis of British subject status throughout the British Empire. However, the attempt to create a common citizenship code was unsuccessful with the independence of Ireland.

Until 1948 British Nationality Act citizenship and nationality were different concepts. 1948 British Nationality Act, by creating citizens of the UK and colonies and citizens of independent Commonwealth countries, protected British subject status of the Commonwealth citizens and verified right of British subjects' access to the UK. It also reconfirmed citizenship acquisition through *jus soli* principle and naturalisation and introduced a registration procedure, after 12 months' residence for Commonwealth citizens[82]. The aim was to facilitate movement of the people rather than regulating migration waves.

However, Britain's situation was radically changed by the end of British Empire and difficult economic situations created mass migration into the UK. Thus, in order to limit the migration and regulate the idea of nation, citizenship was regulated with regard to birth and descent. As a result, in 1960s, citizens of the UK and colonies could only enter Britain under

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[81] It should be noted that UK and Great Britain are different that UK has four constituent parts such as England, Wales, Scotland and Northern Ireland. Great Britain or Britain comprises England, Wales and Scotland only.

[82] David Cesarani, "The Changing Character of Citizenship and Nationality in Britain" in *Citizenship, Nationality and Migration in Europe*, (London: Routledge, 1996), pp.64-65

certain circumstances such as purposes of study[83]. Besides, there were restricted protection for ethnic groups and tightened border controls. In this sense, foreigners were seen as a security issue and citizenship regulations were prepared considering security. That's why; we cannot talk about a multicultural aura in the UK during that period.

At that point, we can assume that British modern citizenship concept was started in 1970s. For instance, 1971 Act tried to compromise notions of belonging and citizenship concept by differentiating people in three categories: people with settlement rights, people without settlement rights and people with only UK residence by permission[84]. By the mid-70s, British national identity was in question and pressures from the European Economic Community (former EU) to define the nationality affected immigrants and aliens. When it was obvious that immigration is permanent; UK started to define its migrant people with regard to their ethnic and racial types. In this sense, we can see that emergence of multiculturalism in the UK intersected with racialization. However, as Dell'Olio states, the status of citizen and status of membership were close to each other[85]. In addition, until 1981 British Nationality Act British rights came first than citizenship status[86]. Since that time, British citizenship law has moved from automatic *jus soli* to a restricted type of *jus soli*.

At that point, 1981 British Nationality Act had changed the old structure of British nationality rights given by *jus soli*. The main reason was UK's entrance to European integration process that led to the need to regulate nationality legislation. In that regard, it can be claimed that concept of British citizenship was indeed established by that Act. It also revalued UK traditional citizenship principle and brought ethnicization to the British citizenship which is highly civic [87].After that, about compromising citizenship and nationality continued to be difficult in the following years. It caused insecurity among ethnic minorities in the UK and rise of applications in order to register or naturalise as British citizens. As a

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[83] Elspeth Guild, "The Legal Framework of Citizenship of the European Union" in David Cesarani and Mary Fullbrook (eds) *Citizenship, Nationality and Migration in Europe"*, (London and New York: Routledge, 1996), p.65

[84] David Cesarani, 1996, p.66

[85] Fiorella Dell'Olio, *The Europeanization of Citizenship: between the ideology of nationality, immigration and European identity*, (Cambridge, UK: University of Cambridge, 2005), p.33

[86] Ibid, p.33

[87] Zig Layton-Henry, p. 124

response, legislations increased the racial character of British citizenship and racist understanding of national identity in the mid-80s.

Moreover, UK faced with the problem of Muslim refugees. However, unlike France, it was occurred somewhat because of multicultural nature of British citizenship. The problem came up with the Rushdie Affair after Salman Rushdie published *Satanic Verses*[88]. This event caused a negative image on multiculturalism in the UK. Many scholars stated that despite its principle for allowing many different cultures to exist side by side in a state, multiculturalism caused confrontations between different cultures in the UK. The problem was that there were different communities who do not touch or interact with one another in the society. In this sense, many British people began to think that multiculturalism has left from being the solution of citizenship problems in the UK. Therefore, UK started to consider its citizenship policies with regard to refugee population and ethnic minorities in the society.

In the 1990s, with regard to the formation of European citizenship and European identity, new regulations came into being in the British political agenda. At that point, UK faced the problem of adjusting its migration policy to the European citizenship. According to Dell'Olio, immigration law is generally based on nationality law, but nationality law is defined by both domestic and EU purposes[89]. Thus, nationality law should reorganize rights for the benefits of citizens of the EU states. This means abolition of former rights for legal alien residents in UK. In other words, they could have limited access to rights at both the EU and UK level[90]

So, labour government led the change in the context of British citizenship in the mid-1990s. The government has introduced a number of measures to regulate the asylum problem and the citizenship regime. The most important regulation was The Immigration and Asylum Act 2002 that for the first time in the UK the issues of nationality and immigration came together under a single act. The main reason was the fear of September 11th events which created a challenge to the multiculturalist societies like UK and changed security perception.

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[88] See details in Ali A. Mazrui, "Satanic Verses or A Satanic Novel? Moral Dilemmas of the Rushdie Affair", Third World Quarterly, Vol. 12, No. 1, January, 1990, pp. 116-139

[89] Fiorella Dell'Olio, p.40

[90] Ibid, p.41

From now on, nationality and immigration laws have begun to go hand in hand together and security has expanded its part in nationality legislation in UK like in many European states. For instance, condition of knowing English for the entrance of British citizenship in the Act was an indicator of those interpretations. The other example is 2006 Immigration and Asylum Act that required fingerprints of migrants to prove that they are the true holder of their passport and empowered the Home Secretary to deprive a person of British citizenship if it is thought that it would be good for the interests of the UK[91].

Today, British citizenship is divided in seven categories which are British citizens, British Overseas Territories citizens, British Overseas citizens, British subjects, British Nationals, British protected persons and non-citizens.

Besides, British citizenship through the naturalization is made at the institutional level- the Secretary of State for the Home Department (SSHD) and there is no restriction for dual citizenship. Recently, some changes in citizenship will take place in January 2010 such as children born outside the UK from British parents who were also born outside the UK, but their grandparents were born in the UK can be granted British citizenship within twelve months of the child's birth[92].

To sum up, British model of citizenship is seen a multicultural model, but has some deviations. The general context of citizenship policy was shaped on the basis of the integration of different ethnic groups live in the UK. In this sense, UK's citizenship policy has become more assimilationist and racial based. There have been some changes with regard to the development of European citizenship, but, in detail, citizenship process in the new regulations can be a reason for possible citizenship problems in the near future. Therefore, British policy-makers should concern the needs of the society that includes different kinds of people with various demands.

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[91] Act of UK Parliament, "Immigration, Asylum and Nationality Act 2006", Chapter 13, Title 7 74(A) 'Deportation' Retrieved from http://www.opsi.gov.uk/acts/acts2006/ukpga_20060013_en_1#pb1-l1g1 [12.12.2009]

[92] Work Permit, "Changes to British Nationality Law", Retrieved from

http://www.workpermit.com/news/2009-09-12/uk/changes-to-british-nationality-law-from-january-2010.htm [12.12.2009]

On the whole, analyzing three important states of the Europe shows both historical traditions that affected and defined the place of citizenship regimes and recent trends that have changed continuous understanding of the state. At that point, European citizenship is important to be examined in order to understand evolution of the concept and rearrangements of citizenship policies of Member states according to the EU.

II. THE CITIZENSHIP OF THE EU

Generally, citizenship reflects some kind of a relation between the individual and the political community. In that regard, this relationship also creates a sense of belonging and put the individual to a certain group. It is called national identity in a nation-state with commonalities such as common culture, history and language. However, as we mentioned before, classical perceptions of citizenship has been changing with regard to the development of transnational activities, mass migration, and globalization phenomena and change in security concept. At that point, the introduction of the EU has brought different kind of citizenship, called European citizenship which breaks the link between nationality and citizenship. Besides, it was the indicator of division of territory and governance through the establishment of supranational bodies. At that point, before discussing the EU citizenship concept, it is crucial to examine the development of the concept to understand the content and limits of it.

2.1 THE HISTORICAL DEVELOPMENT OF EUROPEAN CITIZENSHIP

As Michael Bruter classifies, the process of European integration has been divided into four phases: the first phase, began after the end of World War II as a phase of Europeanization based on international co-operation; the second phase, started with the Treaty of Rome on March 1957 as a phase of technical integration; the third phase, began with the first enlargement of the European Communities in 1973; and the fourth phase started in 1985 with the aim of creation of a People's Europe[93]. In that regard, we can assume that the emergence of European citizenship concept has been started with the third phase as a necessary step to resolving the legitimacy question of the EU.

Before that, as Soysal stated, there are four of global developments which are influential on European citizenship: post-war internationalization of labour markets and as a consequence, massive migrations to Europe, massive decolonization after 1945, existence of multi-level polities, increasing intensification of the global discourse and individual rights[94].

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[93] Michael Bruter, *Citizens of Europe? The Emergence of a Mass European Identity,* (Houndmills, Basingstoke, Hampshire & New York: Palgrave MacMillan, 2005), p.59

[94] Yasemin Nuhoğlu Soysal, 2000, p.19

These global developments reveal that institutional basis of citizenship has been shifted to a transnational level and rights and privileges have been expanded beyond the nation-state. In this sense, traditional understanding of citizenship has been no longer enough to understand membership dynamics in Europe. At the same time, newly emerging EU have required to the development of citizenship rights in the European level, because of aiming to achieve its legitimacy problem.

Under these conditions, with the signing of the Treaty of Maastricht in 1992, European citizenship occurred as one of the most remarkable steps for the emerging polity of the EU. In this sense, previous developments that paced the way of European citizenship should be examined to understand the term itself and European integration process.

2.1.1 European Citizenship before the Treaty of European Union

The idea of European citizenship was brought into the European Community's agenda in the early 1970s. In other words, the following account of European citizenship practice begins with the strong impact on policy in the early 1970s and then follows a process of shaping citizenship regime throughout the 1980s and 1990s to reveal the critical shift from policy to politics of citizenship[95]. However, aim of single market was prior for integration for many years[96]. In this case, economic activities were seen important components of ongoing process of European integration.

The starting point was the 1972 Paris Summit. At this summit, it was pointed, "the right to vote and be elected in local elections should be granted to all Community citizens" [97]". This was the first time for the term citizens of the Community. At the summit, Belgian and Italian heads of government presented their suggestions for possible Community

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[95] Antje Wiener, "From Special to Specialized Rights: The Politics of Citizenship and Identity in the EU" in M. Hanagan and C. Tilly (eds.), *Extending Citizenship, Reconfiguring States* (Lanham, Boulder, New York, Oxford: Rowman & Littlefield Publishers, 1999), p.195

[96] David Dunkerley, Lesley Hodgson, Stanislaw Konopacki, Tony Spybey and Andrew Thompson, *Changing Europe, Identities, Nations*, *Citizens*, (London: Routledge, 2002), p.14

[97] Commission of the European Communities (1975: 27) quoted in Willem Maas, "Evolution of EU Citizenship", Memo for Princeton workshop on The State of the European Union, Vol. 8, September 2008, p.5 Retrieved from

http://www.princeton.edu/~smeunier/Maas%20Memo.pdf [12.09.09].

citizenship concept. Those were debated in the 1974 Paris Summit that a working party was set up to study the conditions under which European citizenship should be granted to the citizens of the Member States. Consequently, Tindemans Report was prepared by Belgium Prime Minister in 1974. According to the Report, the EU should "protect the rights of Europeans where this can no longer be guaranteed solely by individual States"[98]. At that point, it was really an important document, because it reveals us theorization of the basic elements of the Maastricht Treaty early at 1975.

After that, we see adoption of 1976 Council decision which provided direct and universal suffrage, first European elections in 1979 and adoption of a council resolution that created a single European passport in 1981 appeared as the first elements of realization of the aim built during early 1970s[99]. In June 1984, the Fontainbleau summit was made to strengthen and promote the European identity for the citizens of Europe. At the end of the summit, two reports were published and they were interested in relationship between the citizen and the legal instruments of the Community, aspects of political participation in the Member States, the consultation of citizens on cross-border problems and the right to consular assistance from other Member States[100]. At that point, citizenship practice now focused on the attempt to facilitate both situation and movement of workers who are also citizens of the EU.

Until the Single European Act (SEA), national governments of Europe resisted to any proposal for the introduction of active political rights at the European level. The SEA brought new provisions such as completing the internal market. In this sense, SEA aimed free movement of persons, goods, capitals and services for the completion of internal market. Besides, it became a starting point that changed the direction of debates on the EU citizenship from economic way to a more political way. However, European citizenship practice could not be formalized clearly until the Maastricht Treaty.

However, after SEA, new boundaries of citizenship focused on the borders of territorial and socio-economic citizenship and the issue of European citizenship became

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[98] Bulletin of the European Communities Supplement 1/76 available in
http://aei.pitt.edu/942/01/political_tindemans_report.pdf [27.10.2009]

[99] Antje Wiener, p.204

[100] Emily Pia and Michael Lister, p.164

prominent at the end of 1980s and in the early 1990s. In that regard, many European states revaluated their citizenship regimes, naturalization processes or national provisions according to ongoing process of European integration which will lead to the emergence of a new European citizenship introduced in the Maastricht.

2.1.2 Towards the Treaty on European Union

From the beginning of the 1990, focus of the EU was shifted from creating a feeling of belonging to forming legal ties of belonging. With the fall of the Berlin Wall and collapse of Soviet Union, definition of European identity was changed and the problem of European integration became an important problem that debates were about the question of who is European.

As a result, question of citizenship was debated in Rome Intergovernmental Conference (IGC). During this meeting, David Martin—British Labour MEP and Parliament's Vice- President, prepared a report called Martin Report. It proposed creation of a EU based on the notion of a European citizenry[101]. Continuously, 1990 Dublin European Council came into being "to shape future political union by introducing European citizenship rights"[102]. The key point was transformation of the Community based on economic integration to a union of a political nature. From now on, main focus was political and social integration, because of completion of economic integration the SEA.

In that regard, Dublin dealt with the question of "how the union will include and extend the notion of Community citizenship carrying with it specific rights for the citizens of member states"[103]. As a result, the idea of need for a specific structure for European citizenship started to be negotiated in the following series of Intergovernmental Conferences (IGCs) and European Council meetings. At that point, Luxembourg Presidency Council was

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[101] Antje Wiener, p.218

[102] Willem Maas, "Evolution of EU Citizenship", *Memo for Princeton workshop on The State of the European Union*, Vol. 8, September 2008, p.10, retrieved from

http://www.princeton.edu/~smeunier/Maas%20Memo.pdf [12.09.09].

[103] European Council in Dublin, 25 and 26 June 1990, Annex I on Political Union, in Conclusion of the Sessions of the EC Retrieved from

http://www.europarl.europa.eu/summits/dublin/du2_en.pdf

important because we see first debates on European citizenship such that Denmark and the UK opposed creating a European citizenship, because they thought that this would give an opportunity to individuals to force member states to respect their rights as EU citizens.

2.1.3 The Treaty on European Union and European Citizenship

The Treaty of Union (TEU) was signed in February 1992 and has introduced a new method of decision making and institutional structure among the different policy areas in the EU. One of them was the introduction of Union citizenship. From now on, every citizen of a member state of the European Union became also a citizen of the EU. Importantly, TEU made a complete change in the nature of European integration process by constructing EU citizenship as a unique concept.

European citizenship is regarded as an inevitable consequence of the completion of internal market. In other words, when the effects of economic integration intersected with the borders of political integration, establishment of a supranational European political system became urgent. At that point, there were some reasons behind the emergence of European citizenship such as making active participation and sense of belonging and solving legitimacy problem of European integration[104]. Thus, TEU has not only broadened the perspective of the European Union, but also defined rights that EU citizenship entitles. Generally, European citizenship expresses a political relation between the citizens and the Union. According to the Article 8 of the TEU, it is provided that:

1. Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union.
2. Citizens of the Union shall enjoy the rights conferred by this Treaty and shall be subject to the duties imposed thereby[105].

In this sense, even Article F (1) of the indicates Union's respect for national and regional diversities in the member states and contribution to the development of the cultures of the

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[104] David Dunkerley et all, pp.15-16.

[105] Article 8 of the Treaty on European Union, February 7, 1992, Retrieved from http://eurlex.europa.eu/en/treaties/dat/11992M/htm/11992M.html, [27.01.08]

member states as well as bringing the common cultural heritage to the Union[106], Article 8 of the Treaty determines the citizenship of the Union with regard to the condition of a Member State nationality. Provisions of citizenship of the Union are detailed in Articles 8 to 8E of the TEU which are:

- The right to move and reside freely within the territory of the member states, subject to the limitations and conditions laid down in this Treaty and by the measures adopted to give it effect (Article 8A(1)).
- The right to vote and stand as a candidate at municipal elections in the member states for the citizens residing in member states of which they are not nationals (Article 8B (1)).
- The right to vote or stand in European parliamentary elections for the citizens residing in member states of which they are not nationals (Article 8B (2))
- Access to the diplomatic and consular protection of any member state nationals outside the EU (Article 8C)
- The right to petition the European Parliament in accordance with Article 138d and to apply to the European Ombudsman in accordance with Article 138e (Article 8D)
- Report of The Commission to the European Parliament, to the Council and to the Economic and Social Committee every three years on the application of the provisions of the Treaty related to the citizenship of the Union (Article 8E)

It can be seen that TEU made a turning point in the European integration by the development of citizenship of the EU. Furthermore, it introduced non-judicial mechanisms that protect basic rights of the Union citizens by the Article 138e. In that regard, it can be assumed that the non-judicial protection of the nationals of the member states was not known at the Community level before the adoption of the Maastricht[107].

However, some scholars say that there are some drawbacks in the provisions of the TEU. Especially, the most important problem is that Maastricht requires national citizenship

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[106] Article F(1) on the Treaty on European Union, February 7, 1992, Retrieved from http://eurlex.europa.eu/en/treaties/dat/11992M/htm/11992M.html, [27.01.08]

[107] Epaminondas A. Marias, "Mechanisms of Protection of Union Citizens' Rights"in A. Rosas and E. Antola (eds.), *A Citizen's Europe: in Search of A New Order* (London: SAGE Publications, 1995), p.212

of a member state in order to possess Union citizenship. That's why; general framework of European citizenship rights has a restricted nature which cannot compare with the national citizenship rights. Besides, in the first stage, Article 8A (1) 'the right of residence freely' has some limitations on the grounds of public security, public policy and public health. As a result, implementation of freedom of movement for all the citizens of the EU has not been accomplished. Moreover, the provisions on Union citizenship don't guarantee the full protection of civil and political rights, because there is an ambiguity for direct use of force towards the violation of basic rights and no regulations towards non-citizens in the name of rights and duties[108]. Finally, there is no certain obligation of the citizens of the European Union.

Generally, the TEU did not aim at establishing a possible federal state or union. It has only entitled nationals of the member states to certain political rights as citizens of the Union that constitute a step towards a closer political union.

2.1.4 Developments of European Citizenship after the Treaty on European Union

Despite introduction of European citizenship, TEU had some important shortcomings about the Union citizenship as we mentioned before. Moreover, the EU still lacked a uniform structure because only one pillar is supranational and the others are still intergovernmental. In addition, the EU also faced some challenges in the area of border politics, namely, the question of visa and asylum policy, as well as the enlargement problem introduced by the Copenhagen Summit in 1993.

In that environment, process of closer integration and enlargement were on the agenda of the EU political debates. The negotiations concerning those issues began with the formation of a Reflection Group in 1996. The report of Reflection Group presented three important aims for the 1996 IGC: bringing the Union closer to its citizens; improving

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[108] Marco Martiniello, 2000, p.371

institutions of the EU efficiently preparation for further enlargement; and providing Union's capacity for greater external action[109].

Treaty of Amsterdam was established on the basis of those aims in December 1997. It refined the notion of European citizenship with the amendments to the principle of European citizenship in Articles 17 and 21 (formerly Article 8 and Article 8d). First of all, The Treaty of Amsterdam added a new sentence to the citizenship of the Union which is; *citizenship of the Union is additional not replace national citizenship* [Article 17(1)][110]-article 8(1) of TEU. It was done because of the outcomes of ratification problem in the Maastricht Treaty. Moreover, the Treaty also added the priority of being national member of a Member State in order to enjoy citizenship of the Union and stressed that European citizenship is complementary. As a result, it is not possible for grant of European citizenship to the foreign residents of the EU at that time.

In that regard, Treaty of Amsterdam did not make a significant change in union citizenship. Instead, in my opinion, its emphasis on complimentary character of Union citizenship based on national citizenship made a step backward for European integration process. However, by reinforcing fundamental human rights through the introduction of paragraph 1 in Article 7 [F1] of the TEU[111], Treaty of Amsterdam strengthened the Union citizenship.

2.1.5 The Treaty of Nice and the Treaty of Lisbon

The next major step for the EU citizenship was taken in the Nice Summit in 2000. The aim was to enhance protection of rights within the EU legislation. It stresses that the Union is based on democratic principles and rule of law and respects for the universal aspects

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[109] Presidency Conclusions of European Council at Corfu, 24-25 June 1994, Retrieved from http://consilium.europa.eu/uedocs/cmsUpload/EUROPEAN%20COUNCIL%20AT%20CORFU%20-%20Presidency%20conclusions.pdf, [02.02.2008]

[110] Treaty of Amsterdam, October 2, 1997, Retrieved from

http://www.eurotreaties.com/amsterdamtreaty.pdf [01.12.2009]

[111] Jo Shaw, "Constitutional Settlements and the Citizen After the Treaty of Amsterdam" in K. Neunreither and A. Wiener (eds.), *European Integration After Amsterdam: Institutional Dynamics and Prospects for Democracy*, (Oxford: Oxford University Press, 2000), p.314

of human rights[112].However, by the introduction of a Constitution for Europe in 2004, Treaty of Nice intended to define the content and the limits of the citizenship of the EU.

Process of the Constitution for Europe began after the Treaty of Nice that European Council adopted a *Declaration on the Future of the European Union* on 15 December 2001 in Laeken. This declaration focused on four main issues: division and definition of powers, simplification of the treaties, role of national parliaments in the Europe and moving towards a Constitution for European citizens. On 29 October 2004 member states of the EU agreed on the establishment of a draft European Constitution and it was signed by twenty five member states and three candidate countries[113]. Accordingly, the Constitution arranged the Union citizenship in the Article 7 and brought no further rights with regard to the former treaties. Again, we see emphasis on 'additional' and 'not replacement of national citizenship' features of the Union citizenship in the Draft Treaty for EU Constitution.

However, it was by France and Holland during the ratification in 2005 and the constitutional process became locked up. This blurred the future of the EU and stopped the integration process for a while. This was overcome by the 2006 European Council that Germany would present a report on the future of the Constitution in the first half of 2007[114]. In that regard, process has began with the Treaty of Lisbon in 2007 in order to realize institutional reform and facilitate decision making process in the EU. The treaty was signed on 13th December 2007 and in terms of citizenship, it consolidates the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

Furthermore, Treaty of Lisbon, by giving them veto powers to the issues related with civil matters, broadens the role of Member States' parliaments in the legislative processes of EU institutions. Besides, in Article 8C, Treaty of Lisbon defines the method of how national parliaments contribute to the good functioning of the Union. It is discussed as:

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[112] The Charter of Fundamental Rights, Retrieved from
http://www.europarl.europa.eu/charter/pdf/text_en.pdf [23.10.2006]

[113] Emily Pia and Michael Lister, p.167

[114] Ibid, p.167

It concerns the proper application of the subsidiarity principle, policy evaluation in the area of freedom security and justice, revision procedure, accession procedure and inter-parliamentary cooperation[115].

However, according to Richard Bellamy, these remain weak and peripheral, because there is not direct voice of national parliaments and their citizens[116]. Besides, we cannot exact definition of citizenship of the EU. Instead, Treaty of Lisbon in Article (1) emphasizes universal values such as freedom, democracy, equality, tolerance and human rights and connects them with the Union citizenship only. In my opinion, these values may be regarded as a first pace for creating fundamental characteristics and objectives of the Union citizenship and will solve the recent problem about this kind of citizenship which will be discussed later.

Recently, after the ratification of Treaty of Lisbon, European Commission has introduced The European Citizens' Initiative on 11th November 2009 that intends to increase participation in EU politics. It enables the citizens of the member states of the EU to call on the European Commission to bring forward new legislation as follows:

> "Not less than one million citizens who are nationals of a significant number of member states may take the initiative of inviting the commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the union is required for the purpose of implementing the treaties[117]"

In that regard, the European Commission will make a regulation to be adopted by both the European Parliament and the European Council to discuss and determine the structure of this initiative to be exercised. In this way, it's important to say that this is the first time that citizens have the right to direct the speech on EU issues. However, the Treaty states that only nationals of the Member States of the EU can benefit from this initiative, not third country. In

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[115]See details in S. Kurpas, B. Crum, P. de Schoutheete, J. Keller, F. Dehousse, S. Andoura, A. Missiroli, S. Hagemann and H. Bribosia, "The Treaty of Lisbon: Implementing Institutional Innovations Joint Study", *Center for European Policy Studies*, 15 November 2007, Retrieved from

http://www.ceps.be/files/book/1554.pdf [02.12.2009]

[116] Richard Bellamy, "Evaluating Union Citizenship: Belonging, Rights and Participation within the EU", *Citizenship Studies*, Vol.12, No.6, 2008, p.609

[117] Commission of the European Communities, "Communication from the Commission to the European Parliament and The Council: An area of freedom, security and justice serving the citizen", COM (2009) 262 Final (June 2009) Retrieved from

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0622:FIN:EN:PDF [19.12.2009]

this sense, the Union citizenship has some weaknesses and in order to see those drawbacks and its mechanism next section will look at the Union citizenship.

2.2 GENERAL FRAMEWORK AND LIMITS OF THE UNION CITIZENSHIP

2.2.1 Rights and Protection Mechanisms of the Union Citizenship

European citizenship is a complex and multileveled concept. It is a new kind of citizenship emerging 'that is neither national nor cosmopolitan but is multiple in the sense that the identities, rights and obligations associated[118]. Unlike national citizenship regimes, EU citizenship grants the rights to the residents of its territory. Thus, it has more inclusive meaning and is not based on European identity in the same way of national citizenship.

In this section, the main purpose is to define the content of European citizenship with regard to its features and unique structure. After that, limits of Union citizenship will be debated. In this sense, T.H. Marshall's classification of citizenship seems to be helpful to draw general outline of the European citizenship.

As it is mentioned before, Marshall defined citizenship with regard to three main set of rights: civil, political and social rights. The first right is civil rights that *"compose of the right 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[119]"*. The second right is political rights that consist of "right to participate in the exercise of power, as a member of a body 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 as body". The last right is social rights of citizenship includes that a wide range rights from *a 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 civilized being according to the standards prevailing in the society[120]"*.

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[118] Elizabeth Meehan, *Citizenship and the European Community*, (London: Sage Publications, 1993), p.1

[119] T. H. Marshall, p.72

[120] Ibid, p.78

From the European Union perspective, civil rights of the EU citizens entitle free movement rights and they are constructed by the operation of EU law. The European Court of Justice, in here, plays an important role in declaring the observance of fundamental rights as general principles of European Community (EC) law. Furthermore, Article 8A (1) points the limitations on the grounds of public security, public policy and public health and conditions laid down in the treaty and the measures adopted to give it effect. For instance, unemployed people in the EU have no right to move across the Union in search for better social assistance benefits. However, citizens of the Union have the right to move to another member state in search of work.

Political rights of the EU are represented in the Article 8B (1) and Article 8B (2) that are the right to vote and to stand for elections. Both of them reveal us that European citizens are granted to full participation in the political life of their state of residence on municipal and European levels.

Social rights of the EU include individual rights, free collective bargaining, the market economy, equality of opportunity for all and social welfare and solidarity[121]. The Commission develops the guiding principles and objectives for the future action for social policy. Generally, sex equality in the EU law is a good example of an area where the EU has successfully adopted regulatory policies in the social realm.

With regard to Marshall's divisions, there are also protection mechanisms of the EU citizenship that Treaty of Maastricht introduced. These are the right for every citizen of the Union to petition the European Parliament (EP) and to apply to the Ombudsman established under Article 138D. The right to petition is given a crucial Treaty basis. The right to apply to the Ombudsman in Article 138E contains detailed provisions on the role and appointment of the Ombudsman.

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[121] Commission of European Communities, "European Social Policy: A Way Forward for the Union", COM (94) 333Final (July 1994) Retrieved from

http://aei.pitt.edu/1118/01/social_policy_white_paper_COM_94_333_A.pdf [12.01.2010]

2.2.2 Limits of Citizenship of the EU

Citizenship and nationhood have recently become intensely contested issues in European politics. Due to the emergence of the European citizenship after the market completion, political legacy of the EU has intensified debates about citizenship and nationhood. Thus, politics of citizenship in contemporary Europe are vital, diverse and complex.

European integration process has not been successful to institutionalize and socialize its political identity. The EU citizenship practice did not create one European identity instead it mobilized various identities. On the one hand, it has been working for continuation of political legitimacy of the nation-state; on the other hand it has been establishing an alternative, political reference point which has the capabilities that challenge nation-state. Besides, denationalization of citizenship in the EU contradicts with the increasing internalization of European states[122]. The question whether there can ever be such a thing as European citizenship and the problem of political union with the question of how to integrate different and contradictory citizenships of the member states thus arises in the EU.

Generally, as we have seen in the content, Marshall defines evolution of rights of citizens in the European nation-states with regard to these rights from civil to social rights. When we have a look at The Union citizenship, we cannot say that the development of the rights follow the same way as Marshall's citizenship concept. Because, unlike the nation-states of the Europe, the EU had a different historical development that starting point was the idea of the mobility of workers in the EU. Thus, both civil rights and social rights of the EU are designed for only economic cooperation of the EU, not for political mobilization. In other words, they are formed in order to create some kind of a market citizen and then to promote citizen of the EU. Moreover, d'Oliviera also stresses that the origin of the EU citizenship is based on free movement of people and thus, it is a part of fundamental economic freedoms of the market rather than a political right of a democratic system[123]. In this sense, the idea is to

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[122] Roger Dale, "Forms of Governance, Governmentality and the EU's Open Method of Coordination" in W. Larner and W. Walters (eds.) *Global Governmentality: Governing International Spaces*, (London: Routledge, 2004), p168

[123] Jessurun d'Oliviera, "Union Citizenship: Pie in the Sky?" in A. Rosas and E. Antola (eds.) *A Citizens' Europe: In Search of a New Order*, (London: Sage Publications, 1995), p.63

search or form citizen of the EU through the market citizen in order to accelerate the European political integration and create the content of European identity. However, this idea is a problematic issue, because having been so strongly based on the completion of the internal market makes the people pragmatist and diminishes loyalty to the Union. As a result, there are ongoing debates on the European identity and the notion of belonging and questions, such as *who is a European citizen within the EU* and *what exactly defines belonging in the Union*, which will be analyzed in the last section of this study.

Furthermore, although EU citizenship includes a guarantee of voting rights within the Union, scope of political rights of the Union citizenship is not clearly defined. For instance, only nationals of a member state, not third-country nationals living in the EU can participate in municipal and EP elections in another member state that they live in. Third-country nationals must be lawfully resident in a member state to be bestowed to this right while citizens of the Union outside the member state can be able to exercise this right. It is seen that transfer of some basic rights is still contested, because question of how will the process of harmonizing national policies and expanding European rights will change state sovereignty still remains. The main reason is the complementary nature of Union citizenship to the national citizenship of the Member States of the EU. In other words, The Union citizenship is based on the condition of the citizenship of the member states of the EU. Therefore, it is criticized that only the EU Member States have control over the access and lose the rights of the Union citizenship. Namely, as O'leary states, using nationality as a base for citizenship of the European Union shows that the Member States have a strong sovereignty on the issue[124]. As a result, establishing a practice of a unified and comprehensive European citizenship becomes problematic in the EU.

The debates on the Union citizenship reveal that there is no direct relation between The EU and its citizens. It should be pointed that the EU, having different cultural and national identities, is not an obstacle for both European citizenship and political identity of the Union. The difficulty is that political identity of the EU is insufficient to mobilize sense of belonging and solve question of democratic legitimacy and accelerate collective action. That's

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[124] Siofra O'Leary quoted in D. Dunkerley, L. Hodgson, S. Konopacki, T. Spybey and A. Thompson, *Changing Europe, Identities, Nations, Citizens*, (London: Routledge, 2002), p.17

why; those remain highly problematic and underdeveloped[125] without an active EU citizenship.

Up to now, this study focused on a comparative analysis of citizenship concept and theories of national citizenship and citizenship of the European Union. Nonetheless, the last chapter of this study will examine security in the EU both externally and internally to define its location in the EU. Then, the study will focus on recent questions in relation with citizenship of the EU such as identity question of the EU, securitization of migration and its effects on citizenship policies and the issue of status of third country nationals. The aim of the last chapter of this study is to create a connection between security and citizenship policies and to identify the problems of the Union citizenship and citizenship policies of the member states.

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[125] Marco Martiniello, 2000, p.377

III. SECURITY, IDENTITY AND EUROPEAN CITIZENSHIP

In the last decades, debates about European integration process and security have questioned citizenship. With regard to the examples coming from debates and our examination of citizenship regimes in three basic states in the EU, we have found that the concept of security have affected citizenship principles much more than before. With the emergence of European citizenship and its consolidations and fragmentation of European security environment from the 1990 onwards, member states of the EU have been in paradox. On the one hand, ongoing integration process of the EU calls for transformation of the states and, on the other hand, fragmented and ambiguous European security causes the resistance of the states in order to protect national sovereignty.

Therefore, citizenship policies have been affected and changed in the last decade. As we mentioned earlier, both national, postnational citizenship and neonational citizenship regimes have been formed with various groups of people newly emerged in the nation-states. Pure *jus sanguinis* regimes were left as they have become obsolete and pure *jus soli* regimes were modified to prepare the countries against new waves of migration. Currently, it is seen that many citizenship regimes of the European states, with some deviations, have elements from both *jus sanguinis* and *jus soli*.

With the development of the Union citizenship, future of the European integration has been debated with regard to its process. Continuously, when the abstract notion of European security became a principal for European integration because of the September 11th effects, European governments have become obsessed with controlling their borders rather than effectively integrating immigrants and foreign nationals into their societies.

Current citizenship policies of the EU member states and the Union citizenship do not actually strengthen both internal and external security. In fact, they only encourage discriminatory attitudes and create exclusionary understanding-us vs. them. Therefore, this exclusionary understanding blocks desire for creating a kind of European identity, and undermines European integration process and poses threats both for foreign residents and for the European society. At that point, this section will firstly study the concept of security in both external and internal way to define its place in the EU. After that, the section will

research recent problems that both the Union citizenship and national citizenship regimes of the Member States have been exposed to.

3.1 THE CONCEPT OF SECURITY

The notion of national security had emerged by the emergence of nation-states in international relations. It is traditionally based on the concept of state sovereignty and its conceptual framework is shaped with regard to state interests. Besides, security is analyzed in various forms with regard to changing historical dynamics and different perspectives. For instance, in realist understanding, security is seen as a part of power while, liberalism sees security as an outcome of peace. Generally, security means "the acquisition, deployment and use of military force to achieve national goals"[126]. In that regard, traditional understanding of security relates with military threats and arises through the border conflicts.

However, after the Cold War period, concept of security was changed and re-conceptualized. Especially, traditional understanding of national security concept was altered in order to cover the needs of new era. In this sense, new security understanding has a broader sense that encapsulates non-military issues such as environmental questions, terrorism and degradation. Besides, the nature of threats expanded from military sense to a broader manner that economic threats as well as environmental and societal threats such as illegal migration and refugee problems are important for the citizens of nation-states[127]. Moreover; the nature of threats also deepened that now it focuses on the security of individuals and groups rather than external threats. However, as Buzan points, new security approach had already taken its part with other domains even before the end of the Cold War era[128]. At that point, it is important to point out that globalization phenomena also helped for broadening of the concept of security. It expanded the scope of threats and made difficult to measure and overcome of those threats

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[126] David Held and A. McGrew, "The End of the Old Order?", *Review of International Studies*, No. 24, 1998, p. 219-243

[127] Benjamin Miller, "The Concept of Security: Should It Be Redefined?," *Journal of Strategic Studies*, Vol.24, No.2, 2000, p.20

[128] See details in Barry Buzan, *People, States and Fear: an Agenda for International Security Studies in the post Cold-War Era*, 2nd ed., (Boulder, Colorado: Lynne Rienner Publishers, 1991)

In terms of Europe, barriers were abolished by the end of Cold War and security notion became dependent on international security rather than nation-states[129]. As a result, the notion of security started to be debated by considering its scope and definition. The basic point of those discussions is to respond the question of what is being secured and by whom. Therefore, newly emerged theories like critical theory and social constructivism started to deal with redefining and criticizing security within a broader context. In this study, we will focus on those two theories in terms of security in order to understand the concept.

Generally, social constructivism or Copenhagen School sees the expansion of security concept as the result of a definite social project[130]. It supports the idea that state behavior is not explained only by power; instead, there are many other factors that are decisive factors for the state behavior. In this sense, interaction is a key word that according to social constructivism, identities and interests are shaped through interaction. In terms of security, threats and security are intersubjective manners because of their interactions with one another. In other words, security and threat can be interacted and through those interactions, for instance, one state constituent another state's behavior as a threat or vice versa. Moreover, if a state regards another state as an ally and starts a defensive alliance with that state, there occurs a security dilemma. Their defensive act may perceive as an offensive act by the other states.

Another point is that social constructivism describes security as relational. In other words, security is socially constructed by relations and depends on states' perceptions. For instance, the EU is an international community because member states have started to relate each other and transform their policies based on common rules. As a result, interests of the EU become interests of the member states of the EU.

Furthermore, according to Buzan, one of the founders of Copenhagen School, security concept is a contested concept that there is no clear definition of it. In other words, it changes from state to state; one analysis to another, and person to person, because threats

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[129] Martin A. Smith and Graham Timmins, *Uncertain Europe Building A New European Security Order?*, (London and New York: Routledge, 2001), p.14

[130] Rita Abrahamsen, "Blair's Africa: The Politics of Securitization and Fear," *Alternatives*, Vol.30, No.1, 2005,p.57

changes through the different perspectives. Thus, security is a linguistic term used for survival of threats and relations between states or within the states. In that regard, security is based on referent object that determines units of security or answers the question of 'security of whom'. For example, if the referent object is a state, the answer is the state. Besides, there are some differences with regard to the contested nature of security definition. It may be related with an objective threat such as an earthquake or subjective threat that is about perceptions or abstract threats. As Buzan defines, traditional security is constructed by dominant actors on the basis of determination of both the source and the content of security in an existential manner and close itself from the external questions[131]. Briefly, security differs depending on the nature of the threat and the referent object that is threatened.

Buzan also argues that security is occurred through speech acts as follows:

> In security discourse, an issue is dramatized and presented as an issue of supreme priority; thus, by labeling it as *security*, an agent claims a need for and a right to treat it by extraordinary means. For the analysis to grasp this act the task is not to assess some objective threats that "really" endanger to be defended or secured; rather it is to understand the process of constructing a shared understanding of what is to be considered and collectively responded to as a threat. The process of securitization is what in language theory is called a speech act[132].

Accordingly, a concept presented as a security issue with an extraordinary measure should be regarded in the way by the audience[133]. In this sense, identity of securitizing actor is important that should have a certain authority to take a problem/issue/subject out of the realm of politics and put in the security process. It is the only way for securitization of any kind issue that has no connection with security. We can say that the EU has become a securitizing actor, because it has a security role and some kind of an authority to put, for instance, migration policies into security realm in recent years.

Copenhagen School/social constructivism also interprets new security understanding that, in Buzan's study, societal insecurity has increased and emergence of new threats has

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[131] Barry Buzan, "People, States and Fear" in Buzan Barry, Ole Waever, Jaap de Wilde, *Security: A New Framework for Analysis*, (Lynne Rienner Publishers: Boulder, 1998), pp.21-22

[132] Ibid, p.26

[133] Ibid, p28

menaced societies rather than the states[134]. Moreover, those new threats such as terrorism, illegal trafficking and smuggling as well as illegal migration has become new threats within the security perceptions of nation-states of the EU[135]. Thus, Copenhagen School supports the idea that from now on, security should be multidimensional and beyond defensive understanding. In this sense, Buzan and Weaver categorize security into two sectors which are national security; having sovereignty and survival of the regime as its main concern and societal security having the identity and survival of society as its main preoccupation[136].

At the same time, another theory, called critical theory, is the other approach in search for alternative ways in new security perception. This theory is shaped by Marxist approach and developed by some German scholars called Frankfurt School[137]. Critical theory accepts the anarchic nature of state and believes that knowledge is shaped by power and interests. Thus, the aim is to transform international relations to achieve freeing from constraints of normative thinking. In terms of security, critical theory says that security means emancipation[138]; namely, freeing of humankind from constraints and limits of their choices. Moreover, it emphasizes that security is a derivative concept that it has different meanings according to different theories. Therefore, critical theory supports broadening of security referents and deepening of security arena that issues of identity, infectious diseases, environmental disasters and migration should be taken as a security problem[139]. However, broadening of security notion has some risks; because it has a negative value that there are some restrictions in order to provide security. At that point, critical theorists suggest that security should be taken in the political framework, but they do not present a concrete

[134] European Council, "A Secure Europe in A Better World: European Security Strategy", December 2003 Retrieved from

http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf [12.01.2010]

[135] Philippe Marchesin," 'Yeni Tehditler' Karşısında Avrupa", in Beril. Dedeoğlu (eds.) *Dünden Bugüne Avrupa Birliği* (İstanbul: Boyut Yayınları, 2003), pp. 421–437.

[136] Didier Bigo, "When Two Become One: Internal and External Securitizations in Europe". in (2000) M. Kelstrup, and M.C. Williams (eds) *International Relations Theory and the Politics of European Integration: Power, Security and Community*, (London and New York: Routledge, 2000), p.192

[137] H. R. Jackson and G. Sorensen, *Introduction to International Relations Theories and Approaches*, 2nd ed., (New York: Oxford University Press, 2007), p.292

[138] see details in Ken Booth, "Security and Emancipation", *Review of International Studies*, Vol.17, No.4, 1991,pp.313-326

[139] A. Şevket Ovalı, "Ütopya İle Pratik Arasında: Uluslararası İlişkilerde İnsan Güvenliği Kavramsallaştırması", *Uluslararası İlişkiler*, Vol.3, No.10, 2006, p.12

proposal.

As those theories emphasize broadening of security concept, it is observed that security has five fundamental dimensions/sectors such as military, societal, environmental and economic[140]. In military security, referent object is state and the criterion is use of force that threats come from abroad or internal one. Societal security is about identity of a group that the most important thing is the security of the group. They need to maintain identity and thus, issues like immigration can be seen as a societal security. Environmental security refers environment as a decisive actor. Although environmental problems do not need to be securitized, it can be securitized in order to prioritize the issue. For instance, global warming and ozone layer problem are examples of environmental security that they confront states to act or take action against these issues collectively. Economic security concerns interdependency of states, stabilization of economy, and global economy that a possible crisis in the level of them can affect and deter whole system. Lastly, political security's referent objects are various such as sovereignty, system and human rights and individuals are security referent.

Within that regard, it is important to mention that the content of security concept has been totally changed by the September 11th, 2001 events. Those events have transformed old security threats and blurred security concept and expanded the security agenda with new dimensions into political agenda of nation-states. The boundaries between states have become increasingly blurred and that suggested that the new security threats may operate along channels that are not similar to the traditional threats. Besides, the new security threats against the state are indirect rather than direct. Especially, the origin of threat has shifted from nation-state to global actors. In this sense, violation of human rights, ethnic nationalism, sexual discrimination has become examples of new threats for states. As Jüneman states;

> September 11 seems to have turned the wheel back, at least to a certain extent. Although the importance of 'soft security' issues is not rejected altogether, priorities have clearly been shifted back to 'hard security' issues. The urgent need to cope with the new threats of international terrorism resulted in an upgrading of short-term counter strategies, relying on the military, the police

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[140] Andrew M. Dorman and Adrian Treacher, *European Security, an Introduction to Security Issues in Post-Cold War Europe.* (Aldershot: Dartmouth University Press, 1995), p.5

and the secret services. Compared to them, 'soft strategies' addressing the roots of terrorism appears to be too uncertain, too lengthy and therefore too risky to place at the top of the agenda. Against this background it is not surprising that issues which only a few years ago had been discovered to be important in the context of security building, such as the promotion of democracy and economic development, are now rated much lower[141].

As a result, security perceptions of both international relations and nation-states have been re-shaped with regard to newly emerged threats. In terms of Europe, the interaction of European states has increased because of the increasing economic and political interdependence between them. So, it has reinforced the acceleration of a collective identity, the EU. Besides, after September 11th attacks, security requirements of Europe demand a broader definition of the relationship between the new and traditional conceptualizations of security. Before September 11th, terrorist attacks equated with political interests. From now on, they are shaped with regard to religious references. In this sense, there are some restrictions on the religious practices under the name of national security[142]. The aim is to make new balances between freedom of religious beliefs and national security. However, people having the 'other' national identity and religious culture have been affected from those regulations seriously. In that framework, Europe has started to put some issues like migration into security basket and make strict policies by considering them as threats towards national identity and security. As a result, European understanding of policy making has shifted from reflecting a harmonization to creating a 'Fortress Europe' seen in "A Secure Europe in a Better World" strategy paper[143] that defined key threats such as terrorism, proliferation of weapons of mass destruction, regional conflicts, failed states and organized crime.

In this respect, the next section deals with security in the EU from 1990 onwards with emphasis on changes in the internal security to understand relationship between security and citizenship policies in the EU.

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[141] Annette Jünemann, "Security-Building in The Mediterranean After September 11", in A. Jüneman (ed.) *Euro-Mediterranean Relations After September 11: International, National and Domestic Dynamics*, (London: Frank & Cass Co., 2004), p.2

[142] Silvio Ferrari, "Individual Religious Freedom and National Security in Europe after September 11", *Brigham Young University Law Review*, January 2004, pp: 367–368, Retrieved from

http://lawreview.byu.edu/archives/2004/3FER-FIN2.pdf [25.01.2009]

[143] Annette Jünemann, p.4

3.2 EVOLUTION OF SECURITY IN EUROPEAN UNION

The EU is a *sui generis* organization that individuals enjoy common rights and live in an internally border-free territory, hold a common passport and use a common currency regardless of their nationality and residency. However, member states of the EU do not transfer the authority on their security policy to the EU competence. In this sense, security is one of the most significant and contentious issues on the European Union agenda. For instance, integration process of the EU, by the European Constitution, has reached to a point that the EU acts as a state, while foreign policy and security cooperation has not been going further. It is problematic because security relates with state sovereignty and any kind of policies for integration process would be a threat to the nation-states of Member States of the EU. Besides, especially after the September 11th, national citizenship policies have been much more affected by security policies than before.

Taking into consideration of those problems, this section will provide a descriptive account of the security policy aspects of the EU from 1990s to the ratified European Constitution. The intention here is to highlight major developments in the evolution of the European internal security and defense policy. In this sense, it will focus on the functional framework of Justice and Home Affairs and developments such as Tampere Council, Hague Programme and Stockholm Programme to see the problematic issues which affects national citizenship policies of the member states.

3.2.1 Common Foreign and Security Policy

At the beginning of 1990s, with the end of Cold War and collapse of the Soviet Union, European countries have reached to a peaceful environment that they were never able to have in their history. At the same time, however, European states faced with new threats and risks and instability and unpredictability of security notion that challenged their national security. Especially, Europe was not sure of the United States intentions because of the fact that the field of security knowledge and institutions in international relations found itself in an

identity crisis. The threat no longer originated from a specific place and from a specific enemy that can be watched[144]. Besides, the future of NATO was also in question.

Furthermore, Delors observed that the Community had neither the institutional machinery nor the military force, which would have allowed it to act as a Community during the Gulf crisis[145]. Therefore, European states decided that they had to develop their own security capabilities with regard to the problems that they faced in both Gulf War and Yugoslavian crisis. Indeed, those events had inevitable effects on the perceptions of the member states both of their own roles and that of the EC in the international arena, which in turn led to the development of CFSP as the second pillar of the EU.

However, member states had different preferences and positions on the issue of a supranational CFSP that shaped their final decision on the TEU. On the other hand, it was revealed that the existing machinery was inadequate and ineffective and had to be integrated into the Community structure[146]. So, through the IGC at Dublin in 1991, foreign policy was recognized and in the end, the TEU planned the replacement of European Political Cooperation (EPC) by CFSP as the second pillar of the European Union. Other pillars were Community and JHA pillars. Both CFSP and JHA pillars have been declared to be intergovernmental while Community pillar has been supranational due to the completion of single market.

In this case, CFSP created very quickly without focusing on the details. Indeed, the reason was that member states of the EU had to design concrete foreign policy framework to agree on a text. So, each member state could understand anything that they want to understand from CFSP. Moreover, TEU had to keep the context of CFSP very simple, because it could not be seen as a rival to NATO which deals with common defense.

Furthermore, in the Maastricht Treaty, Western European Union (WEU) was annexed and seen as a defense mechanism. Accordingly, in case of crisis, the EU would ask

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[144] Didier Bigo, "The Emergence of A Consensus: Global Terrorism, Global Insecurity and Global Security", in Ariane C. d'Appollonia and Simon Reich (eds.), *Migration, Integration, and Security: America and Europe in Comparative Perspective,* (Pittsbourgh: University of Pittsbourgh Press, 2008), p.69

[145] Jacques Delors, "Address to the International Institute for Strategic Studies", reproduced in *Survival*, Vol.33, No.2, March 1991, p. 102

[146] Stephen George and Ian Bache, *Politics in the European Union,* (Oxford: Oxford University Press, 2001), pp.122-123

WEU to implement its decisions regarding to troops and defense. However, there were two problems against such a scheme. Firstly, The Petersberg Tasks declared in June 1992 limited the activity of WEU to peace-keeping, humanitarian and crisis-management tasks in Europe. Secondly, the attempt to differentiate memberships of the EU, WEU and NATO complicated the issue of a possible WEU-EU merger[147].

In addition, WEU could not be successful during 1990s, especially, in Bosnian War. The crucial thing was that Bosnian War was emerged within the territories of the EU. The expectation was effective engagement in the conflict and taking part in the resolution. However, the EU could not use its institutions effectively during the war. The reason was a problem of single voice which means a problem with representation of the EU. So, it was inevitable to create some kind of diplomatic machinery.

In that regard, as an attempt to improve the effectiveness of the CFSP, The Amsterdam Treaty introduced two significant innovations. First one was 'constructive abstention' that allowed any member state to abstain from voting without blocking a collective decision. Second innovation was the creation of 'High Representative for the CFSP.' Accordingly, he would responsible for the formulation, preparation and implementation of political decisions in the CFSP affairs and representing the Presidency in joint foreign and security policy matters.

In Amsterdam Treaty, WEU also became an integral part of the EU with an independent operational defense capability. Additionally, the WEU "would provide the Union with access to an operational capability," which meant the initiation of the Petersberg Tasks[148]. Besides, The Amsterdam Treaty mentioned that the EU would put the WEU into a subordinating position as if an institution within the EU. This treaty also expanded the number of instruments and mechanisms such as common strategies[149] available in the CFSP arena. However the decision making process of CFSP was remained under intergovernmental

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[147] See details in Karen E. Smith, "EU External Relations" in Michael Cini (ed.) *European Union Politics*, (Oxford: Oxford University Press, 2003), pp.229-245

[148] Fraser Cameron, *The Foreign and Security Policy of the European Union*, (Sheffield: Sheffield Academic Press, 1999), p.135

[149] Ibid, p.72

processes and The Treaty of Amsterdam did not add any kind of supranational element to the CFSP. Therefore, The Treaty of Amsterdam was regarded as a step backwards.

3.2.2 European Security and Defense Policy

In 1998 the UK changed its mind and began to favor a EU initiative on security and defense policy on the basis that it could strengthen NATO. Moreover, the Kosovo conflict facilitated the creation of an independent European Security and Defense Policy (ESDP) in the Saint-Malo agreement of 1998. Saint-Malo Agreement was an attempt to address the question of how to develop a CFSP of the EU. In fact, Saint Malo Agreement was significant, because it marked a turning point for European security-autonomous action, integration as in Article 2 stated;

> The Union must have the capacity for autonomous action, backed up by credible military forces, the means to decide to use them, and a readiness to do so, in order to respond to international crises[150]

The decisions taken at the St. Malo Summit increased the concerns of the US about the idea of EU's capacity for autonomous action. Thus, 1999 NATO Summit in Washington supported the idea as long as it would not endanger NATO. In addition, The ESDP was welcomed at the same summit that the EU would 'avoid unnecessary duplication', with special reference to NATO's military headquarters[151]. Within that regard, the increasing willingness of the EU Member States for the creation of EU's autonomous military capacity facilitated the decisions about security and defense issues.

Continuously, the European Council in Cologne in 1999 confirmed the development of the ESDP as part of the CFSP in order to incorporate crisis management and conflict prevention. So, we can see that responsibility of the development of a European security and defense policy was in the hands of the EU.

After that, by the Helsinki European Council in 1999, governments of the EU member states will be able to deploy rapidly and then sustain forces capable of the full range

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[150] British-French Summit St. Malo: 3-4 December 1998 Joint Declaration on European Defence, Article 1, in Maartje Rutten (ed.), "From St. Malo to Nice: Core Documents", Chaillot Paper, No.47, Institute for Security Studies, Paris, 2001, p.8

[151] Asle Toje, "The First Casualty in the Fight against Terror: The Fall of NATO and Europe's Reluctant Coming of Age", *European Security*, Vol. 12, No. 2, summer 2003, p.69.

of Petersberg tasks as set out in the Amsterdam Treaty, in operations up to corps level (up to 15 brigades or 50,000-60,000 persons) who could be deployed within 60 days at the most for a military operation lasting at least a year by the year 2003[152]. Furthermore, the objectives of the ESDP were agreed upon for the first time in the Helsinki European Council.

These developments were followed by the Treaty of Nice in 2000 that introduced Political and Security Committee (PSC), the European Union Military Committee (EUMC), and the European Union Military Staff (EUMS) in the Council of the EU. PSC is authorized by the Council of the EU to take convenient actions exercising political control and strategic direction of crisis management operations carried out in the context of the ESDP[153]. European Union Military Committee (EUMC) and European Union Military Staff (EUMS) help the PSC providing military advice, consultation and cooperation. In sum, the Treaty of Nice is a major turning point for the EU because with the Nice Treaty, ESDP officially became part of the CFSP and the WEU, as an integral body of the ESDP, also became a part of the EU.

3.2.3 European Security Strategy

September 11th attacks changed the nature of these developments in the EU security and defense policy that they faced a new challenge after the attacks. In this sense, international terrorism became important in international relations and when the U.S decided to seize its military operations from Afghanistan to Iraq, a serious crisis emerged within the EU which was deciding to the process for a constitutional treaty at that time.

In this context, European Security Strategy Document named 'A Secure Europe in a Better Word" was emerged in June 2003. This was the first time that EU formed a global approach to foreign and security policies and identified certain threats including international terrorism, proliferation of Weapons of Mass Destruction (WMD), regional conflicts, failed states, and organized crime. The document emphasized that the fight against those threats would be organized with a combination of political, economic, and civil and military

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[152] Gunther Hauser, "The ESDP: European Security Pillar" in G. Hauser and F. Kernic (eds.), *European Security in Transition* (Hampshire: Asgate Publishing, 2006), p.44

[153] Ibid, p.45

forces[154]. Besides, it is mentioned two concepts such as 'preventive engagement' and 'effective multilateralism' as the outcomes of the Union's need to change its civil power understanding to soft-power understanding[155].

However, there were still complexities and inadequacies within the EU procedures and 'democratic deficit' problem in efforts to create common policies and achieve supranational structure. Within that environment, The Constitutional Treaty in 2004 presented key innovations in many areas and structures of the EU such as granting the Union a legal personality. In terms of security, new institutions including the President of the European Council, Minister for Foreign Affairs and the European External Action Service are introduced as attempts to realize the CFSP. In this sense, those three institutions are equally responsible for harmonizing and coordinating the EU's external action by conducting the CFSP and ESDP[156]. Besides, in order to enhance cooperation in foreign and security policies, mutual defense and solidarity clause are included in the Constitutional Treaty. Mutual defense as follows:

> If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defense policy of certain Member States[157].

Nevertheless, as it is seen, mutual defense shall be consistent with commitments under the NATO. The solidarity clause, on the other hand, was prepared to bind Member States to act jointly in the case of a terrorist attack against a Member State as follows:

> The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or

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[154] European Council, "A Secure Europe in A Better World: European Security Strategy", December 2003
Retrieved from

http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf [03.01.2010]

[155] Jean-Yves Haine, "ESDP and NATO" in N. Gnesotto (ed.) *EU Security and Defence Policy: The first five years (1999-2004)*, *EU Institute for Security Studies*, 2004, p.134

[156] Sophie Dagand, "The impact of the Lisbon Treaty on CFSP and ESDP", *ISIS Europe-European Security Review*, March 2008, Number 37, pp.2-3

[157] Great Britain Parliament House of Lords EU Committee, "Treaty of Lisbon: An Impact Assessment 10th Report of Session 2007-08", Vol. I: Report: House of Lords Paper 62-I [V.1], p.199

man-made disaster. The Union shall mobilize all the instruments at its disposal, including the military resources made available by the Member States, to:
(a) – prevent the terrorist threat in the territory of the Member States;
– protect democratic institutions and the civilian population from any terrorist attack;
– assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack;
(b) Assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster[158].

In addition, The Constitutional Treaty also expands 'enhanced cooperation' to include cooperation in defense, but in CFSP cases it will only be realized by unanimity. Overall, although the Constitutional Treaty has tried to provide for a more flexible and effective foreign and security policy, it has not broken the dominance of intergovernmentalism and unanimity in the decision-making mechanisms of the common security policies of the EU.

Consequently, security in the EU has evolved in the same direction with the citizenship of the EU. However, like the Union citizenship, it has some drawbacks such as divergence opinions on the issue of finding best management of common security concerns and member states' resistance to hold their sovereignty over a supranational EU institution. Therefore, security concept in the EU requires further developments and elaboration. In that regard, developments of security policy in the EU has also affected internal security dynamics of the EU and caused ongoing debates about who is included and who is excluded within the EU context. In this context, the next section of this study will examine transformations internal security dimension of the EU in a historical perspective in order to describe a recent outline of citizenship in the EU and see some drawbacks of the recent programs in their relation with citizenship policies.

3.2.4 Justice and Home Affairs and Tampere European Council

Before the Maastricht Treaty, member states cooperated at the intergovernmental level to solve issues relating to free movement and personal security such as TREVI Group for illegal immigration and fight against organized crime. With the Treaty of Maastricht, JHA emerged as an organized co-operation area that aimed at collective actions taken by member

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[158] European Constitution, Part I, Title V: Exercise of the powers of the Union. Chapter II: Specific provisions, Article I-43

states in the fields of asylum, crossing of external borders, immigration, customs and police cooperation, drug trafficking, civil and criminal matters[159].

This work in the area of JHA went further that the aim was to facilitate the free movement of people by considering internal security of the EU. With the Treaty of Amsterdam, a large part of cooperation in the area of JHA became communitarized and included visa policy, conditions for issuing residence permits to immigrants, asylum procedures and rules for judicial cooperation in civil matters. [160] Moreover, entrance, getting residence permission and taking nationality of any member states of the EU started to be based on some 'communitarian' conditions that will gradually become an obstacle for the Union citizenship mechanism. Changes in the nature of JHA continued with the Tampere Council in 1999 that it planned a five-year program for the area of freedom, security and justice. In the Council Conclusions, it was emphasized that internal security is a priority for the Union and the citizens of the EU are at the heart of area of freedom, security and justice[161]. The aim is to create common European policy on the issues of immigration and asylum with regard to judicial cooperation between Member States and to find a common way for the integration of third country nationals. In this sense, Tampere Council stressed the harmonization of national legislation on the conditions for admission and residence of third country nationals. It also agreed that the legal status of third country nationals should be almost the same with the member state citizens and that long term residents should get uniform rights which are as near as those enjoyed by EU citizens[162]. Tampere Council also highlighted that long term residents of third country nationals could get the opportunity to obtain the nationality of the member state in which they are legally resident[163].

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[159] quoted in Arnold H. Kammel "Justice and Home Affairs (JHA) in Transition" in G. Hauser and F. Kernic (eds.), *European Security in Transition* (Hampshire: Asgate Publishing, 2006), p.74-75

[160] Ibid, p.75

[161] Presidency Conclusions of European Council at Tampere, 15-16. October 1999, Retrieved from http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/ec/00200-r1.en9.htm [02.01.2010]

[162] Presidency Conclusions of European Council at Tampere, 15-16. October 1999, Retrieved from http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/ec/00200-r1.en9.htm [02.01.2010]

[163] Willem Maas, "Migrant, States, and EU Citizenship's unfulfilled Promise", *Citizenship Studies*, Vol.12, No.6, 2008, p.590

The other development of the Tampere European Council with regard to JHA was the establishment of Eurojust which is responsible for investigations into organized crime in order to harmonize criminal laws of the Member States.

While Tampere Council declared and highlighted the issues, the coming events developed in a contradictory sense. On the one hand, European Commission and European Social Economic Committee reports in 2003, as an integration strategy, promoted a resolution that legally resident third country nationals should have the same status as citizens of the member states and gradually grant the citizenship of the member states that they live. On the other hand, Hague Programme in 2004 planned revision of outcomes of the Tampere Council. Of course, the reason was September 11th attacks that the scope of internal security in the EU has changed and gone beyond the member states borders. Asylum and migration became increasingly political and controversial issues and religious identities, immigrants and asylum seekers became the central point of every kind of terrorist attacks. Besides, it was seen the rise of hostility towards immigrants and extreme right parties with their anti-immigration policies. As a result, the notion that 'terrorists can move freely into and operate within the EU by leaving free movement unchecked'[164] internalized security problems of the EU and affected the Union citizenship and required a careful negotiation to define a future policy for the EU.

3.2.5 Hague Programme

Hague Programme established under those conditions as a 5-year plan for JHA which emphasizes the aims of providing better civil liberties for the Union citizens and residents in the EU. The important priorities of Hague Programme are named under the articles of fundamental rights and citizenship, the fight against terrorism, migration management, internal borders and external borders and visas, a common asylum area, integration, privacy and security in sharing information, the fight against organized crime, civil and criminal justice and freedom, security and justice[165].

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[164] Jef Huysmans , *The Politics of Insecurity*, (London and New York: Routledge, 2006), p. 87

[165] Commission of European Communities, "The Hague Programme: Ten priorities for the next five years", COM (2005) 184Final (May 2005) Retrieved from http://ec.europa.eu/justice_home/news/information_dossiers/the_hague_priorities/doc/com_2005_184_en.pdf [04.02.2010]

In terms of fundamental rights and citizenship, The Hague Programme emphasized that the protection of personal data and the fight against discrimination will be promoted within the five years. Besides, the Commission will also devote special attention to children's rights and to continuing its efforts to combat violence against women and converted the European Monitoring Centre on Racism and Xenophobia into the European Fundamental Rights Agency (FRA) in January 2007[166].

Although in some areas, Hague Programme was more direct that mentions to policies on legal migration, definition of a refugee status for the Union that included in the Tampere Council conclusions was not seen in the Hague Programme. Refugees continued to be excluded from the privileges coming from long-term residence status as agreed by the Tampere Council. Moreover, Hague Programme mentioned equal opportunities for third-country nationals, not their fair treatment as stressed in the Tampere Council[167]. In addition, Hague Programme left the integration of legal immigrants mainly to the hands of member states. Specifically, main actors for the definition of inclusion and exclusion criteria are the member states. This situation also fostered the variations in the national citizenship policies in the member states. As a result, today, aim of the Union citizenship about equality remains unfulfilled and member states citizenship policies continue to be different from each other. In other words, European citizenship is still based on citizenship of the member states and conditions to acquire EU citizenship through national channels of member states change from member states to member states.

3.2.6 Stockholm Programme

Alongside the Tampere Council and Hague Programme, there have been many achievements in the area of JHA such as the removal of controls at internal borders by the Schengen Convention, the establishment of the Frontex agency for the controls of external borders of the Union, a common visa policy, and efficient implementation by the institution of

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[166] Commission of European Communities, "The Hague Programme: Ten priorities for the next five years", COM (2005) 184Final (May 2005) retrieved from
http://ec.europa.eu/justice_home/news/information_dossiers/the_hague_priorities/doc/com_2005_184_en.pdf
[08.02.2010]

[167] Hildegard Schneider, "Towards a European Migration Policy: from Maastricht to Amsterdam, from Tampere to The Hague", H. Schneider (ed.) *Migration, Integration and Citizenship: A Challenge for Europe's Future*, *Forum Maastricht*, Vol.2, 2005, p.28

Eurojust[168]. However, there are still problems in some areas that are related with civil justice, cybercrime, terrorism, growing mobility that affects the Union's external borders, migration and asylum[169]. In this sense, there is an increased need for reformation in the area of JHA.

In December 2009, Stockholm Programme established for covering the needs as the next five year plan for JHA. The Programme includes a wide range issues that are citizens' rights, law and justice issues, internal security, external border management and visa policy, migration and asylum, the external dimensions of freedom, security and justice[170]. The contents of the Stockholm Programme are designed to reflect the institutional changes that were introduced by the Treaty of Nice. However, it is difficult to know how the new institutional structure will affect the future of the Union citizenship. The only thing can be guessed that this change will improve the profile of rights of citizenship within the EU.

Accordingly, Stockholm Programme emphasizes that both rights and privacy of the Union citizens should be protected beyond the territories of the EU[171]. Besides, it points that there should be consolidated migration and asylum policies in order to solve solidarity question between the nationals of Member States and legal alien residents of the Member States. Another issue related with citizenship in Stockholm Programme is further improvement of the right to free movement of the Union citizens. In this sense, it highlights the diversification of society in the EU with the respect towards differences and protection of vulnerable individuals. After that, it mentions protection of personal data of citizens of the Union that it should be protected within the international standards[172]. Then, it highlights the promotion of participation of democratic life in the EU. The reason is the decreasing number of participation to the municipal and European elections especially for the citizens of a

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[168] See details in E. Guild, S. Carrera and T. Balzacq, "The Changing Dynamics of Security in an Enlarged European Union", *CHALLENGE Programme*, Research Paper No. 12, October 2008, pp.1-28 available in

http://aei.pitt.edu/11457/01/1746.pdf 8 [09.02.2010]

[169] Commission of the European Communities, "An Area of Freedom, Security and Justice Serving the Citizen", COM(2009) 262 Final (10.06.2009), http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0262:FIN:EN:PDF [08.02.2010]

[170] Council of European Union, "The Stockholm Programme -An open and secure Europe serving and protecting the citizen", 2 December 2009, Retrieved from
http://ec.europa.eu/justice_home/news/intro/doc/stockholm_program_en.pdf [08.02.2010]

[171] Council of European Union, "The Stockholm Programme"

[172] Council of European Union, "The Stockholm Programme"

member states living in another member state. Finally, with emphasizing the protection of the Union citizens in the non-EU countries, Stockholm Programme stresses civil protection mechanism that must be strengthened in order to support and complement Member State initiatives in the civil protection sphere[173].

Consequently, recent programs are trying to consolidate and strengthen the internal security dynamics of the EU in a supranational level. Besides, they are trying to transform traditional understanding of citizenship and identity by filling the gaps of the Union citizenship. For example, before Maastricht, issues on free movement, equality and protection of citizens, third country nationals, and migration were only debated at member state level. Now, with regard to those programs, those issues are being discussed at the EU level and seen as issues that they should be concerned at the EU level not nation-state level. It is obvious that both citizenship policies of the member states and citizenship of the EU are affected by those developments. However, attempts to Europeanize those issues or increase their level and debate them within the context of internal security are problematic because there are still some questions remained unsolved in citizenship of the EU. Without finding answers to those problems, the idea of EU citizenship as political membership remains a dream only. Therefore, it is important to examine some recent issues related with citizenship and security in the EU in the next section.

3.3 RECENT PROBLEMS RELATED WITH THE CITIZENSHIP AND SECURITY IN THE EU

In this section, three problems such as European identity question, securitization of migration and situation of third country nationals in the EU member states, that affect the formulation of Union citizenship and security understanding of the EU, are examined in order to identify the current situation of citizenship policies in the EU.

3.3.1 European Identity Question

European identity is certainly an uncertain concept, because it has been under construction since the 1950s. Considering their identity and political systems, various actors

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[173] Council of European Union, "The Stockholm Programme"

attribute various meanings and functions to the European identity. As a result; it becomes a concept of which characteristics and attributes could not be strictly defined in certain limits. Recently, the enlargement and deepening process of the European integration has also influenced the construction process and increased ambiguity of European identity. In fact, enlargement towards Eastern Europe has created a growing legitimacy problem or 'democratic deficit' in the EU. In this sense, it became complicated to find an answer to the questions of 'where Europe is' and 'who European is'. The ambiguity of the answer of those questions led to the blur of Union citizenship and the EU security concept. In fact, the argument is about the fact that European integration process has reached its limits and for further improvement of integration, there is a need to construct European identity. In other words, as van Ham points, while "European integration increasingly touches upon the boundaries of state sovereignty, there has been a growing need to strengthen people's identification with the EU"[174]

Especially, the rejection of the Constitutional Treaty by France and Netherlands revealed that the process of European integration needs European identity in order to gain public support. As a result, the problem of defining European identity has become an important concern in the debates about the future of the EU. The debates generally focus on whether the European identity should be based on political values like an international organization has or based on shared values like a nation has. As it is mentioned in the first chapter, citizenship is built upon identity formation and exact definition of identity creates clear citizenship and security understanding in the society. Therefore, European identity is important for the establishment of Union citizenship. In this context, this section of the study, the problems of European identity will be examined with regard to its structure and then two theories for European identity formation will be studied to see its unfinished character.

As a starting point, the concept of European identity is weak because the EU, unlike nation-states, has an inadequate set of common elements such as shared symbols, common history, common cultural heritage and common ethnicity. In other words, the Union does not have necessary tools for its identity formation. In the face of that, European identity has not

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[174] Peter van Ham, "Identity beyond the State: The Case of the EU", *Copenhagen Peace Research Institute Working Paper*, June 2000, p.15 Retrieved from

http://diis.inforce.dk/graphics/COPRI_publications/COPRI_publications/publications/15-2000.doc [25.01.2010]

been shaped or evolved in a linear direction to take a collective sense and to design a concrete meaning. Thus, the nature of European identity has some divergent attributions which feed its ambiguous character. Besides, the ambiguity of European identity has been intensified through increasing economic, cultural and political interactions both within the EU and between the EU and the rest of the world.

Moreover, European identity concept "lacks a pre-modern past – a 'prehistory' which can provide it with emotional sustenance and historical depth[175]. It is obvious that ancient Greece, Roman Empire, Christianity, Colonialism and Age of Enlightenment, Renaissance, Reform and French Revolution are the milestones in the historical development of the concept of Europe. However, those periods reveal a common history of Europe based on manly clashes among the European states. Besides, the attempt to build a real common European history (considering the EU) has been continuing for only fifty years and compared with historical timelines of many European states, identity formulation of the EU is still new and an ongoing process. In this sense, unlike national identity concept, European identity formation is depriving from nationhood[176]. At that point, as mentioned above, the concept of European identity lacks of the elements that national identity holds.

First of all, common ethnicity for European identity is difficult, because, as defined in the EU Constitution, the discourse of the EU on European identity has been built on the recognition of 'united in diversity'. In this sense, institutions of the EU have emphasized the identity of Europe with its pluralist and distinct characteristics. The aim is to strengthen 'unity' under the condition of 'diversity' amongst the states. Thus, it seems to accelerate and deepen the diversity of member states' identities rather than creating a unified ethnic identity.

Secondly, common border is fluid for European identity formulation because of the enlargement problem of the EU. In fact, the debate on enlargement has been at the heart of the EU's identity especially that the expansion of the European integration to the East and North has increased the discussion of the European identity. In this respect, the debate on

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[175] Anthony D. Smith, "National Identity and the Idea of European Unity", *International Affairs (Royal Institute of International Affairs 1944)*, Vol. 68, No. 1, January 1992, p. 55

[176]See details in Gerard Delanty, "What Does it Mean to be an "European: Innovation", *The European Journal of Social Sciences*, Vol.18, No.1, 2005, pp.11-22

enlargement raises the question of what is the European identity and how it can be developed under the diverse structure of the EU in the political arena. In other words, the fluid character of the EU boundaries has brought the problem of European identity with regard to asking the questions of 'who should be a European' and 'who should not'[177]. In this sense, some questions such as 'who should be securitized' and 'who should be the enemy' are also remained unanswered. So, as Spohn points that the construction of a European identity requires both a successful short-term completion of Eastern enlargement and a long-term socio-economic and cultural integration of an enlarged European society[178].

Thirdly, common religion for European identity is really difficult to be established because this could paralyze ongoing integration process. Although Christianity seems to be the dominant religion in Europe, as Smith insists that there is an inter-Christian divides[179]. Besides, Muslim population in the member states of the EU has been increasing with regard to mass migration to the Europe. At that point, the EU has already faced with the accusation of being 'religious club' rather than 'international organization' with regard to the long-standing candidate status of Turkey. The possibility of such a common religion also undermines the secular and liberal democracy character of the EU. Therefore, common religion is not possible for European identity because it could undermine widening and deepening integration of the EU.

Fourthly, in European identity, 'othering' mechanism is problematic because unclear boundaries of Europe create unclear boundaries of European identity. Generally, identity formulation should create 'the other' mechanism in order to claim its existence, to supply its continuity and to define its security area in a healthy way. Although the EU has formally defined 'who the European is' by the Union citizenship, enlargement to the Eastern Europe has blurred the exact borders between 'European' and 'the other'. Now, the question is about who is included and who is excluded. In this sense, this troubled mechanism has started to

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[177] Klaus Eder, "Remembering National Memories Together: the Formation of a Transnational identity in Europe", in Klaus Eder and Spohn Willfried (eds.), *Collective Memory and European Identity: The Effects of Integration and Enlargement*, (Aldershot: Ashgate, 2005), p.198

[178] Willfried Spohn, "National Identities and Collective Memory in an Enlarged Europe", in E. Klaus, and W. Spohn (eds.), *Collective Memory and European Identity: The Effects of Integration and Enlargement*, (Aldershot: Ashgate, 2005), p.13

[179] Anthony D. Smith, pp: 68-69.

focus on migrants and guest workers by putting them in 'the other' basket to provide a security mechanism which will examine later. In fact, there is an ongoing debate on the definition of external and internal boundaries with regard to the European identity. According to Risse, "there are no fixed European others[180]". Neumann points that the attempt to create a European identity could not be similar to the nation state, because the structure of the EU has a fluid sense of identities which is composed of 'overlapping set of political entities'[181]. However, it is vital to define 'the other' of the EU in order to describe European identity and European security. For this, European identity should firstly define its similarities inside and then differences to the outside. In other words, according to Weaver, European identity should be defined with regard to its internal characteristics[182]. This is because if the definition of 'self' is not complete, the definition of 'the other' cannot emerged in a proper way.

Finally, despite the EU has finished its economic and administrative integration, it has not realized its political integration in the public sphere. Political debates are still made at national level. In this sense, the EU is dealing with the problem of democratic deficit that the citizens of the EU have a little impact on the decision-making mechanism of the EU and European institutions. With regard to ongoing enlargement process, increasing diversity deepens the problem and also affects European identity. In this sense, various policies and programs such as the introduction of European citizenship, creation of European symbols and adaptation of several European programs about education and culture could be seen as instruments of a European identity[183]. However, those seem weak for European identity. Firstly, many provisions of the Union citizenship have not been fully incorporated into policies of the member states. There is a little knowledge about the EU citizenship among the citizens of the member states and thus, citizens within the different member-states interpret the European identity concept in different ways. As Michael Bruter points that there is not a

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[180] Thomas Risse, "European Institutions and Identity Change: What have We Learned?", in R. K. Herrmann, T. Risse and M. B. Brewer (eds.), *Transnational Identities*, (New York: Rowman & Littlefield, 2004), p.258

[181] Iver B. Neumann, 2001: 160, "European Identity, European Expansion, and Integration/Exclusion Nexus" in Lars-Erik Cederman (ed.), *Constructing Europe's Identity the External Dimension*, (Boulder London : Lynne Reinner Pub., 2001), p.160

[182] Ole Waever, "Europe since 1945: Crisis to Renewal" in J.van der Dussen and K. Wilson (eds.) *The History of the Idea of Europe*, (London: Open University, 1993), p.204.

[183] See details in Brigid Laffan, "The Politics of Identity and Political Order in Europe", *Journal of Common Market Studies*, Vol.34. No.1, 1996, pp.81-102

common understanding of what is 'European identity' among citizens of member states[184]. Secondly, European symbols to strengthen the European identity are insufficient because those symbols are complementary to the symbols of member states. Thus, as to Risse, the symbolic and mythological identity markers of Europe are weakly developed[185].

Because of all the problems we mentioned, European identity is a contested, ambiguous and dynamic concept. In other words, as Delanty called, it is "sui generis identity"[186]. In this case, it has not a clear set of identity elements because of dominance of national identities of the member states. Moreover, European identity does not exist beyond or outside national identities "since national identities contain the elements of a European identity in varying degrees"[187]. Therefore, it becomes difficult to describe the concept of European identity in terms of existing type of identity formation.

However, there are some theoretical approaches to the conceptualization the European identity. For example, Habermas stresses that nation could remain as a reference point for cultural identity and the EU could be the reference point for political identity[188]. In that regard, he offers a model called "constitutional patriotism" that is based on a shared sense of values of the Union citizens rather than a common history or ethnic origin. Habermas states that:

> Citizens, who are politically integrated in this way, share the rationally based conviction that unrestrained freedom of communication in the political public sphere, a democratic process for settling conflicts, and the constitutional channeling of political power together provide a basis of checking illegitimate power and ensuring that administrative power is used in the equal interest of all. The universalism of legal principles is reflected in a procedural consensus,

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[184] Michael Bruter, "Winning Hearts and Minds for Europe: News, Symbols, and European Identity", *Comparative Political Studies*, Vol. 36, No.10, December 2003, p.1154 Retrieved from http://masterue.usal.es/practicas/Sistemas%20de%20partidos/Buter.pdf [02.01.2010]

[185] Thomas Risse, p.254

[186] Gerard Delanty, "Habermas and Occidental Rationalism: The Politics of Identity, Social Learning and the Cultural Limits of Moral Universalism", *Sociological Theory*, Vol.15, No.3, 1997, p.32

[187] Mikael af Malmborg and Bo Strath "Introduction: The National Meanings of Europe" in M. Malmborg and B. Strath (eds.), *The Meaning of Europe,* (Oxford: Berg, 2002), p.8

[188] See details in Jürgen Habermas, "Towards a Cosmopolitan Europe", *Journal of Democracy*, Vol.14, No.4, 2003, pp.86–100

which must be embedded in the context of a historically specific culture through a kind of constitutional patriotism[189]

Besides, Delanty mentions 'cosmopolitan European identity' that relies on various cultural models of a societal identity rather than as a supranational EU identity based on tension with national identities. Delanty points that:

> As a cosmopolitan societal identity, European identity is a form of post-national self understanding that expresses itself within, as much as beyond, national identities. Postnational and cosmopolitan currents are evident within national identities and are given cultural form by what we have been calling for new European repertoires of evolution[190]

Regarding those two different conceptual models, it should be noted that they remain as projects rather than solutions because of the dynamic relationship between the national identities and ongoing process of European identity. In general, recent discussions on formation of the European identity require more flexible and pluralistic understanding in order to create a sense of belonging among the citizens of the EU and a common European security understanding. In this sense, the Treaty of Lisbon has attempted to increase civilian elements of the EU by strengthening the status of national parliaments and creating a citizens' initiative and to supply coordination of member states in the security issues by bringing the enhanced co-operation concept which allows for a minimum of one-third of member states to co-operate within the structures of the EU. However, as Bellamy stresses, these attempts are weak because they don't give citizens a real voice to participate in the decision-making of the EU directly[191]. Therefore, citizenship of the EU becomes a symbolic value and European security depends on the interests of the member states of the EU.

3.3.2 Securitization of Migration and Effects on Citizenship in the EU

Another problem that affects the Union citizenship and security understanding of the EU is the securitization of migration. In recent years, especially after September 11th 2001, the EU has a fear towards the different, namely, migrants, refugees, Muslims or totally non-

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[189] Jürgen Habermas, "Struggles for Recognition in the Democratic Constitutional State" in Amy Gutmann (ed.), *Multiculturalism Examining the Politics of Recognition*, (New Jersey: Princeton University Press, 1994), p: 134.

[190] Gerard Delanty, "The Quest For European Identity" in Erik O. Eriksen (ed.) *Making the European Polity: Reflexive Integration in The EU,* (New York: Routledge, 2005), p.138

[191] Richard Bellamy, p.609

European. Once being as a useful labor force, migrants are now seen as terrorists, inassimilable and undesirable people. Although EU stresses on the aim to integrate in diversity, as it is mentioned above, problems of 'other' mechanism of the European identity excludes long term residents, migrants and asylum seekers and transform them into threats to the identity and security of the EU.

Our analysis of the French, German and British traditions of citizenship shows that national citizenship of the member states tends to be characterized by the exclusionary formation of relations between citizens and non-citizens. As Weaver states, one way to make it happen is through the distinction of specific groups as 'threatening national identity'[192]. As it is mentioned in the security concept section, naming a particular group or individual as a 'threat' is subjective because they are based on the speech act. Therefore, securitization blurs the drawing line between those named 'normal and those named 'threat'. Specifically, this study will focus on debates containing migration and security after the post 9/11 in order to consider how these discussions affect national citizenship regimes in the EU. In this sense, this study will analyze securitization of migration in relation to the citizenship traditions of the British, and German.

It can be contended that securitization on migration caused contemporary debates in each national states, but these have tended to take different form in Britain, and Germany. This is because exceptionalist processes of securitization are more evident in the German case and that processes of securitization associated with a 'politics of unease' are more evident in the British case[193]. In this sense, both Germany and Britain have securitized certain forms of cross border activities and certain groups of migrants rather than securitizing migration as a whole. In that regard, it is important to begin to indicate general outline of citizenship policies and its changes with regard to securitization processes of migration emerged after terrorist attacks on September 11th.

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[192]See details in Ole Weaver, B. Buzan, M. Kelstrup and P. Lemaitre, *Identity, migration and the new security agenda in Europe*, (London: Pinter, 1993)

[193] Thomas Diez and Vicki Squire, "Traditions of Citizenship and the Securitization of Migration in Germany and Britain", *Citizenship Studies*, Vol. 12, No.6, 2008, p.572

Generally, German citizenship is gained on the grounds of one parent being German and the notion of citizenship linked with blood (*jus sanguinis*) is still dominant concept in political and public realm. Over the past decade, both the legal status of citizenship and the public debates about citizenship have been transformed in Germany. Now, it is possible for migrants to apply for German citizenship if they fulfill the conditions of eight years living, sufficient income, sufficient knowledge of German, no criminal record, and commit themselves to Germany. Nevertheless, the dual citizenship for immigrants was not achieved if migrant applicant is not a EU citizen. Moreover, it is seen that EU citizenship has led to liberalization in this context for citizens from other EU countries[194].

By the September 11th attacks, Germany started to focus on preventing terrorist activities of non-citizens, on intensifying visa policies and on facilitating the deportation of non-citizens who reside in Germany. For instance, the Law on Fighting Terrorism mentioned about non-citizens (*Auslander*) in the six of its 24 articles and allowed closure of foreign associations if there is a connection with the terrorist activity[195]. This reveals that Germany made a direct linkage between terrorism and migration. After that, with regard to Madrid events in 2004, the linkage has been increased that residence or naturalization is only to be granted after a check with the *Bundesverfassungsschutz* (Office for the Protection of the Constitution)[196].

This direct relationship between migration and security caused the fact that Germany started to discuss the concept of *Leitkultur*, lead culture. *Leitkultur* was designed to describe European values; democracy, secularism, enlightenment and it was appropriated for the German context to be used as a dividing line between the migrant population and Germany[197]. With regard to citizenship, there became also proposals for introduction of tests for

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[194] Ibid, p.569

[195] Ibid, p.573

[196] Ibid, p.574

[197] Jan Palmowski, "In search of the German Nation: citizenship and the challenge of integration", *Citizenship Studies*, Vol.12, No.6, 2008, p.557

immigrants and for all applicants of German citizenship[198]. This is also an indicator of securitization of migration which reflects its shades to the citizenship policies.

Continuously, Immigration Act of 2007 regulated the immigration and citizenship policies according to the EU directive which granted a permanent residence to the non-citizen residents of the EU Member States. However, it restricted the family unification on the grounds that spouses of foreign nationals have to learn German language in order to move to Germany. Besides, it also provided integration courses for immigrants and those courses have some obligations such as fines and reduction in social welfare benefits if the migrant does not participate[199]. These limitations are particularly for foreign residents to adopt themselves to the society, but they did not aim at naturalization.

British citizenship is different from German tradition of citizenship because the relations between the citizens and non-citizens have been developed in a more complex way that unlike Germany, there is not a prominent dimension in the citizenship regimes. In this sense, a child born from one of the parents resides in Britain could be able to get British citizenship. With regard to the September 11th events, the introduction of ID cards and the collection and administration of biometric data came into being in Britain as the main policy device bringing migration and security together under the name of terrorist threat[200]. From now on, political speech in Britain has linked migration and terrorism in an indirect way rather than direct way like in Germany. In other words, as Huysmans and Buonfino points, "migration was securitized in a more diffuse and indirect way in contrast politics of exception remains in the German case"[201].Within that regard, Britain indirectly legitimize the development of restrictive border controls, restrictive asylum policies and deportation[202] Therefore, Britain did not participate in the common policies of immigration and integration of the EU. Instead, it has been using them to restrict the citizenship. For instance, the Nationality Immigration and Asylum Act of 2006 presented 'good character' guidelines for

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[198] Ibid, p.558

[199] Ibid, p.559

[200] Quoted in Thomas Diez and Vicki Squire, p.573

[201] Ibid, p.576

[202] Ibid, p.576

those applying for citizenship[203]. Besides, indirect process of securitization of migration has contributed to the racialization of British citizenship.

Consequently, migration has been securitized since the terrorist attacks in September 2001 and this process has not seemed to be changed. Besides, the securitization of migration has taken its part as different forms in Germany and Britain. While securitization of migration appears in an indirect position, Germany lives direct linkage between security and migration. Those distinctions between Germany and Britain have created different outcomes related with the citizenship. Within that regard, German debates on citizenship reflects a long-standing ethnicitized distinctions between citizens and non-citizens, while British debates on citizenship reflects the more complex racialization of citizenship. Within that regard, it is seen that citizenship is determined on the grounds of national interests and security notion plays an important role for the shape of national citizenship policies in the state. In terms of the Union citizenship, those changes in the member states policies increased its secondary position and reduced limits and undermined its aim to create a unified citizenship concept.

3.3.3 Third Country Nationals and the Union Citizenship

The last question related with the citizenship of the EU and security is the situation of third country nationals in the member states of the EU. Generally, the European citizenship is an inevitable consequence of the completion of internal market. In other words, when the effects of economic integration intersected with the borders of political integration, establishment of a supranational European political system became urgent. It established with the aim of realizing elimination of national barriers and creation of a collective identity within a common territorial place. Since the Maastricht Treaty, there have been significant changes in terms of the Union citizenship. However, EU citizenship has some drawbacks and as a result, it has been challenged on three grounds: being based on rights, its supplementary status and its exclusion of third country national citizens residing in the member states. In this sense, this section of the study will examine the distinction between the Union citizens and non-citizens, focusing on policy developments to understand the continuing exclusivity and unrealized aim of the Union citizenship.

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[203] Thomas Diez and Vicki Squire, p.571

The development of citizenship of the EU was a significant transformation of the European integration process defined in the Treaty of Rome in that for the first time the EU was defined with regard to its relations to the individuals. Furthermore, the Union citizenship defined citizenship in terms of residence rather than birth or descent[204]. However, this implication had limitations because EU citizenship existed alongside national citizenship of the member states that main decision makers of 'who becomes European citizen' are member states of the EU. In this sense, the aim of the EU citizenship-a shared place of free movement-is limited and third country nationals living in the EU excluded from those freedoms.

Union citizenship, by definition, brought different treatment of third country nationals and citizens of the member states[205]. Maybe because of their exclusion from benefits of the Union citizenship, third country legal residents have always been faced legal restrictions on the residence and work permit. However, despite the restrictions, the number of third country nationals resident in the member states has continued to increase. And the problem occurs while citizens of member states are enjoying their rights with regard to their membership in the EU, citizens of third countries are dealing with reduced rights.

The numbers of third country nationals legally resident in the Union exceed 19 million by the 2008 and they are accounted for approximately 4% of the EU population with the largest groups originating from Turkey, Morocco, Albania and Algeria[206]. If the numbers of third country nationals illegally residing in the EU are added, the populations of third country nationals in the EU becomes massive and common policies of the EU regarding them affect populations which are larger than the populations of most of the member states.

The EU's role with the rights of third country nationals is complex and changes from third country to third country. For example, bilateral agreements between third countries and the EU or a member state and third countries mean that nationals of some third countries have

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[204] Gerard Delanty, "European Citizenship: A Critical Assessment". *Citizenship Studies*, Vol.11, No.1, 2007, p.66

[205] Andrew Evans, "Third Country Nationals and The Treaty on European Union", *European Journal of International Law*, Vol.5, 1994, p.203 Retrieved from

http://www.ejil.org/pdfs/5/1/1238.pdf [08.02.2010]

[206] Willem Maas, 2008, p.584

rights that the other third country nationals do not have[207]. In other words, third country nationals have different rights in the different member states of the EU.

The concern for the rights of third country nationals has really started with the Amsterdam Treaty that consolidated the European role in developing common immigration provision. However, the trend was to improve the coordination of the rights of third country nationals considering the difference between the rights given to third country nationals and only to Union citizens. At that point, Tampere Council 1999 was made for the aim of making common policies for the integration of third country nationals. It emphasized that the "The European Union must ensure fair treatment of third country nationals who reside legally on the territory of its Member States. A more vigorous integration policy should aim at granting those rights and obligations comparable to those of EU citizens. It should also enhance non-discrimination in economic, social and cultural life and develop measures against racism and xenophobia"[208]. Tampere Council was successful to the agreement on the legal status of third country nationals that should be near to that of member state citizens. Besides, the Tampere Council supported the objective that legal resident third country nationals be offered the opportunity to obtain the nationality of the member state in which they are resident[209]. However, Tampere Council only stressed the issues not suggest extending Union citizenship indeed. After the Tampere Council, the conditions of the third country nationals were discussed in 2003 European Council. The Council introduced that member states accept long term third country nationals for naturalization after five years' continuous legal residence[210]. After that, related directives and Council decisions like European Council 2004 and Hague Programme granted some new rights to the third country nationals and pointed out equal treatment and integration of third country nationals. However, as Halleskov emphasizes, they remained limited and did not achieve the Tampere Council's aim of 'near equality' of third

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[207] Ibid., p.588

[208] Presidency Conclusions of European Council at Tampere, 15-16. October 1999, Retrieved from http://www.europarl.europa.eu/summits/tam_en.htm [08.02.2010]

[209] Willem Maas, p.590

[210] Sergio Carrera and Massimo Merlino, "State of the Art on the European Court of Justice and Enacting Citizenship", *Centre for European Policy Studies Special Report*, April 2009, p.34 Retrieved from

http://www.ceps.be/files/book/1835.pdf [08.01.2010]

country nationals to the member states of the EU[211].Recently, Stockholm Programme points out consolidation of migration and asylum policies to solve solidarity question between the nationals of Member States and legal alien residents of the Member States. However, it stresses only improvement of the right to free movement of the Union citizens, not third country nationals.

On the whole, European citizenship has introduced some new rights to the member state nationals such as right to vote and stand as a candidate at municipal elections in the host member state and access to social welfare benefits such as social assistance and student maintenance. This means that residence factor has become important than the nationality in European citizenship. However, this notion is complicated for third country nationals that while EU citizens residing outside their state of origin can enjoy benefits coming from their host state under their Union citizenship status, third country nationals are not utilize from those benefits.

The reason is both the opposition of member states to grant extensive rights of the EU citizens to third country nationals. From a security perspective, member states of the EU have fear that if they give same rights with the citizens of the EU, third country nationals can be in a more advantageous position than their citizens which would undermine the balance of their society and also caused the rise of migration towards the EU member states. Thus, third country nationals seek alternative ways such as naturalization or application to the citizenship in their member state of residence. However, naturalization is closely linked to immigration policy which is shaped by member states rather than the European institutions. Besides, new regulations for integration make it harder to immigrate to Europe. Therefore, many of third country nationals do not change their status and enjoy their limited rights while illegal migration are increasing day by day. As a result, with regard to their population size, there is a large group of people who do not participate in the democratic mechanism and thus, democratic deficit has been increased within the EU.

In sum, European citizenship is formalized to extend important rights to its members such as rights of residence and rights of employment throughout EU territory. However, the

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[211] See details in Louise Halleskov, "The long-term Residence Directive: a fulfillment of the Tampere objective of near equality?", *European Journal of Migration and Law*, Vol.7, No.2, 2005, pp.181-201

idea of European citizenship remains unfulfilled for third country nationals those who are residents in the member states. Although there are attempts to form citizenship based on residence rather than birth or descent and status for third country nationals, European citizenship is depended on member state citizenship that acquiring rights is in the hands of nation-states. Therefore, the idea of EU citizenship appears limited and unfulfilled goal in today.

CONCLUSION

The ongoing process of creating an ever closer Union is reached a new phase that the Lisbon Treaty has came into force after a long term hesitation of the peoples of Europe with regard to the rejection of Irish citizens in in 12th June 2008. For now, the crisis of the European Union seems to be settled down and deepening and widening of integration process appears to be going on further. However, the experiences of the Irish rejection of the Lisbon Treaty revealed that integration is in the hands of the member states and without their permissions, the idea of 'an ever closer Union' cannot be legitimized. In this sense, some policies placed at member states level should be transformed into the Europe level and some common policies and concepts should be developed effectively in order to fulfill the idea.

One of the common concepts that the EU introduced by the Maastricht Treaty and developed somehow in the Amsterdam and Nice Treaties is the Union citizenship. In parallel with that, the study on the "The Changing Citizenship Policies in the EU from a Security Perspective" resulted in supporting points for assumption that the citizenship policy of a nation-state is crucial, because they create a sense of belonging to a certain group and define the general character of the state. For example, a country based on *jus sanguinis* principle has strong patriarchic features that the ancestors have almost everything for the acceptance from the society.

In terms of Europe, there is a question about how the Union citizenship can be build and create a connection between the citizens of the member states and the EU. However, unlike national citizenship, Union citizenship is unsuccessful to establish a connection between the citizen and the Union. Firstly, the Union citizenship has some privileges, but not obligations for the citizens of the member states. Secondly, it has a complementary structure that embedded to national citizenship of the member states. Thus, many legal long-term third country national residents are excluded from the political community. Apart from that, the limits of the Union citizenship are defined by national citizenship, in other words, limits of the Union citizenship occurs when the interests of national citizenship is challenged by political and social changes.

The social and political changes such as mass migration movements, expansion of transnational instruments, rise of human rights, and division of sovereignty and emergence of multi-level policies challenged the old forms of national citizenship regimes and new understandings came into being such as postnational and neonational policies on citizenship to compensate the insufficiencies of national citizenship regimes. Due to the newly emergence maybe, they make some confusion in the status of a citizen. With regard to newly sub-cultural and identity groups and their attempts for the recognition, the relationship between citizen and the state changed its nature. Classical citizenship approaches have developed to a more flexible way in many states. However, the situation in the Europe was different at first that many of the European states could react against changing nature of the nation and its relations with the state by forcing people to conform themselves to the dominant culture of the state. When those attitudes did not work, many of the member states started to change their citizenship traditions with regard to newly emerging groups and identities in their societies.

In this study, three crucial countries of the EU are examined in order to see the changes in their citizenship regimes within the historical context. German citizenship regime changed to be a more *jus soli* principle because of the need for integration of second and third generation immigrants while French citizenship policy is slipped from an egalitarian understanding to an integrationist and assimilationist model. In addition, British citizenship policy has become more assimilationist and racial based.

Besides the introduction and development of the Union citizenship, the idea of common security and foreign policy starting with the Maastricht Treaty has been developed. At that point, Amsterdam Treaty contributed a large sum to the evolution of security in the EU by introducing CFSP. As the outcome of the institutionalization of the EU's foreign and security policy, CFSP also paved the way of formation of the ESDP occurred by the 1999. However, September 11th attacks changed the dimension of security in the world and the nature of these developments in the EU security and defense policy. In parallel with that, internalization of security policies introduced as Justice and Home Affairs and developed Tampere Council and Hague Programme increased in the EU that recently, issues of civil justice, cybercrime, terrorism, migration and asylum have transferred from the nation-state

level to supranational level. Both internal and external improvements of European security affected both citizenship policies of the member states and citizenship of the EU. As a result, the questions about the identity of the European Union, securitization of migration and position of the third country nationals has took their parts in the discussions about the citizenship in the EU.

In terms of European identity question, the focus is on the uniqueness of European identity in comparison with national identity. For instance, there is no common history experienced by each member states instead, European history consists of division and wars between European states. Common ethnicity for Europe is also difficult because EU established on the idea of 'unity in diversity. Moreover, European identity has also lacks of a common border with regard to the enlargement of the EU to the East and North Europe. This raises the fluid character of the EU identity by asking the questions of 'who is European' and 'who is not' and blurred the security conception without answering the questions of 'who should be protected and 'who should be the other'. Another point is that common religion for the EU is the most troubled aspect that accepting Christianity as the religion of the EU could probably change the EU's status from a supranational organization to a 'religious club'. Besides, it causes the exclusion of approximately 20 million Muslims in the EU and not possible in the democratic environment of the EU. In parallel with those, 'othering' mechanism is problematic because there are no definite boundaries of Europe considering ongoing enlargement process. In this sense, migrants and asylum seeker become a target group of 'the other' and a security threat in the EU. Thus, definition of European identity should firstly regard similarities inside. Finally, democratic deficit problem also foster the weaknesses of the European identity. The attempts to overcome the problem are also not enough because of insufficient knowledge and different understandings about the European identity concept. Besides, existing European symbols are weak because those are complementary to the symbols of member states.

At that point, the study stresses that European identity has an ambiguous character and its description in terms of existing type of identity formation is difficult to be made. However, the study presents some theoretical approaches to the conceptualization the European identity in order to find a way to formularize intended European identity.

Habermas's approach called "constitutional patriotism" is one of the theories that offer a political identity based on shared political norms, values and interests such as democracy and human rights. The other theory called 'cosmopolitan societal identity' is related with the Delanty assumptions that rely on various cultural models of a societal identity. On the other hand, as the study points, those theories are only projects because dynamic relationship between the national identities and ongoing process of European identity could make them obsolete.

In terms of securitization of migration, the focus is on how the debates containing migration and security after the post 9/11 affect national citizenship regimes in the EU. This study chose British and German citizenship regimes as case studies because of their different forms of securitization processes. In this sense, Germany made a direct linkage between terrorism and migration after September 11th events and this revealed itself in German citizenship and immigration policies. The irony lies in the situation that while non-citizen residents grant a permanent residence in Germany, they are forced to adopt themselves to the society with compulsory integration courses. In Britain, an indirect linkage between migration and terrorism occurred after September 11th attacks that Britain indirectly used migration as a tool of securitizing border controls and asylum policies. Consequently, this study indicated that German debates on citizenship becomes depended on more ethnic references while British debates on citizenship reflects more complex racialization after September 11th events. The study also came to a conclusion that citizenship is determined on the grounds of national interests and security notion plays an important role for the shape of national citizenship policies in the state. In this sense, EU citizenship affected negatively such that it continued to act as a secondary citizenship and its limits was reduced. Most importantly, its aim to create a unified citizenship concept was collapsed.

Finally, the position of third country nationals has been discussed by focusing on ongoing distinction between the Union citizens and non-citizens in the definition of Union citizenship. Although attempts to regulate third country nationals rights and status started with the Amsterdam and consolidated with Tampere Council and Hague Programme, the notion is complicated for third country nationals that they are still dealing with reduced rights and while EU citizens residing outside their state of origin can enjoy benefits coming from their

host state under their Union citizenship status, third country nationals are not utilize from those benefits. Besides, third country nationals have different rights in the different member states of the EU according to bilateral agreements between third countries and the Union or third countries and a member state. Due to the harsh conditions of naturalization and its connection to immigration policy and new regulations for integration, the status of third country nationals remains same and illegal migration has been increasing. Considering their population, democratic deficit has been increased within the EU. As a result, the idea of European citizenship remains unfinished for third country nationals.

On the whole, the European Union citizenship is in a significant development that changed the EU approach from a market-oriented organization to a policy-oriented one. Besides, it has had important impacts on the member states citizenship policies with regard to social and political changes in the last two decades. Recently, some political rights of the EU have been discussed and it has been attempted to increase the participation of citizens into the decision making mechanism. Furthermore, there are attempts to form citizenship based on residence rather than birth or descent for third country nationals. However, those developments are designed for only citizens of the member states and keep the foreigner out, not to protect them. It can be seen through strict immigration control measures, visa regimes, language tests for foreigners and long procedural processes for third country nationals. In this sense, recent citizenship policies in the EU lead discrimination between citizens of the EU and third country nationals. Moreover, it feeds an ongoing debate about the policies of the EU that related with the idea of creating a 'Fortress Europe' against non-Europeans.

Consequently, these exclusionary understanding of citizenship policies blocks desire for creating a kind of European identity, undermines European integration process, makes European security more exclusive and poses threats both for foreign residents and for the European society. Therefore, with regard to recent problems that the study examined, it can be said that as long as European citizenship remains depended on member states citizenship, both integration process of the EU and European citizenship will remain as symbolic ones and have democratic deficit problem.

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