

Civis Europaeus sum?

Citation for published version (APA):

Marrero Gonzalez, G. (2017). *Civis Europaeus sum? Consequences with regard to nationality law and EU citizenship status of the independence of a devolved part of an EU member state*. [Doctoral Thesis, Maastricht University]. Wolf Legal Publishers (WLP). <https://doi.org/10.26481/dis.20170629gmg>

Document status and date:

Published: 01/01/2017

DOI:

[10.26481/dis.20170629gmg](https://doi.org/10.26481/dis.20170629gmg)

Document Version:

Publisher's PDF, also known as Version of record

Please check the document version of this publication:

- A submitted manuscript is the version of the article upon submission and before peer-review. There can be important differences between the submitted version and the official published version of record. People interested in the research are advised to contact the author for the final version of the publication, or visit the DOI to the publisher's website.
- The final author version and the galley proof are versions of the publication after peer review.
- The final published version features the final layout of the paper including the volume, issue and page numbers.

[Link to publication](#)

General rights

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from the public portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain
- You may freely distribute the URL identifying the publication in the public portal.

If the publication is distributed under the terms of Article 25fa of the Dutch Copyright Act, indicated by the "Taverne" license above, please follow below link for the End User Agreement:

www.umlib.nl/taverne-license

Take down policy

If you believe that this document breaches copyright please contact us at:

repository@maastrichtuniversity.nl

providing details and we will investigate your claim.

Valorisation Addendum

1. Societal Relevance of this Thesis

Independence movements in EU Member States and, more recently, the United Kingdom's referendum on EU membership have reignited the debate on the enjoyment of certain rights by people directly affected by an eventual State succession within an EU Member State (or withdrawal from the EU, in the case of the United Kingdom). The growing number of research literature and the attention given to these issues by the general media, demonstrate not only to the topicality of this issue but also to the sense of uncertainty surrounding it.

This research provides a legal analysis of the specific consequences of an independence process within an EU Member State for the people affected by such an event. These people, by the operation of a hypothetical State succession, could witness a change of their status as nationals of an EU Member State and, therefore, citizens of the Union or, more generally, a change of the legal framework applicable to the territory where they have been residing under the umbrella of EU law. They could find themselves in a position where strategic decisions have to be made in order to retain a certain status under EU law or in order to guarantee the continuation of certain residence rights. These strategic decisions must also to be taken into account as a result of the new scenario posed by "Brexit". In this regard, this research examines different, yet intertwined, legal orders in order to remove uncertainties that will be faced, not only by citizens of the Union and nationals of the potential new States, but also by third-country nationals.

The societal impact is, in this regard, obvious. Since the possession of the nationality of an EU Member State presupposes the enjoyment of the rights deriving from the EU citizenship status, the present research has a direct impact on the question of what happens with those rights. The population which can potentially be affected involves not only the citizens of the new countries born as a result of a succession process, but also the nationals of other EU Member States residing in these new States, as well as third country nationals which enjoy certain rights under EU law. Furthermore, the findings related to the retention of certain rights associated to the residence in both the potential newly independent States and the EU Member States can also be applicable to the "Brexit" scenario.

This research also has potential value for scholars, as it adds a new approach in the study of the EU citizenship and nationality law issues. Furthermore, it contributes to the debate regarding the EU competences in the field of nationality law and it delves into the question of whether the autonomy of the EU Member States should be constrained to the extent that such autonomy conflicts with EU citizenship status granted by EU law. It will also open potential new research areas, especially dealing with the link between the nationality of an EU Member State and citizenship of the Union and that is, as it stands now, unbreakable. Perhaps the time has come to further develop or re-think the concept of citizenship of the Union and provide it with higher degree of autonomy from Member State nationality.

2. Target Groups for the Research Results

The results of the research can be taken as general guidelines regarding current and future independence movement within the EU that will be useful for the EU institutions themselves and EU Member States dealing with their own independence movements. The research focuses on the situations in Catalonia, Flanders and Scotland, but there are other potential segregation movements within the EU that can potentially follow the same pathway. Galicia in Spain, the Basque Country in Spain and France, Brittany in France or the Frisian Region in The Netherlands are some examples of independence movements within EU Member States. The results of this research can help these areas of a Member State to carry out the independence process with certainty, especially regarding nationality and EU citizenship issues. In this regard, the findings of the research can be helpful not only for the legislature of the potential new States but also for the remaining EU Member States in the field of nationality law.

Similarly, the results can help to reaffirm the role of the Council of Europe in nationality matters. Hitherto, the debates on the implications of an eventual Catalan, Flemish, or Scottish independence have been limited to EU law and international law. However, the human rights dimension of these rights, especially the residence rights as linked to the obligation to respect private and family life as provided in the ECHR, has largely been ignored.

3. Innovative Character of this Thesis

This project focuses on the status of EU citizenship and the laws governing nationality within the framework of a State succession. Its innovative character lies, firstly, in the novel situation that is under research. And

secondly, only a few scholars have undertaken research on this particular subject.

Certainly, the European continent experienced States successions in Czechoslovakia, the Baltic States and Yugoslavia but those situations are not comparable with the independence movements in Spain, Belgium and the United Kingdom. There is no precedent within the EU in which a devolved part of an EU Member State has become independent, and therefore for the first time in the EU's history it is facing potential cases of succession of EU Member States. This process will result in a remaining EU Member State and a succeeding State. What will be the situation of such a new State and its citizens? There is no clearly defined position of the European institutions in relation to the phenomenon of State succession, despite the obvious implications that such a situation would have on the eventual deprivation of the rights flowing from the EU citizenship, but also regarding the future nationality acts of the new States.

Scholars have not addressed the issue of State succession within the framework of the EU, and the implications of such a situation for the status of the EU citizenship. It is true the State succession is a topic that has received a plethora of attention from scholars, but not within the framework of union of States in which the EU citizenship status is intended to be the fundamental status of nationals of the Member States. In the case of Catalonia and Flanders, there are few papers that focus on the legal paths to independence within the legal system of Spain and Belgium respectively and the historical, societal or economic grounds that would support their independence. The citizenship questions are vaguely treated.

Following the "Brexit", a large number of papers and research literature have been published, none of them have explored the human right dimension of the topic, however. This further demonstrates the originality of this research, together with the analysis made on the position of minors who reached the age of 16 years-old and were enfranchised in the Catalan and Scottish independence queries.

4. Concrete Products, Services, Processes and Activities into which the Research Results will be translated and shaped

The results of this thesis have already been partially disseminated to an academic audience via conferences and workshops; for instance the 'Pro-independence Movements and Migration: Discourse, Policy and Practice' workshop held by the European Academy (EURAC) in Bolzano, Italy and the 19th annual *Ius Commune* Conference, held in Edinburgh, United Kingdom with a presentation titled 'Nationality and European

citizenship consequences of the independence of a part of a Member State'. The dissemination of the research has continued with additional presentations, for instance at the Farewell Seminar of Prof. G.-R. de Groot in October 2016.

Additionally, several papers have been published already in Spain (*Revista de Derecho Comunitario Europeo*, 'La ciudadanía Europea en venta. El programa de venta de la nacionalidad maltesa: ¿una brecha en el principio de cooperación leal en el ámbito de ciudadanía de la Unión?') and in the Netherlands (*Tijdschrift voor Constitutioneel Recht*, 'Catalonia's independence and the role of the Constitutional Court: recent developments'). Forthcoming publications include a chapter in an edited volume composed of the main research presented at the workshop 'Pro-independence Movements and Migration: Discourse, Policy and Practice', held by the European Academy (EURAC) in Bolzano with the title 'The role of migrants in the Catalan independence process: a legal analysis' and another paper "Brexit": Consequences for Citizenship of the Union and Residence Rights' to be published in the *Maastricht Journal European Comparative Law*.

In addition to this, there has also been participation in EU-funded projects such as the ILEC (Involuntary Loss of European Citizenship) project, a research project aiming to fill the knowledge gap concerning the rules and administrative procedures applicable to loss of nationality across the Union, and their relation to existing European and international legal standards. As a result of the project, in February 2016 the book 'European Citizenship at the Crossroads' was published, with a chapter dealing with the attribution of Spanish nationality law and a case note on a Spanish ruling about the application of the so-called *Rottman* doctrine (Judgment of the Court of Justice of the European Union of 2 March 2010, *Janko Rottman v Freistaat Bayern*, C-135/08), which is a cornerstone of this research, given its importance for the practice of Member States in the field of nationality and the design of EU citizenship.

Participation on student forums has also served for the purpose of disseminates the research findings. For instance, performing as tutor at the annual conference Student Forum Maastricht 2015, leading the discussions in the 'Independence of Regions in the EU' panel, or the forthcoming interview in the Universidad Autónoma de Madrid online magazine, 'Ágora'.

The results of this thesis have also been made available to non-academic audiences mainly through weblog of the Faculty of Law 'Maastricht Law News and Views'.

5. Implementing the Research Results

In order to further the implementation of the research results, this thesis will be distributed amongst the EU institutions, the Council of Europe and the governments of EU Member States dealing with independence movements and devolved regions seeking their independence.

Similarly, the results of this thesis will also be made available to non-academic audiences mainly through blogs and interviews in general media.

With the on-going “Brexit” process, participation in academic and non-academics debates on the topic on the eventual loss of EU citizenship is necessary. It would be desirable to obtain additional financial sources to engage in postdoctoral research dealing with the consequences of the withdrawal of the United Kingdom from the EU for nationality and EU citizenship status.