This is an accepted version of a paper published in *Revus – European Constitutional Review*. This paper has been peer-reviewed but does not include the final publisher proof-corrections or journal pagination.

Citation for the published paper:
Mindus, P. (2009)
"The Contemporary Debate on Citizenship.: Some Remarks on the Erased of Slovenia"
*Revus – European Constitutional Review*, 9: 29-44

Access to the published version may require subscription.

Permanent link to this version:
http://urn.kb.se/resolve?urn=urn:nbn:se:uu:diva-181791

http://uu.diva-portal.org
Abstract:

“Citizenship is the right to have rights” was famously claimed by Hannah Arendt. The case of the Slovenian erased sheds new light on this assumption that was supposedly put to rest after World War II. We lack a comprehensive paradigm for grasping what citizenship means today in, and for, our societies. My thesis is that there are currently three ways to understand the notion. These different views tend to merge and overlap in today’s debate, furthering misunderstandings. I will account for the different conceptions of citizenship by looking at the opposite of citizenry. The political model holds the subject (sujet) in opposition to the citizen (citoyen), entailing problems related to the democratic quality of institutions. Law and jurisprudence look at citizenship by trying to limit the numerous hard cases arising in a world of migration where the opposite of the citizen is the alien and the stateless. While in social science citizenship is the opposite of exclusion and represents social membership, my aim is therefore to distinguish and clear out these three different semantic areas.

This essay is presented in four sections: First, I briefly recall the case of the erased. The second section focuses on discourse analysis so as to enucleate the three different meanings of citizenship that we find in the current debate according to the prevailing disciplinary fields: political, legal and social sciences. Thirdly, attention will be directed to the composition of the different semantic areas that are connected to the term citizenship. I suggest that we are now dealing with a threefold notion. Finally, I will point to an array of questions that citizenship raises in today’s complex society and try to show how this tri-partition of the meaning of “citizenship” can be a useful device for decision makers so as to design as consistent policies as possible.

(Keywords: Citizenship – Nationality – Subjexthood – Rule of Law – Civic participation)
1. The Paradox of Citizenship

When Gogol first published his famous “novel in verse” in 1842 as the first part – the *Inferno* – of a Dante-inspired trilogy, the double sense of the title – *Dead Souls* – hinted, on one hand, to the way of counting dead serfs as the landowner’s property, a practice that was in use in Russia until the emancipation of the serfs in 1861; on the other hand, “dead souls” also indicated the lack of moral dignity of Gogol’s characters, their *poshlost* or self-satisfied inferiority, which contributed to turn the novel into a bitter social satire. This duality has fascinated many in the course of time. But while we never need to look far to discover forms of *mesquinité* and ethical cowardice, it is not always easy to find the contemporary equivalent to Gogol’s first meaning of the term.

One contemporary equivalent, however, might be the case of the so-called “erased” or *izbrisani*. As Slovenia gained independence, those who were not “ethnic Slovenians” and had not managed to request Slovenian citizenship within six months, ended up on a “black list”; or better, they were not listed in the official records of residents of the Republic of Slovenia. As some 171 thousand people born in other parts of ex-Yugoslavia applied for citizenship, on February 26th 1992, tens of thousands were deleted from those official records. Having not renewed their permanent or temporary resident status, many were also unable to apply for naturalisation in due time because of socially and/or economically difficult positions; a situation that therefore worsened: Along with the failed naturalisation, followed other status-related issues, going from health insurance to driving licenses. European pressure led to a law in August 1999 offering the “erased” some three months for applying for Slovenian citizenship. Again, many fell through the net.

The comparison with Gogol’s dead souls slips to mind after a delegation of erased people lobbied the European Parliament, and appeared before some Italian members of the Parliament in November 2006 to end what was then referred to as their “civil death.” Later, the issue was revived by the referendum on the Technical Statute for the Realisation of Constitutional Court Decision, where voters were asked if they supported the enactment of this statute for the realization of the 8th § of the decision of the Constitutional Court, demanding that the government provide official confirmation on temporary or permanent residence in Slovenia *ex tunc*, that is from the very moment of erasure. Legally pointless since it would not overturn the court’s decision, the referendum entailed weighty political implications, leaving an overwhelming majority denying residence rights to thousands of people originally from other parts of ex Yugoslavia that, by now, had become something of a modern version of the dead souls.

One of the latter, Aleksandar Todorović, originally from Serbia, founded an association for the erased that estimated that some 18 305 persons, i.e., almost one percent of Slovenia’s population, linger in this limbo. In 1993, as he went to register the birth of his daughter, delivered by his Slovenian wife, Aleksandar discovered his own virtual, but very effective, inexistence: While invalidating his ID-card, the clerk informed him that illegal foreigners could not be parents to children born in Slovenia. With the identity, he simultaneously lost the fatherhood.

As known, the Slovenian Constitutional Court, that enjoys relatively broad competences, has ruled that the erasure was unconstitutional.

---

1 On the one hand, the problem of the erased figured as one of the most important issues in the election campaign of 2004. Furthermore, the referendum result had such an actual impact on the politics of the governing parties that the execution of the decision of the constitutional court was delayed until 2009.
2 According to new findings, the Ministry of Internal Affairs now estimates the official figure to be 25 671. Of these people, 7899 have managed at a later stage to obtain Slovenian citizenship, of which 7 313 are alive today. The government previously claimed that some 4893 of the erased had acquired permanent residency permits already in September 1992. See [http://www.mnz.gov.si/fileadmin/mnz.gov.si/pageuploads/2009/izbrisani-koncni_podatki.pdf](http://www.mnz.gov.si/fileadmin/mnz.gov.si/pageuploads/2009/izbrisani-koncni_podatki.pdf)
In its 2007 annual report, the Office of the Ombudsman noted that the Constitutional Court ruling had yet to be enforced. Freedom House’s 2007 report on Slovenia stigmatized this as an unsettled issue.

Now the reason of interest for this case is not merely that it involves a significant number of marginalized people. Rather, it is an interesting issue because it seems to revive the theory of citizenship elaborated by Hannah Arendt almost half a century ago, when she claimed that human rights, that were supposed to be inalienable, proved to be ineffective, even in States where the constitution was based upon them, when a certain number of people appeared who were not citizens of any sovereign state.

In the ninth chapter of the Origins of Totalitarianism, Arendt pointed to a paradox: In the world where she lived – and that, during the two world conflicts, had witnessed masses of refugees of various kind that plagued Europe, because of the war, but also following the dissolution of the Empires, namely the Russian, Austro-Hungarian and Ottoman Empires – the stateless was something of a monstrum iuridicum, a legal freak. Citizenship had such a huge importance that the person deprived of it became virtually “invisible.” What was unseen was not the loss of citizenship, rather the impossibility of acquiring a new one; in practice, this circumstance pushed the stateless “out of humanity.” This happened, according to Arendt, because of a specific view of citizenship: «In the name of the will of the people the state was forced to recognize only “nationals” as citizens, to grant full civil and political rights only to those who belonged to the national community by right of origin and fact of birth.» The paradox is that fundamental rights, and even legal capacity as such, became dependent on the status civitatis.

In the aftermath of WW2, measures were progressively taken by the international community so as to end this tragic situation. Art. 15 (1) in the 1948 Universal Declaration of Human Rights; art. 24 (3) of the International Covenant on Civil and Political Rights and the International Convention on the Reduction of Statelessness were all steps taken to avoid a legal vacuum where people could be deprived of their fundamental rights. So today, «Arendt’s paradox of human rights is certainly not fully overcome as long as human rights remain largely declarative and as long as there is a glaring dearth of international agencies of judicial enforcement. However, at least at the level of normative commitment, the post-war period still marks a significant decoupling of human rights from citizenship.» However, as this happened, the conceptual boundaries of citizenship were being stretched and this is why we have to take a step back and unpack the concept.

---

5 As this article goes into press, the decision of the constitutional court is being finally executed by the ministry of internal affairs.
7 H. Arendt, Origins of Totalitarianism, Harcourt, Brace & Co, New York 1966, p. 293: «The Rights of Man, supposedly inalienable, proved to be unenforceable – even in countries whose constitutions were based upon them – whenever people appeared who were no longer citizens of any sovereign state.»
9 H. Arendt, Origins of Totalitarianism, cit., p. 278.
10 H. Arendt, Origins of Totalitarianism, cit., p. 293.
2. A Very Popular Term

Citizenship has become a very popular topic generating a complex and articulated debate that has grown significantly over the last fifteen years. Some estimate that over 50% of all scholarly literature has been published since 1990.13

As known, much of the contemporary debate on citizenship was stimulated by the work of the British sociologist Thomas Humphrey Marshall (1893-1981), who intended citizenship as our fully belonging to the community.14 By assuming that citizenship is the status conferred on those who are full members of a community, Marshall’s idea was to use citizenship as a tool in order to strike a balance between entitlements and provisions, allocative and integrative requirements of society.15

Moreover, a common feeling among scholars has pointed to the necessity of adopting an interdisciplinary approach to citizenship research. Until a few years ago not a single line on citizenship was generally found in handbooks, encyclopedias and dictionaries dedicated to political thought or to social sciences.16 Thomas Janoski could still claim in 1998 that «although citizenship is the lingua franca of socialization in civic classes, as well as the cornerstone of many social movements seeking basic rights, and a key phrase in speeches by politicians on ceremonial occasions, oddly enough, citizenship has not been a central idea in social sciences.»17 Since the late 1990s, however, scholars have increasingly directed attention towards interdisciplinary perspectives covering the fields of politics, sociology, history and cultural studies that move beyond conventional notions of citizenship. Yet, the understanding of citizenship often lingers on more traditional assessments, characterised by clear-cut disciplinary divides. The result has been that attempts to bridge the various perspectives at hand continue to meet increasing difficulties. In fact, legal scholars hardly ever take into consideration sociological case-studies, while political scientists turn a blind eye to issues addressed in international private law and so on.

Furthermore, this disciplinary entrenchment has boosted the side-effect of deepening misunderstandings. Legal scholars insist that the «sociological concept of citizenship is totally unsatisfactory»18 or that «sociological studies on citizenship programmatically ignore positive law (...) resulting in a generic inclination towards Natural Law.»19 On the other side of the fence, legal scholars are accused of retrospective arguing so that «legal definitions of citizenship seem to short-circuit citizenship because they remain in the realm of passive rights and do not extend into active rights of political and social democracy.»20

Nonetheless, the attempt to keep one’s academic field to oneself cannot be held to be especially worrying. Of greater weight are some of the misinterpretations embedded in the debate, which seem to be far too common on both sides. Certainly, all the emphasis laid on citizenship has brought the notion into the limelight. However, there are some negative effects linked to this evolution.

20 T. Janoski, Citizenship and Civil Society, cit., p. 238.
Broad definitions tend to describe “citizenship” as all kinds of membership-related entitlements and obligations in social groups and organisations, such as economic corporations, kinship networks or civil society associations. This leads to a conceptual overstretch that deprives citizenship of its specific political and legal meanings. Moreover, the limelight on citizenship has also contributed to loosening up the fundamental difference between status civitatis and status personae. In the current debate, the two figures of citizenship and personhood seem to be exceedingly confused. An interesting statement is for example that T.H. Marshall’s account on citizenship is «probably the most influential (...) interpretation of the development of human rights.»

Such claims usually make lawyers blush: Human rights are granted to all human beings, not to citizens of any given state. There seems to be a very peculiar form of inflation behind this blurring of genres, which consists of trying to entitle the citizen to a long list of rights, which in reality has a quite different reference, namely the person as such. This is why it is important to clarify the conditions enabling a specific right to be plausibly referred to the category of citizenship.

One of the major problems for the scholar is that both the disciplinary entrenchment and embedded misconstrual have led to the current situation: We lack a comprehensive model for understanding citizenship, which consequently brings about a failure to cope with pressing and urgent questions, especially when it comes to civic participation, denationalisation-trends and civil society-building. Therefore, discourse analysis is an important tool so as to unpack in proper detail the very notion of citizenship. Unless we are content to regard a vague level of discussion as the default position, we need detailed analysis into the concept and an empirical investigation into its various modes of utilization in our discourses.

We need to stress that “citizenship” is first and foremost a word. And it is our task to check whether this word is an accurate signum, if it grasps a specific configuration of the world or if it only projects desires. What is striking is that we continuously talk about “citizenship” as if it were not just a word. To use an image, we might say that we keep on mentioning “Charles” but we do not notice that we are really dealing with three different people that, for reasons of homonymy, respond to the same name. This means that the word “citizenship” has assumed three different meanings in the contemporary debate. We need to keep these different meanings apart since they obey different sets of rules in the use we make of them. However, in order to clear this out we cannot simply ask “what is citizenship?” because it would be like asking for “Charles” and having three different people turning around at the same time. Instead, we shall ask what is opposed to citizenship. How does the negative image look? What feats and features distinguish those who are not included among the “citizens”?

By looking at what is opposed to citizenry, we discover that we are now dealing with three notions according to a political, a legal and a sociological perspective. The three meanings are increasingly merging in today’s debate on citizenship. In the debate, there are three semantic areas involved with “citizenship” that correspond to three separate figures of opposition: The subject, the alien and the excluded. This means that, in the realm of political science, “citizenship” signifies the “non-subject”; in legal science, “citizenship” means the “non-alien”; and in social science, “citizenship” means “non-exclusion” from participation in the social network of a group. These three meanings are therefore grounded in different dichotomies (citizenship/subjecthood; citizenship/being a foreigner; citizenship/exclusion). I shall now illustrate the composition of these three semantic areas, by explaining for each one the structure and content of the basic dichotomy; from where it originates historically; and what kind of problems it is thought to resolve. Then I will

---

recall briefly in what way some crucial problems that we face in Europe today are connected to the three different ways of understanding citizenship.

3. Three Dichotomies

Here, I will present these three ways of understanding “citizenship” in a chronological order, based on their evolution in history.

The political way of addressing “citizenship” is grounded in a dichotomy which opposes the citizen to the subject or, in the traditional terms of the French Revolution, the citoyen to the sujet. This idea has, however, much older roots in the “citizenship” that developed in ancient city polities long before the Modern era.

On one hand, the citizen is therefore the active member of the state, who contributes to the formation of collective will or self-government, by making decisions (in the classic form of direct democracy) or by voting for representatives (in modern representative democracies). The citizen is determined by some form of ius activae civitatis.

On the other hand, the subject is the passive member of the political community who does not participate in the shaping of the law and in collective decision-making. But s/he is nonetheless subject to the laws that others – i.e., the citizens and/or their representatives – have chosen. It should be stressed that this distinction does not correspond to that between citoyen actif and citoyen passif, which became popular with Sieyès in 18th Century France. As a matter of fact, the dichotomy has a different origin and can be traced back to Aristotle’s theory of citizenship in the third book of Politics. In the modern world, nonetheless, this political conception of citizenship regained popularity with the French revolution, although it started to overlap, at least to a certain extent, with the idea of “nationality” in the same period.

The problem this model deals with concerns deliberation and decision-making with erga omnes validity within a certain territory. On a deeper level, this way of understanding “citizenship” aims to respond to the question of democratic legitimacy and political obligation of the individual in relation to the State. More specifically, we might say that the political understanding of citizenship is related to the principle of affectedness, a key tenet of democratic theory, according to which people should have a fair say on decisions affecting them.

The dichotomy that prevails in law and jurisprudence opposes the citizen to those who do not belong to a given legal order: The alien and/or the stateless. Indeed, the traditional legal perspective holds citizenship unequivocally to be the status conferred upon those who are entitled to various active and passive positions in relation to the State. An emblematic way of putting it is to use the German wording for citizenship, Staatsangehörigkeit, which literally means “belonging to the State.” This legal dichotomy – citizen/foreigner – is rigid in its structure, which implies that there are no in-betweens: or you are in or you are out of the category of citizenship.

---

This way of understanding “citizenship” can be said to be “purely formal” in that it can be filled with a great variety of content, rights and duties, while the only constant attribute seems to be subjecthood to the legal system. This is also why this understanding is compatible with most political regimes, regardless of the democratic tenure of the constitutional framework.

The legal meaning of citizenship has roots in Roman law, where it derives from the status civitatis.\(^{26}\) This way of understanding citizenship is still the focus of most legal scholars and practitioners and it pivots around the idea of “belonging to the State,” “pertinence to State territory,” or – in Hans Kelsen’s phrase – it is equivalent to “the personal sphere of validity of the legal order.”\(^{27}\) This viewpoint has been connected, in modern times, to the political and legal world, shaped by the experience of the Nation-State and centered on sovereignty and nationality. In the long history of the legal civis, the problem of entitlement has been connected to the extension of the legal order and its homogeneity. The aim was to avoid, as much as possible, an “uncertain” legal space. This is basically the very same problem Jean Bodin tackled with his theory of citizenship in Six livres de la République (I, 6) in 1576, where «the citizen is nothing but the free subject under sovereignty.»\(^{28}\) And it represents the core issue of the first modern case on nationality: Calvin’s case from 1608.\(^{29}\) In the last centuries, legal positivism, in its monistic version, tried to establish a bi-univocal correspondence between the legal order and “its” citizens, following a status conferred by positive law, defined by the sovereign state.

The reason Jurisprudence developed this citizenship apparatus is to prevent the proliferation of so-called hard cases.\(^{30}\) The *ratio essendi* of this way of viewing “citizenship” is to avoid the multiplication of incompatible legal positions imposed on the same human being. Most bilateral treaties in international private law, as well as international agreements tend to avert that specific situation.\(^{31}\) Indeed, the “Hobbesian” anarchy of international relations leaves little or no room for overarching legal agreements, such as the Convention of the Hague signed on the 12\(^{th}\) of April 1930 on the limitation of statelessness, or the U.N. Convention on the citizenship of married women, signed on the 29\(^{th}\) of January 1957 in New York. The main instrument for preventing potential conflict is still constituted by bilateral treaties, that remain a very time-consuming and rigid tool for fixing the many hard cases that arise. In other words, we might say that the fundamental problem and key-question that informed the legal way of understanding “citizenship” was developed is to guarantee the rule of law; to guarantee the unequivocal possibility to predict the legal consequences related to the behaviour of individuals.

Even if the legal model has met with harsh criticism as being a “recipe for chaos”\(^{32}\) in a world of migration, it does not mean that the problem the model addresses has been resolved. It only implies that the means through which Jurisprudence hoped to solve the issue have, to some extent, failed.


The way of understanding “citizenship” that is prevailing in sociology and other social sciences is the most recent of the three meanings the term has acquired: This understanding basically developed in the late 80s and early 90s. Here, the content of its basic dichotomy varies, as well as its structure. The opposite of the citizen is neither the subject as in the political model, nor the foreigner (alien/stateless) as in the legal model of citizenship. Rather, it is the marginalised individual or the excluded person, as developed by Robert Ezra Park and Gino Germani. It should be stressed that in the sociological perspective, the strong term of the dichotomy that defines the other term is not “citizenship”, but “exclusion”; i.e., the failed insertion into the processes of socialization that confer an individual’s social status in a certain group. The social status is the position, ascribed or acquired, that the person occupies in the social stratification of a group in relation to various social norms – such as primarily material goods, work position, cultural know-how, power arrangements, etc. – which determines the allocative and integrative requirements of society.

Grounded in T.H. Marshall’s description of the three categories of rights (civil, political, and social) for which the citizen has struggled in modern times, the sociological way of understanding “citizenship” does not rely on a rigid dichotomy, but on a gradualist one. This means that we can point out intermediate positions in-between maximal exclusion and full integration in society. This latter condition thus becomes the equivalent status of full membership. This gradualist element has led to the development of a vocabulary that uses expressions such as “limited” (or hyphenated) citizenship that do not belong to the other understandings.

The key-problem, to which the sociological approach applies is, of course, social cohesion and the capacity of a group to stimulate the solidarity required for redistribution of costs and beneﬁces.

4. Some Open Questions

I would like to stress that the basic dichotomies at the root of the three ways of understanding “citizenship” are the outcomes of different kinds of problems, which ought to be kept distinct, even though they do not lack connections or links overall. The basic issues – legitimacy, rule of law, and social cohesion – are all unquestionably necessary elements for enabling peaceful living. But the links between them is a question I shall not discuss here. Rather, I will point to a series of open problems that we face in Europe today and I will try to connect these problems with the different meanings of “citizenship.” By doing this, I hope that it will become clear that the way to resolve these problems, of varying nature, must be differentiated. It is vain to hope for any understanding of “citizenship” that encompasses them all. The only way to take them in is to use a very vague idea of “citizenship” that promotes unsuitable policies and no real solutions. In accordance with the problematic field of investigation one chooses, the reference meaning of “citizenship” varies and so do the procedures and methods for acting in response to the matter.

Today, the issue of extending political rights to non-nationals residing within the state – an issue which has been appearing regularly on political agendas all around Europe – corresponds to the political meaning of “citizenship” and it attempts to answer the central questions of legitimacy.

33 R.E. Park, Human Migration and the Marginal Man, in «American Journal of Sociology», 1928 (may).
36 B.S. Turner (ed.), Citizenship and Social Theory, cit., passim.
and political obligation. This is an open issue that EU citizenship still faces. For example, we might mention the 800,000 Poles now living in the UK. From the political citizenship standard, this recent migration wave poses serious problems. First, these people retain their right to vote in Poland even though they do no longer live there. However, they only have a limited access to political rights in the host country. Secondly, the possibility of a double vote for the same scrutiny of the elections for the European Parliament, which is left unsanctioned in Europe, jeopardizes the principle of one man, one vote.

This political meaning of “citizenship” also raises serious problems in some new member states that joined in May 2004: Since 2001, Hungary, for example, has introduced so-called status laws, which create a quasi-citizenship status for external minorities held to belong to a larger cultural nation. In December 2004, a referendum for introducing dual citizenship for up to 3 million ethnic Hungarians in Romania, Slovakia, and Serbia was defeated because of low turnout. If it had won, this initiative would not merely have exacerbated international tensions but could also have led to external voting rights and a permanent majority for nationalist parties in Hungarian elections: A political “twist” to what many see as a problem of a merely legal nature.

As far as the current meaning of “citizenship” in Jurisprudence is concerned, it has often been stressed that the customary legal perspective on citizenship provokes perverse effects, like the increase of statelessness and multiple nationalities, besides from new phenomena like the so-called “legal tourism,” a kind of “forum shopping” where free movement enables people both to avoid compliance with rigid national regulations in areas such as bioethics, and to declare residency in legal systems where taxes are less burdensome.

In particular, we can point to the problem of statelessness, where the person deprived of nationality becomes legally “invisible,” a condition which entails other problems in accessing rights. It is not uncommon that wedlock and marriage contracts are inaccessible for stateless individuals. In Europe, a case of mass statelessness can be found for instance in Estonia, which has signed neither the 1954 Convention relating to the status of stateless persons, nor the 1961 Convention on the reduction of statelessness. When Estonia joined the Union on May 1st, 2004, around 160,000 Russian-speaking persons were still stateless, that is around 12 percent of the total population. It should be added that Estonia’s stateless persons decline every year and currently only 9 percent of residents are carrying so-called grey passports, compared to 32 percent just 15 years ago. But the figures are still eloquent. A significant number of refugees also ends up in a similar situation, since they cannot «avail themselves of the protection of the government of the country of their nationality», following the UN Convention on the Status of Refugees from 1951.

Finally, as far as the third meaning of “citizenship” is concerned, it suffices to say that Europe often presents urgent dilemmas linked to social cohesion. The so-called “social citizenship” is often challenged. For example, an effectively hierarchical grading of such a membership was introduced as part of the transnational arrangements attendant upon recent enlargements, giving nationals of more recent members a differentiated access to the labour markets of some long-standing members. Restrictions in the labour markets of the EU15 for Eastern Europeans were.

---

40 R. Bauböck et al. (eds.), Acquisition and Loss of Nationality, cit., passim.
introduced after the 2004 and 2007 enlargements, with the exception of the UK, Ireland and Sweden, under the threat of the “Polish plumber.”\textsuperscript{42} This should be viewed against the background of empirical evidence: Jürgen Gerhards recently emphasized that the idea of non-discrimination, at the heart of the policy for increased social cohesion, is not supported by the majority of the European citizens: «By analyzing the data from the European Values Survey, we showed that the majority of European citizens still prefer a nationally bounded conception of access to the labour market. The majority of interviewees rejects the idea of equal opportunities for nationals and European foreigners on the job market.»\textsuperscript{43} Recent unrest related to the economic downturn, particularly in the UK, has made this point once more. This is not the only breach we find in social cohesion: Integration has become an increasing concern for EU policy makers in the wake of the activism against the Bolkenstein directive and recent jurisprudence of the ECJ in the cases Rüffert, Viking Line and Laval.\textsuperscript{44}

This brief list of unresolved problems shows that we cannot hope to work these issues out by random reference to one of the three abovementioned meanings of citizenship. It is not plausible, for instance, to deal with the so-called “democratic deficit” of the Union’s institutions by promoting deeper social integration in Europe.\textsuperscript{45}

As far as the erased of Slovenia are concerned, this tripartite classification is useful since it enables to set their place in the contemporary debate. More than any other meaning of “citizenship,” the problem of the erased is connected to “citizenship” in the legal meaning, since the issue involves acquiring legal “visibility” and therefore accessing rights. These people lost their residence entitlement, along with other status-related benefits, because they were (no longer) considered to be citizens of the country they live in. From being citizens of the Yugoslav Republic of Slovenia, they became foreigners in the newly founded Republic of Slovenia (but unlike other resident foreigners they were erased from official records of residents), let alone that some of them risked statelessness overall. Most of the erased are citizens of former Yugoslav Republics but they are, in the phrase of the 1951 UN Convention of Refugees, «unable to avail themselves of the protection of the government of the country of their nationality.» In addition, it should be noticed that at least some of the rights we are dealing with are not in themselves linked to the status civitatis (e.g. recognized fatherhood) or can be reduced to it only on highly problematic grounds. Rather, the suspicion is that we are dealing with rights better described as related to status personae.\textsuperscript{46} This is the reason why Hannah Arendt’s theory of citizenship seems to have found in the case of the erased a new raison d’être.

Claiming that the case of the erased of Slovenia is connected to the legal meaning of “citizenship,” nevertheless, does not mean that these people do not encounter problems related to social integration or lack of political voice. It could be argued that the izbrisani are “subjects” in the political meaning since they lack fair saying in decisions affecting them; it could also be affirmed that they are being marginalized and refused “full membership in the community,” pursuant to the sociological account of citizenship. The thesis is nonetheless that these other issues seem to derive from the stripped legal status, and not vice versa.

We may thus conclude that citizenship studies require less ambiguous tools than those prevailing in literature. Very few attempts to overcome disciplinary divides have yet been made.


\textsuperscript{44} See C-341/05 at http://curia.europa.eu/en/content/juris/index.htm.

\textsuperscript{45} This point has recently been made by A. Follesdal, \textit{European Union Citizenship}, Policy Synthesis of EU Research Results, Policy Review Series n. 13, Bruxelles 2008.

\textsuperscript{46} We would surely benefit from a clearer doctrinal position of the distinction between which rights and entitlements are to be considered consistent with the status of personhood, and which are instead coherently referred to others statuses.
Here, a scheme has been canvassed. The tripartite scheme provides a standard for discussing normative assumptions behind claims made in today’s debate. In this way, it is crucial for correct understanding of the matter that *status civitatis* and *status personae* are kept distinct. Discourse analysis proves to be a useful tool in unpacking the very popular but increasingly confusing notion of citizenship. This, in turn, is functional for our shedding new light on transnational citizenship building and cross-state handling of status-related issues.