

CITIZENSHIP AND FORMALIZED PROCESSES OF IDENTITY BUILDING
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Abstract: Analyzing the concept of freedom of movement both in accordance with the norms of the European Convention of Human Rights (ECHR) and in the case law of the Court of Strasbourg (ECtHR), it has emerged that there are some malfunctions in the regulation and control of the migratory phenomena in the European context that are structural and inevitable. These malfunctions also have some repercussions on the processes of identity building. In fact, identity is not just the outcome of informal processes connected to relational, biographical, intellectual experiences, as well as the myths, the stories and the culture of a people etc. but also to some more or less formalized processes as a normative framework existing in a specific community. Human Rights contribute to creating these normative frameworks inasmuch as they can influence the rules and the principles of a specific legal system and it is in this context that we should regard the ECtHR activity. In more general terms we can say that inasmuch as we identify ourselves with the liberal-democratic regimes which form our communities, the characteristic institutions of such regimes represent a fundamental reference for the processes of identity building of both the community as well as of the individuals forming it. Indeed, in a context of multilevel constitutionalism which is ongoing, the influence that international institutions and treaties (declarations, covenants, conventions, protocols and so on) have more and more on member states, permits Human Rights to enter into the formalized processes of identity building. The processes contributing to the self-comprehension of a political community need the formal structures of identity building, such as citizenship and freedom of movement, especially in the face of the global migratory phenomena, to operate correctly. From that point of view malfunctions in the formal structures cannot but have effects on the same processes of identity building. The way that the mobility theme is regulated by the ECHR can become a privileged point of observation for the study and analysis of identity building, and of its impasses, contradictions, aporias.

This paper intends to show how the absence of the right of emigration can create some malfunctions in the Human Rights legal system and how this is connected with our concept of identity. In fact inasmuch as our identity can be formed by the norms of Human Rights and the lack of the right of emigration is the starting point of a series of malfunctions involving the whole field of Human Rights, this structural weakness can injure our processes of identity building. The failure of our migration control system and the impossibility of empowering Human Rights in the field of mobility reveals an enormous conceptual short-circuit in the structure of liberal countries.

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