

EUROPEAN CITIZENSHIP

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Abstract

Citizenship of the European Union, established by Article 20 TFEU, is a fundamental status automatically granted to any person holding the nationality of a Member State. It is additional to national citizenship and does not replace it, providing Union citizens with a specific set of enforceable rights. These include the freedom of movement and residence, the right to vote and stand as a candidate in abEuropean and municipal elections, consular protection, and the right to petition Union institutions or initiate a European Citizens' Initiative.

While the granting and withdrawal of nationality remain within the exclusive competence of each Member State, the Court of Justice of the European Union (CJEU) has ruled that this power must be exercised "with due regard to Union law". Through landmark cases such as Micheletti, Rottmann, and Tjebbes, the Court has established that states must observe the principle of proportionality when withdrawing nationality. This judicial oversight ensures that the loss of national nationality—and consequently the loss of Union citizenship—does not disproportionately deprive individuals of their fundamental European rights.

Historically, European citizenship has evolved from the economic concept of a "market citizen" during the early EEC era to a multi-faceted political and social identity. Key institutional milestones, including the Spinelli Draft, the Adonnino Committee reports, and the Treaties of Maastricht, Amsterdam, and Lisbon, have gradually strengthened the role of the individual within the European integration process. Today, Union citizenship serves as a primary tool for fostering a common European identity and consciousness, representing what the Court describes as the "fundamental status of nationals of the Member States"

INTRODUCTION

According to the 2020 report by the European Commission, nine out of ten European citizens are now familiar with the institution of European citizenship. This observation is by no means coincidental, considering the increasing participation of European citizens in political and social dialogue, in European elections, as well as the extensive use of the freedom of movement and residence, which became clearly evident, according to the aforementioned report, during the Covid-19 pandemic crisis¹. In this contribution, within the constraints of a legal article, the fundamental issues regarding the concept of European citizenship will be noted, particularly concerning its content and the conditions for its acquisition and loss, while

¹ 2020 EU Citizenship report of the European Commission, available on: <https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/eu-citizenship-> accessed on: 13.01.2026, at 12:37.

the progress toward shaping the identity of the European citizen will be examined from a historical and institutional perspective.

1. GENERAL

Citizenship of the European Union is enshrined in Article 20 of the Treaty on the Functioning of the European Union (TFEU). From this, a series of fundamental rights enjoyed by Union citizens derive, specifically those of free movement and residence within the Union (21 TFEU), the right to vote and to stand as a candidate in elections to the European Parliament and in municipal elections (22 TFEU), consular protection (23 TFEU), the right to petition the European Parliament and to apply to the European Ombudsman, the right to initiate or support a European Citizens' Initiative, and the right to communicate with and receive a response from any Union institution in one of its official languages (24 TFEU). The aforementioned rights are also enshrined in the Charter of Fundamental Rights of the European Union (CFR), in the fifth section titled "Citizens' Rights," and are supplemented by the right of access, under conditions, to documents of the European Parliament, the European Commission, and the Council. These are preceded by Articles 18 and 19 TFEU, which establish the prohibition of discrimination on grounds of nationality.

2. TERMINOLOGY ISSUES

The term "Union citizenship" is first encountered in the "Draft Treaty establishing the European Union" of 1984, also known as the "Spinelli Draft²." "Nationality" is the legal and political bond of a person with a specific state, which produces legal effects and distinguishes the domestic nationals of a state from foreigners. Although the exact translation of the aforementioned term is "nationality," the texts of the Treaties use the terminology of "citizenship," placing emphasis on the individual's status as a citizen, namely as a holder of political rights, rather than on their connection to a state entity. The European Union, after all, does not constitute a state but a sui generis and distinct legal order. This conceptual inaccuracy of the Greek rendering is however resolved if one considers that the term "ιθαγένεια"

² The role of Altiero Spinelli in the path towards the European Union, Briefing of the European Parliament, available on: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/589781/EPRS_BRI\(2016\)589781_EL.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/589781/EPRS_BRI(2016)589781_EL.pdf) accessed on: 13.01.2026, at 14:22.

(nationality) in the Greek reality is often used to denote the concept of "πολιτότητα" (citizenship).³

As underlined above, the Union does not constitute a state entity. In this manner, the aforementioned European Citizenship should not be confused with the nationality that a state grants sovereignly to persons based on specific elements (descent, birth within its territory, etc.). It concerns the specific legal relationship that connects the citizens of the contracting parties to the TEU and TFEU with the European Union in an automatic and ancillary manner to the nationality of a member state, and from which specific, judicially enforceable rights derive.⁴ In other words, the consequences of national or international law produced by the grant of national nationality, such as in personam jurisdiction, do not exist.⁵

3. ACQUISITION AND LOSS OF UNION CITIZENSHIP AND THE INTERVENTION OF THE COURT

According to Article 9 of the Treaty on European Union (TEU), "Citizenship of the Union shall be additional to and not replace national citizenship." This phrase is repeated in Article 20 TFEU, which clearly records the aforementioned ancillary nature of Union citizenship: "Every person holding the nationality of a Member State shall be a citizen of the Union." In other words, Union citizenship is acquired, maintained, and lost through the corresponding acquisition, maintenance, and loss of national nationality without the need to observe any other procedure. Furthermore, voluntary renunciation of the former is not conceived while the latter still subsists.⁶

As underlined above, the granting and withdrawal of national nationality fall under the exclusive competence of and are carried out unilaterally by sovereign states, as this is an element concerning the concept of the "people," which is constitutive for the existence of a state.⁷ This principle, established in an advisory opinion of the Permanent Court of International Justice in 1923 and in Article 1 of the 1930 Hague Convention⁸ on certain questions relating to the conflict of nationality laws, also "accompanied" the 1992 Maastricht Treaty (the Treaty that

³ Evgenia Sachpekidou, *Law of the European Union*, Sakkoulas, 2021, p. 283.

⁴ Ibid. pp. 284-285.

⁵ Krateros Ioannou, *Common Foreign Policy and European Citizenship: Two New Institutions of European Integration*, Sakkoulas, 1993, p. 113.

⁶ Sachpekidou, *supra* note 3, p. 285.

⁷ Dimosthenis Lentzis, *Free movement of European citizens and national interests of Member States: the fragile compromises of Directive 2004/38*, Sakkoulas, 2017, p. 20.

⁸ Ioannou, *supra* note 5, p. 109.

established the European Union and introduced European citizenship) by way of a joint declaration of the Member States. Despite this fact and beyond the restrictions imposed by international law on this exclusive character of state competence regarding nationality, the Union judge, as early as the same year as the Maastricht Treaty, emphasized that this state competence must be exercised "with due regard to Union law." Through this line of case-law, beginning with the *Micheletti* case, the Court sought an elementary delimitation of the exercise of the relevant state competence, without questioning its existence and, in any event, within the framework of respect for state functions dictated by Article 4(2) TEU.⁹

The aforementioned concept of "due regard to Union law" was initially linked to the issue of the refusal to recognize European citizenship in cases of persons with dual nationality. In the *Micheletti* case, specifically, the person concerned held Italian nationality by descent and Argentine nationality by birth. Upon moving to Spain for the purpose of permanent establishment, the Spanish authorities, applying national legislation, refused to recognize his second, Italian nationality and, consequently, his European citizenship. Following a request for a preliminary ruling, the Court held that the possession of the nationality of a Member State constitutes the necessary and exclusive condition that any Member State must examine in order to recognize the fundamental freedoms deriving from European citizenship in a person, in this case the right of establishment under Article 49 TFEU. The person's motives, the means used, or the reasons for granting the nationality of the other Member State must, under this view, remain unexamined. Otherwise, if each Member State had the possibility to add further conditions for the recognition of the second nationality, such as those required by the International Court of Justice in The Hague, characteristic of the *Nottebohm* case, the uniform application of Union law and the actual possibility of the beneficiaries to enjoy the fundamental freedoms enshrined in the Treaties would be jeopardized.¹⁰

From this delimitation of the *prima facie* free action of Member States in the field of nationality, the possibility of the Union Judge to review the observance of these limits *in concreto* logically follows. The recorded case-law primarily concerns issues of loss of national, and thus European, citizenship and less the problematic aspects of the conditions for its acquisition, since in the former case persons are deprived of vested, fundamental rights and run the risk of becoming stateless. It is precisely this finding that led the Union Judge, in the *Rottmann* case, to require Member States to observe the principle of proportionality in cases

⁹ Lentzis, *supra* note 7, pp. 22-23.

¹⁰ *Ibid.* pp. 25-27.

of withdrawal of national, and thus European, citizenship, which in this instance incorporates three criteria: that of the offense committed by the person, which must be of such gravity that the legal bond between state and person is irreparably severed; that of the total period of time the nationality was held, as the more the person relied on the rights deriving from that nationality, the more inequitable its deprivation would be; and finally, the person's ability to recover their previous nationality or acquire a new one, so as not to become stateless. Furthermore, the decision of the Member State regarding the withdrawal of nationality must be based, according to paragraph 51 of the said case, on a ground of general interest, which in the present case consisted of the reasonable state interest in defending the relationship of trust between state and citizen, and must be taken, according to paragraphs 55-58, with respect for fundamental rights as enshrined in the Treaties and the CFR, particularly regarding the right to family life under Article 7 CFR.¹¹ Regarding the review of compliance with the principle of proportionality, the Court in the subsequent *Tjebbes et al.* case pointed out the obligation for its *in concreto* performance, with emphasis on the criterion of proportionality *stricto sensu*, while enriching this reasoning, it deemed it necessary that there should even be a possibility for the national authority, during its incidental review, to re-grant nationality retrospectively to a citizen who suffered disproportionately burdensome consequences from its withdrawal.¹² In the *X v. Denmark* case, moreover, the Court emphasized that this proportionality review may also take place following an application by the person concerned for the retention or recovery of their nationality, a possibility which the national legal order is obliged to reserve for them. The period for submitting this application, as conclusively noted in the judgment, must not commence before the person concerned is effectively informed of the impending or already finalized loss of their nationality, as well as of the relevant right to submit the aforementioned application.¹³

A different direction is followed by the Court, according to one view, in matters regarding the acquisition of citizenship. In such cases, natural persons never possessed the fundamental rights deriving from the Treaties. Consequently, their protection upon the refusal of naturalization by a Member State cannot be carried out in accordance with these rights or the principle of proportionality, but through a review of the Member State's legislation. That is to

¹¹ Ibid. pp.28-34.

¹² Dimosthenis Lentzis, Loss of Union citizenship and its consequences (commentary on CJEU 12.3.2019, C-221/17 *Tjebbes et al.*), *European Law* 1, 2019, pp. 309-313.

¹³ CJEU (Grand Chamber) 5.9.2023, *X v. Udlændinge- og Integrationsministeriet*, C-689/21, EU:C:2023:626, paras. 38-48.

say, the harmonization of the conditions for granting the Member State's nationality with the latter's obligation for sincere cooperation with the Union (Article 4(3) TEU) is examined.¹⁴ According to the opposite view, the review imposed by the Court on problematic issues of acquisition of citizenship/refusal of its grant is again carried out in relation to the principle of proportionality and fundamental rights.¹⁵

4. THE HISTORICAL AND INSTITUTIONAL PATH TOWARDS ESTABLISHING UNION CITIZENSHIP

From its inception, the European Economic Community (EEC), which was subsequently renamed the "European Union," as an International Organization, followed a less common path compared to other international entities of the post-war international sphere. The pre-existing tendency to deviate from the intergovernmental model of cooperation and the obvious inclination towards increasingly intense forms of supranational cooperation revealed that the central role in achieving the sought-after "European integration" would not be played by sovereign states.¹⁶ Already from the era of the EEC, where interest was focused on the creation of a "common market" among the Member States, the role of the natural person and the private enterprise in this effort began to emerge. The Court of Justice of the European Communities, specifically, in the landmark *van Gend en Loos* case, pointed out that the functioning of the Common Market, as an objective of the EEC Treaty, directly concerns the citizens of the Community and does not constitute purely an agreement for the assumption of mutual obligations between the contracting states. In this manner, the concept of the "market citizen" was created, and fundamental community freedoms were linked to the exercise of economic activity.¹⁷

By the 1970s, the progressive achievements of the EEC toward the creation of the common market were indisputable. The latter, however, did not constitute the ultimate goal of the Community but rather the primary means of achieving the sought-after European integration. Given this objective, the need emerged to expand Union competences into new fields beyond the economy. At that point, the questioning of the Union project began, a challenge originating primarily from the citizens of the Member States. The rights of free entry

¹⁴ Lentzis, *supra* note 12, pp. 38-40.

¹⁵ Sachpekidou, *supra* note 3, p. 286.

¹⁶ *Ibid.* pp. 27-28.

¹⁷ *Ibid.* pp 280-281.

and residence for working citizens were taken for granted—due to the aforementioned economic activity. However, the legitimacy of the Union's institutional structure, which so significantly affected the economic life of all citizens, appeared to be lagging. Thus, an issue of a democratic deficit was raised within its pillars, centered on the limited position of the ordinary citizen, as reflected through the meager role of the European Parliament (then "Assembly") and the absence of a written catalogue of fundamental rights.¹⁸

The establishment of a common European citizenship was called upon, among other things, to provide the answer to this issue of the democratic deficit. It would be the citizen who, through the exercise of the political rights deriving from citizenship, would vest the Community with the sought-after democratic legitimacy, serving as the springboard for the ever-increasing expansion of the European Parliament's competence in decision-making. The citizen would be the subject of recognized rights that would subsequently allow the Union to ensure the protection of its citizens in perpetuity.¹⁹ For this reason, European citizenship was primarily linked to rights of a political nature and played a central role in the political and cultural dimension of European integration.

The institutional path toward the entrenchment of European citizenship began in the 1970s. At the Paris Summit of 1974, an initial list of certain rights of a political nature was compiled, while the following year the report of the Belgian Prime Minister Tindemans was published, which expanded the individual rights of citizens and rights relating to free movement.²⁰ In 1984, the first reference to the term "Union citizenship" was made in the aforementioned "Spinelli Draft," which, although not adopted by the Member States, served as a point of reference for the institutional developments that followed.²¹ A significant event in this institutional path was the establishment of the Adonnino Committee by decision of the European Council (the "Ad Hoc Committee on a People's Europe"), which introduced proposals aimed at realizing a common European identity, such as the establishment of the right to vote and to stand as a candidate in municipal and local elections, the right to petition, the creation of an ombudsman in the European Parliament, the abolition of border controls, the establishment of the right of residence regardless of the exercise of economic activity, and the mutual recognition of diplomas. The final milestone that triggered the formal establishment of

¹⁸ Ibid. p. 32.

¹⁹ Ioannou, *supra* note 5, pp. 115-116.

²⁰ Konstantinos Tsagkas, in diploma thesis "European citizenship as the fundamental status of Union citizens," academic year 2012, pp. 2-3.

²¹ Ioannou, *supra* note 5, pp. 116-117.

European citizenship was Spain's memorandum to the Intergovernmental Conference on Political Union in 1990, which led to the Maastricht Treaty in 1992. With the latter, the European Union was established, providing an institutional framework of intergovernmental and supranational cooperation without autonomous legal personality, and citizenship was enshrined within the founding Treaties of the European Community (TEC), as the EEC had been renamed in the meantime. The right of free movement and residence was extended to Union citizens who did not exercise an economic activity, provided they possessed sufficient financial resources and social security cover. The Treaty of Amsterdam followed in 1997, by which the role of the European citizen was further strengthened through the incorporation of the Schengen Agreement and the establishment of the Area of Freedom, Security, and Justice, which enhanced interstate cooperation in the fields of policing, migration, asylum, and the fight against crime. Finally, with the Treaty of Lisbon, the so-called "Reform Treaty," the European Union was established for an indefinite period and acquired legal personality; its Treaty (Maastricht Treaty) was renamed the "Treaty on European Union," while the TEC, in which European Citizenship had been enshrined, was renamed the "Treaty on the Functioning of the European Union".²² By now, the appropriate institutional and legal framework had been created for Union citizenship to acquire a multi-faceted dimension rather than a purely politico-economic one, to play a substantial role in the creation of a common European identity and consciousness, and to be elevated to the "fundamental status of nationals of the Member States," as the Court has repeatedly pointed out.²³

CONCLUSION

It is now indisputable that the modern Union citizen is increasingly internalizing their European identity. Union citizenship, moving from a 1970s ambition to a 1990s reality, has left its own mark on the course of European integration. It constituted a pioneering concept in international law, extensively occupied European Court case-law, and played a decisive role in shaping today's Union. Crucial for the life of the modern European, citizenship will certainly continue to engage international affairs and legal science, remaining relevant in every era.

²² Tsagkas, *supra* note 20, pp.3-6.

²³ Sachpekidou, *supra* note 3, p.284.

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