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The Effects of an EU Member-State's Modified Citizenship Law: The Hungarian Example, With a Particular Focus on the Aspects of Free Movement

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As the adoption of the Hungarian simplified naturalisation scheme raised much tension both in the neighbouring countries of Hungary and in the main host countries of EU citizens, this paper summarises the nature of such reactions and the most frequent fears that EU states expressed. The main aim of the study is to show what effects a country's modification of its citizenship rules may have on the situations of other EU member-states and European Union citizens. The article also raises one practical aspect of the situation that evolved as a result of the answer by Slovakia to the Hungarian modifications – namely the ex lege *withdrawal of Slovakian citizenship if a person acquires a new one from another country. It introduces in detail the free-movement aspects of ethnic Hungarians losing their Slovakian citizenship, while not leaving their homeland in Slovakia, arguing that people in such a situation may rightfully and immediately be eligible for permanent residence rights, which would provide them with a higher level of protection.*

Keywords: dual citizenship; simplified naturalisation; ethnic Hungarians; loss of citizenship; free-movement rights

Introduction

The European Union considers matters connected with national constitutions to fall within the competence of its member-states. However, the consequences of major modifications in the citizenship law of EU member-states definitely have an impact on the status – including their rights to movement and residence – of vast numbers of people. Therefore, while many have discussed the political, moral and human rights aspects of recent modifications to citizenship laws in Central Europe (Bauböck 2010), it is also worth evaluating the situation from a perspective where there is a definite connection to EU law – namely, from a free-movement viewpoint.

The European University Institute's Working Paper *Dual Citizenship for Transborder Minorities? How to Respond to the Hungarian-Slovak Tit-for-Tat* (Bauböck 2010) collected together many political, historical and legal views on the Hungarian-Slovakian dispute. Bauböck, in his kick-off contribution, argues that, even if the

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citizenship laws in the two countries do not violate EU law or the Council of Europe's Convention on Nationality, he finds them highly problematic and indefensible from a democratic conception of citizenship. The contributors to the Working Paper assess both the legitimacy of the Hungarian offer of dual citizenship for its kin minorities and the Slovak policy's acceptability. Bieber (2010), Spiro (2010) and Stavilă (2010) express various degrees of discomfort with the motivations behind the Hungarian policy, but emphasise its democratic legitimacy or potentially beneficial effects for the members of the minority, whereas Kovács (2010), Egry (2010) and Liebich (2010) all put the focus on the nationalist goals behind the Hungarian policy. Horváth (2010) argues that, although a policy of extending dual citizenship to transborder minorities may cause international tensions, the present law is less tainted by suspect ethnic discrimination than the 2001 Hungarian Status Law. Rainer Bauböck's (2010) concluding rejoinder argues that migrants and transborder minorities differ in their democratic claims to citizenship.

Nevertheless, the focus of academic research has thus far primarily been the analysis of the steps taken by and arguments of states in such international disputes, including those of Hungary and Slovakia, and the evaluation of citizenship laws with regard to the democratic conception of citizenship. In this paper, therefore, I would like to make the focus of my examination the ethnic Hungarian citizens living outside the borders of Hungary, though still remaining EU citizens, looking particularly at the evaluation of the results of the simplified naturalisation[1] of ethnic Hungarians from the aspect of EU rights to free movement. As regards the relevance of EU law, although I will examine how EU case law expects to comply with the EU *acquis* even when member-states set out their own provisions on citizenship, the main focus will be put on the right to free movement of persons within the EU. I will also look at how the applicable secondary EU legislation needs to be interpreted for those losing their original citizenship, while remaining on that member-state's territory, through their new right to the acquisition of citizenship of another EU member-state.

The study therefore first provides an insight into the development of tools with which to draw ethnic Hungarians closer to the kin state, among others, by introducing the simplified naturalisation procedure for ethnic Hungarians living outside the borders of Hungary. This is followed by the introduction of Slovakian legislative changes regarding loss of citizenship as an answer to the Hungarian modification, which creates the factual situation in which the issue of free movement will later be analysed. The free-movement status of Hungarians who have lost their Slovakian citizenship is finally introduced, with a special focus on the latest EU case law, which could provide further guarantees for people affected by this uncertain legal situation, especially concerning their residence rights.

The Hungarian simplified naturalisation procedure

Article D of the Fundamental Law[2] – the new Constitution of Hungary adopted in 2011 – sets out the following:

> *Bearing in mind that there is one single Hungarian nation that belongs together, Hungary shall bear responsibility for the fate of Hungarians living beyond its borders, shall facilitate the survival and development of their communities, shall support their efforts to preserve their Hungarian identity, the effective use of their individual and collective rights, the establishment of their community self-governments, and their prosperity in their native lands, and shall promote their cooperation with each other and with Hungary.*

The previous Constitution, valid up to 1 January 2012, contained a similar but shorter declaration of the same responsibility. It was therefore not a new phenomenon that, based on this responsibility on behalf of the kin state, Hungarians living around the world and in the Carpathian Basin formulated the need, from time to time,

for a simplified naturalisation procedure as a significant assistance in maintaining relations with Hungary and preserving their Hungarian identity.

Nevertheless, simplified naturalisation was not the first tool that the Hungarian governments used to establish an ever-closer link between the kin state and ethnic Hungarians after 1989. A quasi-citizenship was introduced in 2001 by Act LXII on Hungarians Living in Neighbouring States, though commonly referred to as the Status Law. This law set out the conditions in which ethnic Hungarians living in neighbouring countries could obtain the so-called 'Hungarian Card' and all rights attached to it. However, these rights were significantly reduced as the result of a modification in 2003 – a reaction to the critical comments of the Romanian government as well as the Venice and European Commissions because of the extraterritorial nature of the Act (Albertie 2003). Consequently, the preferential entry and residence rights for ethnic Hungarians, as well as the financial help needed for them to establish their eligibility for work, were abolished, though the Act still provided, among other rights, those to preferential healthcare and expanded education (Maatsch 2011: 68–69).

'The proportionality of granting nationality as a form of restitution for past injustices is often accepted internationally' according to Blokker and Kovács (2015: 134). It had therefore also been on the agenda of Hungarian legislators to provide ethnic Hungarians with preferential citizenship, rather than just trying to compensate them with various sets of rights. Hungarians went to the polls on 5 December 2004 – at a time when the issue had already raised considerable controversy both at home and abroad – to vote in a highly divisive referendum on whether the country should offer extraterritorial, non-resident dual citizenship to ethnic Hungarians living in neighbouring states (Kovács 2006). Should the referendum on this question have succeeded, it would have obliged the Hungarian parliament to adopt legislation conducive to granting citizenship status to the members of the diaspora without requiring them to move to their kin state of Hungary. Instead, the acquisition of permanent residence status and citizenship under preferential conditions by those moving to Hungary were offered in order to – at least partly – live up to expectations.

Finally, after the new, right-wing government took office, the Hungarian National Assembly approved – by an overwhelming majority – the amendment of Act LV of 1993 on Hungarian citizenship and introduced a simplified naturalisation procedure on 26 May 2010. As one of the first major legislative acts of the new parliament, it was also understood to be long-awaited compensation following the failure of the referendum in December 2004 on this issue. Although the pre-amendment version of the Hungarian Citizenship Act also granted the preferential acquisition of Hungarian citizenship for ethnic Hungarians, one of the main preconditions was still physical permanent residence on the territory of Hungary. As a result of the simplified rules, no such movement is required, therefore it also promotes the prosperity of Hungarians in their homeland without them having to leave it in order to gain a closer attachment to the kin state of Hungary.

The new provisions have simplified the procedure and reduced the administrative burden.[3] Every non-Hungarian citizen is eligible for preferential naturalisation if they or any of their ancestors were a Hungarian citizen or if they have reason to believe their origin is from Hungary;[4] if they can prove their knowledge of the Hungarian language, have no criminal record and are not under prosecution, their naturalisation does not violate the public and national security of Hungary.

The procedure was therefore designed to be commenced upon individual request, without any automatisation; simplified naturalisation is merely a possibility. To apply for citizenship is a matter of individual discretion, as the procedure requires genuine voluntary individual applications. Nevertheless, Kochenov and Basheska claim that the law establishes a *de facto* mass claims mechanism (2015: 134) because it may give rise to the simple acquisition of Hungarian citizenship for vast numbers of people. Nor does simplified naturalisation mean that a citizen automatically becomes eligible to vote, as suffrage is subject to registered residence in Hungary.

Consequences of the Hungarian modification

Citizenship acquired through the simplified naturalisation process has the same value as that acquired by birth, and therefore also creates EU citizenship. Gaining Hungarian citizenship is therefore especially beneficial for the citizens of Ukraine and Serbia. This fact raised concerns among some Western European countries, especially the United Kingdom, which already hosts many Central and Eastern European citizens practicing their right to free movement. The media talked about 'Hungary creating a new mass of EU citizens'.[5] Nevertheless, no statistical data are available on whether those Ukrainian and Serbian citizens acquiring Hungarian and EU citizenship are among those Central European citizens who were also at the centre of political attention in the context of Brexit and immigration.

Another important consequence of gaining Hungarian citizenship is highlighted in a separate question under the Frequently Asked Questions section of the Hungarian simplified naturalisation website.[6] The question asks whether a person loses his or her original citizenship after acquiring that of Hungary. The answer provided draws attention to the fact that countries may handle the issue of dual citizenship differently. It clearly states that, although Hungarian law does not add any negative consequences to gaining multiple citizenship, other countries may act differently. Therefore acquiring the necessary information before submitting an application is essential for making a well-founded decision.

A thorough prior assessment of the possible effects on the status of the ethnic Hungarian applicant in Ukraine and Slovakia is absolutely crucial here. In these countries, citizens who obtain a Hungarian passport will be running the risk, in particular, of losing their original citizenship and, as a result, some rights, including those of unconditional residence. The consequences also extend to the sphere of inheritance as, according to the Land Code of Ukraine, agricultural land can only be inherited by citizens of the country.[7] While Ukrainian legislation does not permit dual citizenship, Slovakia tolerates dual citizenship for naturalised immigrants – as does Serbia – but not for emigrants naturalising abroad. The country adopted this provision in May 2010 in order to deprive members of the Hungarian minority of their Slovak citizenship if they opt for a Hungarian one. Ireland also has a similar provision (Wallace Goodman and Bauböck 2010: 3).

The Slovakian answer

In 2010, through application of Art. 9b (2) of Act No. 40/1993 on Citizenship as amended by Act No. 250/2010 Coll. and as a response to the introduction of the simplified naturalisation procedure in Hungary, Slovakia abolished the possibility of dual citizenship for those of its citizens who voluntarily acquire a foreign nationality. As of 17 July 2010, under the same Act, if a citizen voluntarily acquires citizenship of another state, he or she is obliged to immediately report to the responsible district office or face a high fine of up to €3 319. Slovakian citizenship is considered to be lost *ex lege* on the day of voluntary acquisition of a new foreign citizenship, except for those who acquire it through marriage or birth; however, without a mechanism for tracking new acquisitions, the process relies on the obligation for individuals to report it (Kusá 2013).

Apart from the critics (see Kochenov and Basheska 2015) of such a retaliatory reaction, which raises many legal and ethical questions by disproportionately targeting one particular group of Slovak nationals – ethnic Hungarians – we should also highlight that the effects of this tool might not be as disastrous for those targeted as previously thought. On the contrary, Eurostat data report only a small increase in Hungarian nationals losing their Slovakian citizenship, while the increase in the number of mainly Czech citizens losing Slovakian citizenship is much greater.[8] Nevertheless, some remarkable cases caught the eye of the Hungarian media, such as that of the 100-year-old woman[9] of Hungarian ethnic origin and with Slovak citizenship, of which she had been deprived as a result of her acquisition of the Hungarian one.

The free-movement status of Hungarians who have lost their Slovakian citizenship

Since the accession of Central European countries to the EU in 2004, the relevance of the EU *acquis* has brought new aspects to such regulations and disputes. First, national citizenship includes EU citizenship for these CE countries, therefore – regardless of the fact that it is still within member-states' remit to set their own citizenship rules[10] – some national rules, especially those on preferential acquisition or the withdrawal of citizenship, may provoke critical reactions in other EU member-states or institutions. In 2014, the European Parliament was concerned about schemes established by various EU member-states – in particular by Malta – which resulted in the sale of national, and hence EU citizenship. Consequently the European Parliament called on the Commission to state clearly whether these schemes respect the letter and spirit of the EU treaties and rules on non-discrimination.[11] In 2017, the Commission is scheduled to carry out a study on the acquisition of national and EU citizenship by high-net-worth investors.[12]

Furthermore, the EU Court of Justice ruled, in the Micheletti case, that this competence of the member-states needs to be practiced in compliance with the existing EU *acquis*.[13] The Rottmann case provides even further instructions with regard to the examination of the principle of proportionality (Töttős 2010: 217):

> *Having regard to the importance which primary law attaches to the status of citizen of the Union, when examining a decision withdrawing naturalisation it is necessary, therefore, to take into account the consequences that the decision entails for the person concerned and, if relevant, for the members of his family with regard to the loss of the rights enjoyed by every citizen of the Union. In this respect it is necessary to establish, in particular, whether that loss is justified in relation to the gravity of the offence committed by that person, to the lapse of time between the naturalisation decision and the withdrawal decision and to whether it is possible for that person to recover his original nationality.*[14]

Without impugning the right of Slovakia to withdraw its citizenship from those acquiring that of another state, we should also focus on the residence status of such citizens as well as on the rights and obligations that their status accords them. This is, therefore, another area of legislation, one where EU law has an effect on the relationship between Central European countries and their citizens. It is an unimpeachable fact that, if a person has the citizenship of another EU member-state, he or she is within the scope of the legal provisions of the EU's right to free movement and residence. Even without any actual movement by the individual in question, when there is a clearly identifiable cross-border element, this person can refer to the EU right to free movement, as in the case of Garcia Avello,[15] which resulted in the Belgian state being obliged to 'accept an ever remoter link to the actual exercise of free movement rights' (Craig and de Búrca 2011: 589). It is also in line with the purposes of the Free Movement Directive (2004/38/EC),[16] as its Recital 1 in the preamble states that citizenship of the Union confers on each Union citizen a primary and individual right to move and reside freely within the territory of the member-states, subject to the limitations and restrictions laid down by the Treaties and the measures adopted for their implementation.[17] Nevertheless, clarification is still needed as to what status are eligible, under EU free-movement rules, those who were once Slovakian and are presently Hungarian, Czech or another nationality.

The Free Movement Directive introduced a gradual system as regards the right to residence in the host member-state, identifying three stages for EU nationals and their families. First, periods of residence of up to three months are characterised by limited conditions and formalities; second, rights inherent in periods of residence of longer than three months are subject to the conditions set out in Article 7(1) of the Directive; and third, it is apparent from Article 16(1) of the Directive that Union citizens acquire, as a reward for their efforts

regarding integration, the right to permanent residence after living legally, for a continuous period of five years, in the host member-state.

However, the wording of this provision gives no guidance on how the terms 'who have resided legally' in the host member-state are to be understood, nor does the directive contain any reference to national laws concerning the meaning of the terms. It follows that these latter must be regarded, for the purposes of application of the directive, as designating an autonomous concept of European Union law which must be interpreted in a uniform manner throughout the member-states.[18]

Nevertheless, Recital 17 in the preamble states that such a right should be laid down for all Union citizens and their family members who have resided in the host member-state 'in compliance with the conditions laid down in this Directive' during a continuous period of five years without becoming subject to an expulsion measure. It follows that the concept of legal residence implied by the term 'have resided legally' in Article 16(1) of the Free Movement Directive should be construed as meaning a period of residence which complies with the conditions laid down in the directive, in particular those set out in Article 7(1) and confirmed in Articles 18, 12(1) and 13(1). Consequently, a period of residence which complies with the law of a member-state but does not satisfy the conditions laid down in Article 7(1) of the Directive cannot be regarded as a 'legal' period of residence within the meaning of Article 16(1) – though see paragraphs 46–47 of the Ziolkowski and Szeja case, below.

The Court of Justice had the opportunity to further specify the meaning of the concept of 'legal residence' in the Ziolkowski and Szeja case,[19] in which Polish nationals who arrived in Germany before their country's accession to the Union had applied to the competent German authorities for the right of permanent residence, invoking the right of residence which had been granted to them at the end of the 1980s on the basis of the German legislation, on humanitarian grounds. According to the German authorities, their applications were rejected on the grounds that, although they had, certainly, resided legally in Germany for more than five years, the only start date acceptable when applying for the right to permanent residence under European Union law is that at which the applicants' state of origin became a member-state of the European Union. Furthermore the applicants did not fulfil the conditions provided for by the directive which would allow them to reside on the territory of another member-state for longer than three months.

The decision of the Court of Justice of the European Union in the Ziolkowski and Szeja case was that the start date for periods of residence completed by a then-non-EU national must be that of the accession of his or her state of origin to the EU, for the purpose of the acquisition of the right of permanent residence under Article 16(1) of the Free Movement Directive, provided those periods were completed in compliance with the conditions laid down in Article 7(1) of the directive. Consequently, regardless of the status of the person in question, as long as his or her previous residence was in compliance with the admission condition of the Free Movement Directive, the five years of continuous residence should be started, even if that person was not yet under the scope of the Free Movement Directive.

Following an analogy, Hungarian nationals who have lost their original Slovakian citizenship as a result of gaining Hungarian citizenship will not only become EU citizens practising their right of free movement in Slovakia, but will also be eligible for permanent residence rights under the Free Movement Directive as long as their previous five years in Slovakia is in compliance with the conditions set out in Article 7(1) of the Directive. This is especially important as, once permanent residence rights have been granted, the holders cannot be regarded as unreasonable burdens on the social assistance system of Slovakia. Nevertheless, it might be challenging to prove their compliance with some of the conditions of admission to Hungary, especially if they were receiving social assistance during those five years of residence in Slovakia.

Conclusion

The existing literature covers many aspects regarding the question of whether factors such as ethno-cultural belonging, historical ties, etc., can justify the application of principles of inclusion and exclusion suitable for a democratic state (Dumbrava 2014: 2). While debates on citizenship at a political level have been ongoing for decades in Central Europe and various historical, legal and moral aspects have gained attention in evaluations of the situation, especially from the Hungarian–Slovakian perspective, this study intends to add a new viewpoint – that of the individual gaining and losing not only national but also EU citizenship.

EU free-movement issues take us in two directions. Firstly, to a situation where non-EU nationals such as Ukrainian or Serbian citizens gain citizenship of an EU member-state – particularly Hungary – under a simplified naturalisation procedure and, as a result, become eligible to practice their right to free movements in Western Europe as well. In this regard it should be emphasised that the use of the EU right to free movement by newly naturalised ethnic Hungarians is not abusive and no statistical figures exist that could prove whether or not this served as the primary motivation of Ukrainian or Serbian nationals in seeking to acquire Hungarian citizenship.

The second direction is that of legal evaluation – necessary for those who found themselves in a situation where they risked losing their original citizenship on becoming EU citizens practicing free-movement rights on the territory of their birth. Strangely, it is not Hungarians, but Czech nationals who have been the most affected by this legal problem. It should be acknowledged that, based on an analogy of the already existing case law of the Court of Justice of the EU, it is not only to a 'simple' right of residence that they have, but already to a permanent residence right, providing greater protection against them being found to be an unreasonable burden for the host state. This study therefore intends to contribute to the existing literature by pointing out the relevance of this EU law regarding citizenship disputes in the Central European region.

Nevertheless, a different view of the situation of ethnic Hungarians in states not acknowledging dual citizenship, or even punishing those who acquire another, could indicate that such national regulations may, on the one hand, have a deterrent effect. Following this reasoning, we could also assume that more ethnic Hungarians living in Slovakia would have applied for Hungarian citizenship had they not had to bear the consequences of their actions. On the other hand, such legal provisions – together with the dispute between the two countries of Hungary and Slovakia – may have negative consequences for the peaceful life of multi-ethnic regions. Consequently, as in the everyday lives of Central European citizens, diplomacy still has a major role to play – unfortunately, in the Hungarian–Slovakian conflict, both parties were lacking the use of this tool. Miklóssy and Korhonen (2010: 139) concluded that

> *for Hungarian diplomacy there is still work to do to convince different audiences that cooperation with neighbours prevails, (…) and this revision without (border) revision is mere rhetoric instead of a Trojan horse towards more radical steps to increase political influence in the region.*

Nevertheless, quite recently, interests which the countries have in common have prompted cooperation in the region as the fight against the new directions which the Common European Asylum System is taking prevails over ethnic conflicts. Yet this fight is also partly based on ethnic considerations. The Visegrad Group (V4), which was celebrating the twenty-fifth anniversary of its founding in 2016, currently provides an alliance for Central European states in which they can shift the focus of their hostility from one another to Brussels and Western Europe, as they try to assert their needs in the process of finding a solution for the recent migration crisis.

Notes

[1] The phenomenon is frequently called an issue of dual citizenship in Hungary, yet it would be more precise to call it an issue of simplified naturalisation of ethnic Hungarians, as Hungary had already allowed dual or even multiple citizenship before the latest modification of its citizenship rules.

[2] On 18 April 2011 the Hungarian parliament adopted Hungary's new Fundamental Law, which came into effect on 1 January 2012, repealing the previous Constitution of Hungary.

[3] http://allampolgarsag.gov.hu/images/angol.pdf (accessed: 12 June 2017).

[4] This latter part was formulated especially for Csango people in Moldavia of Hungarian ethnic origin, who rarely have any official documental evidence of their origins.

[5] http://www.bbc.com/news/world-europe-24848361 (accessed: 1 June 2016).

[6] http://allampolgarsag.gov.hu/index.php?option=com_content&view=article&id=102:elveszitem-a-jelenlegi-allampolgarsagom&catid=27:kerelmezok&Itemid=65 (accessed: 1 June 2016).

[7] http://eudo-citizenship.eu/citizenship-news/306-hungarian-government-proposes-access-to-citizenship-for-ethnic-hungarians-in-neighbouring-countries (accessed: 1 June 2016).

[8] Eurostat data on the loss of citizenship in Slovakia give the following figures: 2008 = 182 (HU: 0, DE: 0, CZ: 121), 2009 = 182 (HU: 0, DE: 3, CZ: 123), 2010 = 260 (HU: 5, DE: 12, CZ: 156), 2011 = 351 (HU: 21, DE: 21, CZ: 224); 2012 = 334 (HU: 9, DE: 46, CZ: 179).

[9] http://eudo-citizenship.eu/citizenship-news/615-a-claim-against-the-slovak-republic-filed-to-the-ecthr-by-a-100-year-old-woman (accessed: 1 June).

[10] We should bear in mind that, according to Paragraph 39 of the Rottman judgement and to established case-law, it is for each member-state, having due regard to Community law, to lay down the conditions for the acquisition and loss of nationality (Case C-369/90 *Micheletti and Others*, paragraph 10; Case C-179/98 *Mesbah* [1999] ECR I-7955, paragraph 29; and Case C-200/02 *Zhu and Chen* [2004] ECR I-9925, paragraph 37).

[11] 'EU citizenship should not be for sale at any price, says European Parliament', Plenary session Press release, 16 January 2014, http://www.europarl.europa.eu/news/en/news-room/20140110IPR32392/eu-citizenship-should-not-be-for-sale-at-any-price-says-european-parliament (accessed: 12 June 2017).

[12] *Strengthening Citizens' Rights in a Union of Democratic Change. EU Citizenship Report 2017*, European Commission, p. 14.

[13] Judgment of the Court of 7 July 1992. *Mario Vicente Micheletti and others v. Delegación del Gobierno en Cantabria*. Case C-369/90, European Court Reports 1992 Page I-04239, Paragraph 10.

[14] Judgment of the Court (Grand Chamber) of 2 March 2010. *Janko Rottman v. Freistaat Bayern*. Case C-135/08. European Court Reports 2010 I-01449, Paragraph 56.

[15] Judgment of the Court of 2 October 2003, *Carlos Garcia Avello v. Belgian State*, Case C-148/02, ECR 2003 I-11613.

[16] Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No. 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, OJ L 158, 30.4.2004, p. 77–123.

[17] See Case C-162/09 *Lassal* [2010] ECR I 0000, paragraph 29, and Case C-434/09 *McCarthy* [2011] ECR I 0000, paragraph 27.

[18] See point 33 of the Ziolkowski and Szeja case. It must also be noted, first, that, according to settled case-law, the need for a uniform application of European Union law and the principle of equality require that the

terms of a provision of European Union law which makes no express reference to the law of the Member States for the purpose of determining its meaning and scope must normally be given an independent and uniform interpretation throughout the European Union (Case C-287/98 *Linster* [2000] ECR I-6917, paragraph 43, and Case C-34/10 *Brüstle* [2011] ECR I-0000, paragraph 25). It should also be borne in mind that the meaning and scope of terms for which European Union law provides no definition must be determined by considering, *inter alia*, the context in which they occur and the purposes of the rules of which they form part (see, *inter alia*, Case C-336/03 easyCar [2005] ECR I 1947, paragraph 21; Case C-549/07 *Wallentin-Hermann* [2008] ECR I 11061, paragraph 17; Case C-151/09 *UGT-FSP* [2010] ECR I 0000, paragraph 39; and *Brüstle*, paragraph 31).

[19] Judgment of the Court (Grand Chamber) of 21 December 2011, *Tomasz Ziolkowski* (C-424/10) and *Barbara Szeja and Others* (C-425/10) *v. Land Berlin*, Joined cases C-424/10 and C-425/10, 2011 I-14035.

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