

# EU CITIZENSHIP

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## Key words:

EU citizens, non-citizens, erased persons

## Definition of EU citizenship

The paper is focused on the European Union citizenship. First, origins of EU citizenship and its definition and legal adoption were presented. Aim was to emphasise the economic dimension of EU citizenship and distinguish between the citizenship in material sense and “European Union citizenship” as set of rights of citizens of member states.

Characteristics of EU citizenship were briefly summarized, i.e.:

- Derivativeness (citizenship is dependent on the citizenship of member states, the member states solely may decide on who is their citizen, with the exception set in case *Micheletti v. Delegacion del Gobierno en Cantabria*<sup>1</sup>),
- content of the citizenship is limited by EU competences,
- mediateness,
- subsidiarity, proportionality (these principles must be kept when applying citizenship rules)
- connection to integration stage,

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<sup>1</sup> Judgment of the Court of 7 July 1992, *Mario Vicente Micheletti and others v Delegación del Gobierno en Cantabria*, Reference for a preliminary ruling: Case C-369/90.

- inviolateness by flexibility principle
- interstate element, (the Court of justice stated several times that the citizenship rules cannot be applied to wholly internal situations, see e.g. C-148/02, p. 31)
- supremacy.

EU citizenship, expressed in the Maastricht Treaty, gave a set of rights to citizens of member states that can be divided into three groups:

- Economic
- Political
- Right to diplomatic and consular protection

### **Who is EU citizen?**

It is the power of the member states to determine who their national is, and therefore the national of the European Union. The paper focuses on the most obvious examples of the consequences of such an approach. First, the example of Great Britain who made a declaration to the accession treaty is being discussed. Great Britain divided its citizens into three categories but just one of them are citizens of the EU. The case Kaur (C-192/99) tried to challenge the conception of British Overseas Citizens and British Dependent Territories Citizens as set in the British declarations. The Court however approved the functionalist approach of Great Britain to definition of EU citizens.

Paper also mentioned the situation in Germany and Spain.

Main focus was however laid on discriminatory cases of granting citizenship. In Latvia, after the dissolution of the USSR, former USSR citizens with Russian origin was given a specific status of “non-citizens”. These don’t possess any citizenship, they have right to reside in Latvia and other right, except political rights. They are however not EU citizens and they cannot move freely within the Communities.

Other example is the situation of erased citizens in Slovenia after dissolution of Yugoslavia. People from former Yugoslavia who were so called new minorities - ethnic Serbs, ethnic Croats and ethnic Bosnian Muslims, ethnic Albanian Kosovars and ethnic Roma didn’t

acquire Slovenian citizenship, they were erased from register of permanent residents, some of them were forced out of the country.

## **Conclusion**

EU member states decide on who are their citizens. Some of them have even created a functionalist approach and classified different categories of citizens. Due to colonial history of some countries, such approach may be comprehensible. The case of Latvia or Estonia shows the perils of this approach: thousands of people living in the country, thus having a genuine link with the state, are not regarded as nationals and possess an unprecedented status that doesn't allow them to take advantage from EU law. This concept shows us that nationals of member states enjoy often different rights.

According to the Fifth Report on Citizenship of the Union, the Commission is aware of these problems (mainly of non-citizens) and has received a number of complaints, NGO reports, petitions and EP questions concerning problems in certain Member States linked to the acquisition and loss of nationality. Though it is not in EU powers, the Commission has sought to contribute to solutions linked to this issue by promoting integration and by using the Community instruments at its disposal such as ensuring that Member States strictly implement EC anti-discrimination legislation.

There seems to be one solution of the problem that has already been proposed by the Commission but hasn't found the necessary consensus among the member states to become a binding legal act: granting the EU citizenship rights to persons with permanent residence.

The idea is actually not as a major breakthrough as it would seem: some citizenship rights are in fact granted to persons with permanent residence (such as petition right), some rights – such as right to vote and stand as candidate in the European Parliament elections – are, as seen in the case of Spain vs. UK, not restricted strictly to nationals of member states.

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