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THE RENUNCIATION OF ONE'S NATIONALITY OF ORIGIN AND EUROPEAN UNION CITIZENSHIP: IS IT COMPATIBLE WITH SPAIN'S DUAL NATIONALITY SYSTEM?

Irene BLÁZQUEZ RODRÍGUEZ¹

I. INTRODUCTION -II. NATURALIZATION BY RESIDENCE AND RENUNCIATION OF ONE'S NATIONALITY OF ORIGIN IN THE EU. - III. EU CITIZENSHIP, DUAL NATIONALITY AND LOSS OF NATIONALITY OF A MEMBER STATE. -IV. FINAL REFLECTION.

ABSTRACT: As a basic principle of international law, the ways of the different modes of nationality acquisition, recovery and loss is a matter falling under the jurisdiction of sovereign nations. However, as with other issues, relatively unrestricted intra-EU mobility rules have spawned a debate on the compatibility between national regulations and the demands of the current European *status civitatis*. In this study, considering the increasingly common factual and legal phenomenon of plurinationality, we will question the existing requirement in some systems of nationality law (among them Spain's) for one to expressly renounce their nationality of origin when aspiring to be naturalized through residence in another Member State. In the current stage of the development of European integration process, this demand for renunciation becomes an unsustainable demand. In fact, avoid the legal recognition and enjoyment of two European nationality obstructs the full respect for own personal and plural identity as European citizenship. Implementing the procedures towards a paradigm shift are as needed as possible, which is explored in this study.

KEYWORDS: Nationality, dual nationality, dual citizenship, renunciation of nationality, European citizenship, intra-EU mobility, free movement of persons.

RÉSUMÉ: En tant que principe fondamental du droit international, les différentes modalités

¹ Associate Professor (Profesora Titular) of Private International Law, University of Córdoba (Spain). E-mail: iblazquez@uco.es. This study has been prepared within the frame work of the research projects “Movilidad internacional de personas: el impacto jurídico-social en España y en la UE de la adquisición de la nacionalidad española por la población inmigrante” (DER2016-75573-R). This article is the English updated version of the previous chapter in spanish: “Adquisición de la nacionalidad española por residencia y renuncia a la nacionalidad de origen por parte de ciudadanos de la Unión Europea. Hacia un cambio de paradigma”, in Moya Escudero, M. (Dir.), *Movilidad internacional de personas y nacionalidad*, Tirant lo Blanch, Valencia, 2021, pp. 189-224.

d'acquisition, de recuperation et de perdre de la nationalité relèvent de la souveraineté nationale. Sur ce point, comme sur d'autres sujets, cependant, la libre mobilité intra-UE a ouvert le débat sur la compatibilité des règles nationales avec les exigences de l'actuel statut civitatis européen. Cette étude remet en question l'exigence existante dans certains systèmes de droit de la nationalité, tels que l'espagnol, de renoncer à la nationalité d'origine lorsque l'on aspire à être naturalisé par résidence dans un autre État member. Au stade actuel du processus d'intégration européen, cette renonciation devient intenable en conditionnant directement la reconnaissance et la jouissance de deux nationalités UE, et en empêchant ainsi le respect d'une identité personnelle propre et plurielle du citoyen UE. La mise en place de voies pour un changement de paradigme sont aussi nécessaires que possible et dont l'analyse est explorée dans cette étude.

MOTS-CLÉS: Nationalité, double nationalité, renonciation à la nationalité, citoyenneté de l'UE, libre circulation intra-UE.

RESUMEN: Como principio básico del Derecho internacional, la vía para adquirir, recuperar y perder la nacionalidad es una cuestión ubicada en la soberanía nacional; no obstante, como en otras cuestiones, la libre movilidad intra-UE ha abierto un profundo debate sobre la compatibilidad de las normas nacionales con las exigencias del actual *status civitatis* europeo. Este estudio cuestiona la exigencia existente en algunos sistemas de derecho de la nacionalidad –entre ellos el español– a la renuncia a la nacionalidad de origen cuando se aspira a ser naturalizado por residencia en otro Estado miembro. En el estadio actual del proceso de integración de la UE, dicha renuncia deviene insostenible al condicionar de modo directo el reconocimiento y disfrute de dos nacionalidades de la UE, y con ello impedir, el respeto a una identidad personal propia y plural del ciudadano europeo. La puesta en marcha de vías para un cambio de paradigma es tan necesaria como posible y cuyo análisis se explora en este estudio.

PALABRAS CLAVE: Nacionalidad, doble nacionalidad, renuncia a la nacionalidad, ciudadanía de la UE, libre circulación intra-UE.

I. INTRODUCTION

As is commonly known, the different modes of nationality acquisition, recovery and loss is a matter falling under the jurisdiction of sovereign nations. However, as with other issues, relatively unrestricted intra-EU mobility rules have spawned a debate on the compatibility between national regulations and the demands of the current European *status civitatis*. In this study, in light of the increasingly common factual and legal phenomenon of plurinationality, we will question the existing requirement in some systems of nationality law (among them Spain's) for one to expressly renounce their nationality of origin when aspiring to be naturalized through residence in another Member State (MS). In our opinion, said renouncement is not only anachronistic, and pernicious to the safeguarding of the person's identity, but also difficult to reconcile with the current level of European integration. We are, therefore, dealing with an issue whose relevance contrasts sharply with the scant academic attention

it has received - although recently there have been studies at the European level addressing, in a generic way, the loss of nationality, whether voluntary or automatic².

If we look at the numbers, the most prominent classes of residents in Spain who are EU citizens, but not Spanish ones, do not seem to be very interested in acquiring Spanish nationality: only 4,1% of these residents³; or, perhaps to be more exact, in obtaining it in accordance with the parameters set down in current Spanish law. Along with the considerable time requirement of 10 years of legal and uninterrupted residence in Spain, the express renunciation of their nationality of origin is an insurmountable obstacle in many cases, as these EU citizens living among us view this as a “red line.” Added to this is the fact that the enjoyment of a set of rights and prerogatives that does not depend on the acquisition of nationality, but rather stems directly from EU law, including the right to free movement, makes it less “crucial” to acquire the nationality of the State of residence.

In my view, this question is not trivial, given that the imposition of the renunciation of one’s original nationality has to do with one’s understanding of the national bond itself, which is currently being called into question and challenged by the EU’s gradually evolving model of citizenship.

Firstly, as everyone knows, the relationship between citizens and a given State is fully structured through the bond of nationality, a tie that features a legal/public dimension as well as one of a more private nature, materializing, *inter alia*, in the conformation of the citizen’s personal status.⁴ The requirement to relinquish one’s original nationality is, logically, based on the 19th-century

² DE GROOT, G.R. & VINK, M.P. “Loss of Citizenship. Trends and Regulations in Europe”, EUDO Citizenship Observatory, Comparative Reports, RSCAS, EUI, Florence, 2010, <http://eudo-citizenship.eu>; LE POUTRE, J. “Citizenship loss and deprivation in the European Union (27+1)”, RSCAS, EUI, Florence, 2020, <http://eudo-citizenship.eu>; WALDRAUCH, H. “Loss of Nationality”, in Bauböck, R., Ersbøll, E., Groenendijk, K., & Waldrauch, H. *Acquisition and Loss of Nationality, Policies and Trends in 15 European Countries*, Vol. 1, Amsterdam University Press, Amsterdam, 2006, pp.183-219.

³ According to source INE (Spanish national statistics institute), data for the year 2020. Available at <https://www.ine.es>.

⁴ See RODRÍGUEZ PINEAU, E. “Identidad y Nacionalidad”, *AFDUAM*, No. 17, 2013, pp. 207-235, in particular p. 211. For a comprehensive overview of nationality and its implications, *vid.* DE CASTRO BRAVO, F. “La nationalité, la double nationalité et la supra-nationalité”, *Rec. des cours*, Vol. 102, 1961, pp. 523 ss.

conception that this bond must be unique and exclusive with respect to other States, in order to maintain the basic principle of fidelity and identification with a certain political and territorial community.

This exclusive vision of the national bond is also discordant with the concept of dual nationality, in such a way that, in general, the possibility of enjoying more than one nationality is rejected as an undesirable status.⁵ Nothing demonstrates this notion more vividly than the fact that such a situation not duly sanctioned by a dual nationality agreement is defined as “anomalous” or “pathological,” as if it were a disease. The only exceptions that our legal system provides for to accommodate dual nationality are in relation to States with which Spain maintains special historical ties, reserved, as we know, to the Ibero-American countries, Portugal, Andorra, and other small communities, such as that of the Sephardic Jews, Equatorial Guinea,⁶ and now France, thanks to the signing on March 15, 2021 of a Dual Nationality Agreement.

Secondly, this question places us before the difficult balance that exists between a matter falling within the scope of strict state sovereignty – nationality – and the advances made in a European construction endowed with its own *civitatis status*. The EU's existence does not alter the basic principle of general international law recognizing that Member States are sovereign in matters of nationality. And, as the CJEU has recognized on several occasions, this power falls outside the regulatory scope of EU law.⁷ In addition, it is not

⁵ See HANSEN, R. & WEIL, P. “Dual Citizenship in a Changed World: Immigration, Gender and Social Rights” in *Dual Nationality, Social Rights and Federal Citizenship in the US and Europe; the Reimvention of Citizenship*, Beghahn Books, New York-Cambridge, 2002, pp. 1-15. At the Conventional level, there is also legal instruments to eradicate the cases of plurinationality, *ad exemplum* Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality, Strasbourg Mai 6, 1963, *European Treaty Series*, No. 43).

⁶ For an overview, see LOZANO ESCRIBANO, T. “Hacia una supracomunidad iberoamericana: la doble nacionalidad entre España y los países de la Comunidad Iberoamericana”, *Cuadernos de estrategia*, No. 86, 1996, pp. 247-268; RODRÍGUEZ MATEOS, P. “La doble nacionalidad en la sistemática del Derecho internacional privado español”, *Revista Española de Derecho Internacional*, Vol. XLII, No. 2, 1990, pp. 463-493; AGUILAR BENITEZ DE LUGO, M. “La doble nacionalidad”, *Boletín de la Facultad de Derecho*, No 10-11, 1996, pp. 219-262; VIÑAS FARRÉ, R. “Evolución del derecho de nacionalidad en España: Continuidad y cambios más importantes”, *Cursos de derecho internacional y relaciones internacionales de Vitoria-Gasteiz = Vitoria-Gasteizko nazioarteko zuzenbide eta nazioarteko berremanen ikastaroak*, No. 1, 2010, pp. 275-313.

⁷ *Cfr.* CRUZ LUNA, A. “Ciudadanía de la Unión y Nacionalidad. La incidencia del Derecho de la Unión Europea en las competencias sobre la nacionalidad de los Estados miembros”, *REE*,

possible to ignore increasingly broad interpretations by the European High Court regarding the way one should understand being an EU citizen, and the rights that derive from this status. In this context, we must question the extent to which understanding of the national bond remains intact in the face of the advances of a European construction endowed with a citizenship “ is intended to be the fundamental status of the nationals of the Member States.”⁸ This being the case, our study will examine whether it is sustainable for Spain – as a Member State – to impose in such a restrictive and stringent way the acquisition of its own nationality, to the point of imposing renunciation, thus ignoring not only the original identities of EU citizens, but the links existing in this EU integration process.

It would, of course, be virtually impossible to study the renunciation of nationality of origin in its connection with all the rights that make up the status of EU citizen, I have focused my analysis on the main implications for free movement of person considering aspects from the rules of nationality and private international law. From this perspective, this study hinges on the following aspects. First, the Spanish legislative context is analyzed, taking into account the diversity of existing schemes depending on the future Spaniard's country of origin, a comparison being drawn with the regulations of other EU countries. In this regard, it looks at the group of countries in favor of dual nationality, and others whose systems require repudiation, as such being more averse to scenarios of plurinationality (II). Next the question is approached from the perspective of EU citizenship and the loss of nationality of a Member State in cases of multinationality, paying special attention to the novelty introduced by the Dual Nationality Agreement between Spain and France (III). Finally, we will set forth a series of relevant points for reflection (IV).

II. NATURALIZATION BY RESIDENCE AND RENUNCIATION OF ONE'S NATIONALITY OF ORIGIN IN THE EU.

No. 71, 2018, pp. 171-188.

⁸*Interalia*, EC Court of Justice, September 20, 2001, case C-184/99, *Grzelczyk*, ECLI:EU:C:2001:458, paragr. 31; October 2, 2003, case C-148/2, *Garcia Avello*, ECLI:EU:C:2003:539, paragr. 22; October 19, 2004, case-200/02 *Zhu and Chen*, ECLI:EU:2004:639, paragr. 25; Mars 8, 2008, case C-34/09, *Zambrano*, ECLI:EU:C:2011:124, paragr. 41.

As regards the conformation of the national bond between the individual and a given State, there is legislative diversity in the European context. Underlying this analysis, in turn, is a deeper one on the soundness of the criteria governing the acquisition of nationality that have been traditionally used, and an emerging debate on the characteristics of the dual nationality system.

1. Notes on the Spanish dual nationality system.

Our legal system defines the way in which one may be naturalized as a Spaniard, and the applicable requirements depending on different circumstances. The requisites mainly involve a residence period, and the aforementioned renunciation of one's original nationality. This diversity not only affects the way one becomes a new Spaniard, but also the possibility, or not, of having dual nationality under the Spanish legal system.

A. A diversity of schemes.

Roughly speaking, our system provides for two procedures. In general – and by virtue of Art. 22 Spanish Civil Code (CC) – Spanish nationality is acquired through continuous legal residence for at least 10 years in Spanish territory immediately prior to the request. For this naturalization it is necessary to meet a series of formal requirements, set forth in Art. 23 CC, which include an oath, entailing promising loyalty to the King and obedience to the Constitution and the laws, and declaring one's renunciation of his previous nationality⁹.

Along with this general scheme, Spanish Law accommodates citizens from countries with strong historical ties in accordance with much more lenient regulations compared to the scope and demands of the aforementioned general requirements. These citizens can acquire Spanish nationality by complying with the requirement of legal residence in Spain for a shorter period: two years. And, regarding the controversial renunciation, Art. 23 b) CC specifies that the natives of countries mentioned in Art. 24.1 CC - namely, citizens of Ibero-America, Andorra, the Philippines, Equatorial Guinea, Portugal, and Sephardi originating from Spain. By virtue of Art. 11.3 of the Spanish Constitution, Spain signed a significant number of bilateral agreements with these countries, most of them before the founding document's entry into force. Although

⁹ For a general study on Spanish national system, see ÁLVAREZ RODRÍGUEZ, A. *Nacionalidad española. Normativa vigente e interpretación jurisprudencial*. Aranzadi-Thomson Reuters, Pamplona, 2008; ID. *Nociones básicas de Registro Civil y problema frecuentes en materia de nacionalidad*, GPS, Madrid, 2015.

these dual nationality agreements do not establish privileged mechanisms to acquire the nationality of the other State, they do provide for the possibility of the interested party not having to renounce his previous nationality to acquire a second one¹⁰.

For decades, until very recently, Portugal was the only EU country that had privileged terms when it came to acquiring Spanish nationality. The specificity of this scheme also extends to the dual nationality status, in such a way that, together with the reduced residence period, of two years to be naturalized as a Spaniard (*ex. Art. 22.1 CC*), they will not have to renounce their Portuguese nationality in order to acquire Spanish nationality (*Art. 23 b CC*). We are thus, dealing with a true scenario of legal dual nationality unilaterally provided for in Spanish law, thereby respecting the cultural identity of Spanish-Portuguese dual nationals by not forcing them to completely relinquish their original nationality¹¹.

Thus, EU citizens subject to the general scheme, unless they can take advantage of some of the cases that reduce the necessary residence period, have been required, to acquire Spanish nationality, to certify continuous residence for 10 years in Spain and to meet the “formal” requirement of renouncing their nationality of another Member State. The privileged terms enjoyed by Portugal are not due to efforts to build a truly European space, but rather, like those offered the Ibero-American countries, rooted in the historical/cultural affinity that we have shared for centuries. There is only one exception, which we which we hope will be the precursor to a change in this regard: the agreement signed with France, which will be specifically addressed in the following section.

B. Renunciation in Spanish law.

The regulation in Spanish law is found in paragraph b) of *Art. 23 CC*. Although the wording of the precept is succinct and confusing, two elements are clear. First, the renunciation of one’s previous nationality is established as

¹⁰ On the characteristics and nature of this conventional dual nationality see VIRGÓS SORINO, M. and RODRÍGUEZ PINEAU, E. “La doble nacionalidad y los vínculos especiales con otros Estados: la experiencia española”, *en Estudios jurídicos en homenaje al Profesor Luís Díez-Picazo, tomo IV*, Civitas, Madrid, 2003, pp. 6323- 6347, in particular, pp. 6333-6334.

¹¹ For a more in-depth analysis of dual nationality with Portugal, see SÁNCHEZ HERNÁNDEZ, A. “La nacionalidad y su pérdida: los ordenamientos jurídicos español y portugués”, *Revista de Derecho Civil*, Vol. 3, No. 1, 2016, pp. 67-113.

a default requirement for the validity of the acquisition of Spanish nationality, in its different versions, whether by option, a naturalization letter, or residence. Second, this requirement is not absolute, but rather is suspended in certain cases: as we already know, for natives of the Ibero-American countries, Andorra, the Philippines, Equatorial Guinea, Portugal, and Sephardis originally from Spain.

Regarding its specific regulation, this rigid obligation does not include, surprisingly, any express reference to the way in which the renunciation should be carried out. Art. 226 Civil Registry Regulation (RRC) suggests that said renunciations are mere declarations, since they are admitted by the responsible official at the Civil Registry, even if no document is presented in this regard. In short, our legal system establishes the renunciation of nationality as an act of unilateral will, ignoring its necessarily bilateral nature, as is clear from the existing international conventions governing the matter¹². Indeed, verification of the admission of said renunciation by the sovereign State involved is conspicuously missing here; it would seem, then, that Spanish legislators are only interested in the attitude of the new Spaniard, and are unconcerned about his “previous” nationality, or whether it is still operative.

If we refer to the beneficiaries who are exempt from said renunciation, we see that our legal system is characterized by a very particular conception, one not very well adapted to the current context. This question can be approached from three different angles. First, the status quo of the 1950s (era of the CC reform) is safeguarded, where the idea of dual nationality is linked to a supranational identity of belonging to the Ibero-American community.¹³ Although no one doubts the historical, linguistic and cultural links shared with Latin America, it is not understood why this exemption has not been extended to EU nationals. Indeed, if we consider nationality as a legal status from which a series of rights and freedoms arise, and that citizens enjoy, affinity with the rest of the Member States is unquestionable.

Second, our legal system has initiated a greater tolerance towards dual nationality when the party in question is a Spanish citizen who wishes to acquire the nationality of another State. This opens up a diversity of possibilities

¹² Art. 8 of European Convention on Nationality (1997), *European Treaty Series, No 166*, available at <https://rm.coe.int/168007f2c8>, and art. 6 of Hague Convention on Certain Questions Relating to the Conflict of Nationality Law (1930). *League of Nations, Treaty Series, No 179*, available at <https://treaties.un.org/doc/Publication/UNTS/LON/Volume%20179/v179.pdf>.

¹³ RODRÍGUEZ PINAU, E. *op. cit.* p. 211.

to avoid the loss of Spanish nationality, and express renunciation is even prohibited, in some cases¹⁴. In these cases, the loss of Spanish nationality -apart from those strict cases in which this is imposed as a sanction - can be classified as voluntary.

And, thirdly, it is worrisome that our system, with its minimal tolerance for dual nationality, fails to recognize that plurinationality necessarily exists because does it not depend “exclusively” on the will of Spanish legislators. Rather, the decision of another sovereign State is also involved, which may or may not admit one’s renunciation of his nationality. Bilaterality is, thus, disregarded, and no solution is given to cases in which the country of origin makes it difficult for one to renounce his nationality, or bars him from doing so. Such is the case in Spain of the many Moroccan citizens who, becoming Spanish citizens, nevertheless continue to be Moroccans too; our legal system’s failure to recognize that they hold *de facto* dual nationality means that it does not properly manage said reality, given the personal and legal confusion that this mismanagement generated.¹⁵

2. An approach to comparative law.

Regarding state regulations governing nationality, there is considerable diversity within the EU. Focusing on the subject at hand, we can see that there is a wide spectrum in terms of the stringency of the criteria established by each MS when it comes to naturalization through residence. The minimum legal residence period required ranges from 3 years, set in Poland, up to 10 years, established by Spain, along with four other Member States: Austria, Italy, Lithuania and Slovenia.¹⁶

Second, it is also observed that the compulsory renunciation of one’s original nationality for said naturalization is not a requirement in most Member

¹⁴ Art. 24 CC.

¹⁵ This question is discussed in BLÁZQUEZ RODRÍGUEZ, I. “La célébration du mariage avec un ressortissant étranger. Le cas du citoyens marocains”, *Revue Paix et sécurité internationales*, No. 4, 2016, pp. 167-195, in particular pp. 191-192; In a more general context on the interrelationship between plurinationality and private international law, see MOYA ESCUDERO, M. *Plurinacionalidad y Derecho internacional privado de familia y sucesiones*, Tirant lo Blanch, Valencia, 2020.

¹⁶ “Global Database on Modes of Acquisition of Citizenship”, in DE GROOT, G.R. *Survey on Rules on Loss of Nationality in International Treaties and Case Law*, Background paper ILEC-project, CEPS Paper in Liberty and Security in Europe No. 57, 2013.

States.¹⁷ We can distinguish two groups of EU states in terms of the possibility of recognizing “dual EU nationality.”

A. Countries in favor of dual citizenship.

In the European context, most countries' respective national laws do not require one to renounce his previous nationality; this is the case in Belgium, Cyprus, Denmark, Finland, France, Greece, Hungary, Italy, Ireland, Luxembourg, Malta, Portugal, Romania, Slovakia, the Czech Republic and Sweden. Thus, in all of them, foreigners, whether they are from other Member States, or not, as long as they meet the residency requirements set, and wish to acquire the new nationality, are not obliged to renounce their original nationality. Likewise, nationals of these countries may voluntarily acquire a foreign nationality and retain their own. This is true even if they no longer reside in their original State, provided that they do not expressly renounce their nationality (because the State whose nationality they wish to acquire so requires), and that the voluntary acquisition of another nationality does not automatically trigger a loss of one's original nationality.

Within this group, and to make a direct allusion to two neighboring countries, we will refer to France and Portugal. The French system, through its Civil Code¹⁸ – as well as the numerous subsequent modifications to its articles on Nationality –¹⁹ establishes as a general principle the preservation of French nationality. This premise is only altered in those cases in which the interested party expressly renounces it under the conditions provided for under the Law. The acquisition of one or more nationalities does not, in principle, have any

¹⁷ For a complete study on dual nationality in EU, see VONK, O.W. *Dual Nationality in the European Union: A Study on Changing Norms in Public and Private International Law and in the Municipal Laws of Four EU Member States*, Martinus Nijhoff Publishers, Leiden, 2012. Likewise, a change in trend is observed in relation to the automatic loss of nationality when voluntarily acquiring that of another by residence, see VINK, M., SCHAKEL, A.H., REICHEL, D., LUK, N.C., AND DE GROOT, G.R. “The international diffusion of expatriate, dual citizenship”, *Migration Studies*, Vol. 7, Issue No. 3, September 2019, pp. 362-383.

¹⁸ French civil code (officially Civil Code of the French), consolidate version as July 1, 2013. Available at <https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070721&dateTexte=20130701>.

¹⁹ About this question, see Weil, P. “L'histoire de la nationalité française: une leçon pour l'Europe”, in P. Weil y R. Hansen. *Nationalité et citoyenneté en Europe*, La Découverte, Paris, 1999, pp. 55-70.

effect on one's French nationality. Moreover, France criticized Chapter I of the *Convention on the reduction of cases of plural nationalities, and on military obligations in the event of plural nationalities*, introduced in Strasbourg on May 6, 1963.²⁰ As of this date, the voluntary acquisition of the nationality of one of the States party to this Convention, by a French national, no longer entails the loss of French nationality. Meanwhile, the acquisition of French nationality does not entail the loss of one's previous nationality. The interested party is only obliged to notify the competent authority of the nationality or nationalities that he already possesses, in addition to French nationality, and whether he intends to renounce any of them.²¹ This is merely an informational duty to the French State, which not only does not require the renunciation of any nationality, but also accepts multinationality.

If we look at the Portuguese system of Nationality Law, we find, again, a much more liberal system than the Spanish one.²² In the first place, its Nationality Law²³ provides for the naturalization of those foreigners who have resided for at least 5 years, legally, in its territory (Art. 6.1). Second, Portuguese legislation permits multinationality regardless of any dual nationality agreement. The requirements established to be naturalized as Portuguese lack any requirement to give up one's original nationality. Similarly, Portuguese citizens who acquire a foreign nationality do not lose theirs, unless they expressly communicate this, nor are they obliged to make any formal expression of their wish to maintain it (ex. Art. 30.3 Nationality Regulation).

B. EU countries in favor of requiring people to renounce their nationality of origin.

²⁰ Available at <https://www.coe.int/en/web/conventions/search-on-treaties/-/conventions/treaty/043/declarations>.

²¹ Loi NO 2011-672 July 16, 2011 relative à l'immigration, à l'intégration et à la nationalité, *JORF* 2011-06-17, No 139, p. 10290. Available at http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=es&p_isn=86836.

²² In this sense, MOURA RAMOS, R.M. *Estudos de Direito Português da nacionalidade*, Coimbra Editora, Coimbra, 2013. OLIVEIRA, C.R., GOMES, N., and SANTOS, E. *Acesso à Nacionalidade Portuguesa: 10 anos da Ley em Números*, Coleção Imigração em Números do Observatório das Migrações, ACM, Lisboa, 2017.

²³ Ley No 37/81, October 3, 1981, por la que se aprueba la Ley de Nacionalidad, consolidate version available at <https://dre.pt/web/guest/legislacao-consolidada/-/lc/34536975/view?q=Ley+n.%C2%BA%2037%2F81>.

Within the EU there is another group of countries that, like Spain, have regulations that do require one to give up his previous nationality for naturalization: Austria, Bulgaria, Croatia, Estonia, Germany, Latvia, Lithuania, the Netherlands, Poland and Slovenia. Most of these countries, despite their limited tolerance for dual citizenship, do permit a series of exceptions that, in some cases, exempt one from compliance with this requirement. In the context of dual EU nationality, it is necessary to underscore that the regulations in countries like Germany,²⁴ the Netherlands,²⁵ and Bulgaria²⁶ admit dual nationality in cases where the other nationality acquired is that of a Member State.

If we examine German law, although its regulations on nationality have some similarities to the Spanish legal system, we will point out two basic differences. Both systems agree that renunciation is the general rule as a requirement to acquire nationality, but there are also a series of exceptions to this requirement. Firstly, regarding beneficiaries of said exception, Section 12 (2) of the Nationality Law establishes that the acquisition of German nationality does not require one to renounce his nationality of origin when the foreigner is a national of another Member State of the EU, or of Switzerland. In this way, the German legal system is more in line with the European integration process, protecting dual EU citizenship.

Secondly, examining the purely formal aspects of said renunciation, we believe that the German legal system also features more adequate treatment. The German Nationality Law requires the interested party to provide his country of origin with this renunciation, in writing, and to receive approval from the competent authority, which is to the relevant certificate (Section

²⁴ See art. § 25 StAG (*Staatsangehörigkeitsgesetz*, July 15, 1999. German Nationality Law), en <https://www.gesetze-im-internet.de/stag/BJNR005830913.html>). For a complete study, see FARAHAT, A., & HAILBRONNER, K. *Report on citizenship law: Germany*, RSCAS/GLOBALCIT, EUI, Florence, 2020, available at <http://eudo-citizenship.eu>.

²⁵ Art. 15.1 c) *Rijkswet op het Nederlanderschap* available at <https://wetten.overheid.nl/BWBR0003738/2018-08-01>. For a complete study, see DE GROOT, D. & VINK, M. *Report on Political Participation of Mobile EU Citizens: Netherlands*, RSCAS GLOBALCIT, EUI, Florence, 2018.

²⁶ See art. 12(2) Bulgarian Nationality Law, February 20, 1999, available at <https://www.lex.bg/laws/ldoc/2134446592>. For a complete study, see MENTZELOPOULOU, M. & DUMBRAVA, C. *Acquisition and loss of citizenship in EU Member States. Key trends and issues*. European Parliamentary Research Service, 2018.

26 of the German Nationality Law). In this way the bilateral nature of the renunciation is accounted for, requiring the intervention of both the citizen, through his request, and the country whose nationality he seeks to relinquish.²⁷ The German legal system's requirement - in writing and lodged with the competent authority - contrasts sharply with the merely spoken declaration, without the need for any documentation, required by Spain (*ex. Art. 226 RRC*). In a series of scenarios Germany also exempts one from the prior renunciation requirement, and accepts dual nationality; among other things, when the original State normally rejects renunciation requests, or imposes onerous conditions.²⁸

III. EU CITIZENSHIP, DUAL NATIONALITY AND LOSS OF NATIONALITY OF A MEMBER STATE

The issue of losing the nationality of a MS when one is a national of a non-EU country, or becomes stateless, has given rise to a rich doctrinal debate around the *Tjebbes*²⁹ and *Rottman*³⁰ cases before the CJEU. In this context, the person, together with the loss of his nationality of a MS, is also deprived of EU citizenship; in most cases this is an automatic loss and, therefore, irrespective of the person's wishes.

The perspective of our study, although it features a core theme, which is the compatibility of national regulations with the general principles of EU Law, differs in terms of its ultimate objective: none other than the safeguarding of dual EU nationality, which, while preserving the individual's identity, reaffirms the cosmopolitan spirit of EU citizenship.

²⁷ *Cfr.* § 23-25 *StAG... cit.*

²⁸ *Cfr.* § 12 *StAG*.

²⁹ Judgment of March 12, 2019, case C-221/17, *Tjebbes*, ECLI:EU:C:2019:189. About this judgment see: KOCHENOV, D. "The Tjebbes Fail", *European papers: a journal on law and integration*, Vol. 4, No. 1, 2019, pp. 319-336. VAN DEN BRINK, M. "Bold, but Without Justification?: Tjebbes", *European papers: a journal on law and integration*, Vol. 4, No. 1, 2019, pp. 409- 415; CAIOLA, A. "Est modus in rebus : la perte de la citoyenneté de l'Union européenne, le principe de proportionnalité et la nécessité de l'examen individuel des conséquences", *Revue des affaires européennes*, No. 1, 2019, pp. 153-161.

³⁰ Judgment of March 2, 2010, case C-135/08, *Rottman*, ECLI:EU:C:2010:104. About this judgment see: IGLESIAS SÁNCHEZ, S. *RDCE*, No. 37, 2010, pp.933-950; MAGALLÓN ELÓSEGUI, N. *REDI*, No. 1, 2010, pp. 197-2010.

1. National dual-nationality system and EU law.

Ever since the incorporation of Spain into what were termed the “European Communities,” there has been serious debate about our dual nationality system and its impact on Community freedoms. The initial question is still open and being debated: to what extent can our dual-nationality regulations distort the meaning and scope of the European integration process?³¹ Although at that time the discourse pivoted on the potential risks entailed by Ibero-American and Philippino citizens’ enjoyment of Community economic freedoms, based on the principle of *ratione personae*, now the debate should focus on the protection of dual EU nationals in a European context that transcends the economic sphere and seeks to constitute its own European identity. At this time the reflection of Prof. Pérez Vera is more relevant than ever: «we must not forget that the expansive force of the integration phenomena has the effect of multiplying the powers assigned to the Community, which will determine the indirect, but real, impact of the latter on certain levels of the Member States’ nationality law.”³² Although this impact has been known for some 40 years – and, specifically, in relation to our dual nationality system – Spanish legislators’ absolute inaction clashes with and hinders the European construction process itself, and the increasingly prominent demands of the significant contingent of EU citizens who permanently establish their residence in Spain.

The CJEU, in various judgments, has highlighted the necessary interrelationship between EU law and the competence of the Member States in relation to the methods of nationality acquisition and loss. In the renowned *Micheletti* ruling, the principle³³ was established on which subsequent jurisprudential development has been based as regards multinationality. The starting point, as is commonly known, is none other than a confirmation of the classic axiom according to which: “the modes for the acquisition and loss of nationality are, in accordance with international law, the competence of each MS.”³⁴ This authority, however, is not absolute. Specifically, it is not the place of the legislation of a given MS to limit the effects of the nationality

³¹ PÉREZ VERA, E. “El Sistema español de doble nacionalidad ante la futura adhesión de España a las Comunidades Europeas”, *Revista de Instituciones Europeas*, No. 3, 1981, pp. 685-706, p. 687.

³² *Idem*.

³³ Judgment of July 7, 1992, case C-369/90, *Micheletti*, ECLI:EU:C:1992:246.

³⁴ *Ibidem*, paragr. 10.

granted by another MS, demanding additional requirements to recognize said nationality in order to exercise the fundamental freedoms provided for in the Treaty.”³⁵ There is no doubt that the diversity between States’ policies with regards to nationality can give rise to confusion and misgivings about their compliance with the requirements entailed by EU citizens’ rights.³⁶ In my opinion, the current Spanish regulations, which require one to renounce their nationality of another MS, beyond the fact that it could be considered, at least, to constitute indirect interference with the nationality granted by other MS³⁷, also entails (this being the aspect that interests us the most in our analysis) a series of direct consequences for the EU citizen, who finds it very difficult to become a “dual national,” and is placed in the awkward position of either being deprived of his nationality of origin, or not obtaining the nationality of the MS in which he has been residing for at least a decade.

First, the rigidity of the Spanish system prevents legal recognition of a substantial part of the individual’s personal identity³⁸. Although dual nationality has been “demonized” in the past, it is considered an attribute of the person that should be protected, and is even upheld as a fundamental right.³⁹ Our system, apart from the scenarios known to all, lacks adequate ways to preserve that special status of a subject who is linked to two EU States; one that should be guaranteed him, rather than deprived through the strict imposition of the renunciation of his original nationality.

Secondly, enjoyment of the status entailed by EU citizenship, broadly understood, is curtailed. Given that the person continues to retain one of the nationalities of a MS, and the right to free intra-EU mobility in the traditional sense is not impaired, we must not ignore that for years there has been CJEU

³⁵ *Idem*.

³⁶ JUÁREZ PÉREZ, P. “Dieciocho años de ciudadanía de la Unión: hacia una figura emancipada”, *CDT*, No. 2, 2010, pp. 261-281, p. 271.

³⁷ *Cfr.* RODRÍGUEZ PINEAU, E. *op. cit.*, p. 230.

³⁸ About nationality like a undeniable part of a human person’s identity see RODRÍGUEZ PINEAU, E. *op. cit.*, p. 213. GROOT, G-R and VINK, P. *op. cit.* pp. 47-49.

³⁹ Some authors argue that double nationality is an absolute right, see SPIRO, P. J. “Dual Citizenship as Human Right”, *I-Con*, Vol. 8, 2010, pp. 111-130; SOTO MOYA, M. “El derecho humano a la nacionalidad: perspectiva europea y latinoamericana”, *Araucaria*, No. 40, 2018, pp. 453-481.

jurisprudence⁴⁰ that overcomes these traditional limits on the freedom of movement through an expansive interpretation of European *status civitatis*.⁴¹ It is not just a matter of protecting movement from one MS to another. Rather, it goes further by seeking that all people be guaranteed a single personal status, with this, necessarily, encompassing EU citizens with dual-nationalities, on the basis of its consideration as a fundamental right of the EU citizen, which is based, *inter alia*, on the transnational permanence of his status as a dual national.⁴²

2. Towards a necessary paradigm shift. The Dual Nationality Agreement between Spain and France.

In view of this reality, our national system of nationality – and the way dual nationality is understood – is becoming increasingly unsustainable in the face of a metamorphosis that is imposing itself as something necessary. Without a doubt, the shift towards this transformation has begun. On the one hand, the existing possibilities under constitutional protection are being pointed out, and, on the other, there are major initiatives at the level of dual-nationality agreements, in addition to a growing movement calling for harmonization of the matter at the European level⁴³.

⁴⁰ About cross-border continuity of personal status in the EU, see the following judgments: October 2, 2003, case C-148/02, *García Avello*, ECLI:EU:C:2003:539; October 14, 2008, case C-353/06, *Grunkin Paul*, ECLI:EU:C:2008:559; December 22, 2010, case C-208/2009, *Ilonka Sayn-Wittgenstein*, ECLI:EU:C:2010:806; Mai 12, 2011, case C-391/09, *Malgożata Ranevič-Vardyn y Łukasz Paweł Wardyn*, ECLI:EU:C:2011:291. For a complete study on the challenges for the permanence of the personal status in the context of EU freedom of movement, see BARATTA, R. “Problematic elements of an implicit rule providing for mutual recognition of personal and family status in the EC”, No. 1, *IPRax*, 2007, pp. 4-11, DEANA. F. “Cross-border continuity of family status and public policy concerns in the EU”, *DPCE on line*, No. 3, 2019, pp. 1979-2002; LAGARDE, P. “La reconnaissance, mode d’emploi”, *Liber amicorum Hélène Gaudemet-Tallon. Vers de nouveaux équilibres entre ordres juridiques*, Dalloz, Paris, 2008, pp. 479-501; PEIFF, S. *La portabilité du status personnel dans l’espace européen*, Bruylant, Brussels, 2017.

⁴¹ For an analysis of these issues, BLAZQUEZ RODRÍGUEZ, I., “Doble nacionalidad y permanencia del estatuto personal en el marco de la movilidad intra-UE”, in Moya Escudero, M. (Dir.), *Pluralidad nacional y Derecho internacional privado de la familia y sucesiones*, Tirant lo Blanch, 2020, pp. 171-212.

⁴² *Cfr.* BARATTA, R. “Note sull’evoluzione del diritto internazionale privato en chiave europea”, *RDIPP*, No. 4, 2015, pp. 721-728, in particular p. 725.

⁴³ See CORNELOUP, S. “Réflexion sur l’émergence d’un droit de l’Union européenne en matière

Taking into account the literal meaning of Art. 11.3 EC, this is infinitely more comprehensive and flexible than the development to date.⁴⁴ Our EC accepts without difficulty, taking into account the literal meaning of said precept, that the State can sign dual nationality treaties not only with Ibero-American countries, but also with those that *have had, or have, a particular relationship* with Spain. This laxity was not the result of chance; in the minds of some visionaries there was the idea of a status of the EU citizen and his consequent ties to be able to accept dual nationality in our EC in this context.⁴⁵

Another possibility, transcending the strict state level, to make possible this dual EU nationality, thus rescuing it from its current invisibility, could be the drafting of a dual nationality agreement within the EU. In the current wording of the Agreements with the Ibero-American countries, the formula of two “active” nationalities is accepted, which allows the concurrent exercise of the rights conferred by both, as long as said exercise is compatible, while at the same time displacing the nationality preference of the *lex fori* (Art 9.9 CC). Formulas that preserve the EU citizen’s right to dual nationality are becoming more and more necessary in the current stage of the European integration process, thereby guaranteeing the enjoyment of rights of a public and private nature for all those nationals of other Member States who have been residing for years in Spain⁴⁶ and do not wish to renounce their original nationalities. In this context of a system of agreements on the question of dual nationality, the Nationality Agreement between Spain and France was signed on March 15, 2021, on which we will provide details below.

The need for such an Agreement between the two countries on dual nationality was evident, considering the volume of people involved, as well as a diversity of arrangements between the two countries, generating confusion and dysfunction at the legal level. Along with this social reality, it is necessary to bear in mind conceptions embraced by the two countries that are, if not

de nationalité”, *RCDIP*, No. 3, 2011, pp.491-516.

⁴⁴ PÉREZ VERA, E. *op. cit.*, p. 689, and in the same lines, AGUILAR BENÍTEZ DE LUGO, M. *op. cit.*, p. 222 and PALAO MORENO, G. “Nacionalidad y Derecho internacional privado: los conflictos de nacionalidad”, in Fernández Masiá, E. (Dir.), *Nacionalidad y Extranjería*, 2ª. Ed., Tirant lo blanch, Valencia, 2018, pp. 63-77, p. 63.

⁴⁵ See Constitución Española. Trabajos parlamentarios. T. III. Madrid, 1980. p. 3176 (intervention by Fernando MORÁN LÓPEZ in Senate constitution committee).

⁴⁶ *Cfr.* VONK, O.W. *op.cit.*

opposite, at least antagonistic, with reference to plurinationality. Prior to the signing of this Agreement, due to Spain's very strict legislation, all French people who wished to acquire Spanish nationality were obliged to lose their nationality of origin, while, in contrast, Spaniards could retain both, there being no impediment in France to the recognition of dual nationality.

This agreement has not yet entered into force, as a series of administrative steps in both countries are still being taken. Two basic conclusions may be drawn from its exiguous articulation. Firstly, its main objective is to prevent people from having to renounce their original nationality in order to obtain a new one (Art. 1), the immediate effect of this being the normalization of cases of dual nationality between the two countries. The retroactivity of the regulations is recognized, in such a way that those Spanish and French nationals who the nationality of the other country prior to the agreement can avail themselves of the terms set down therein (Art. 3. Secondly, no privileged access routes to nationality are provided for, nor any reduction in the number of years necessary to obtain Spanish nationality by means of residence (which will continue to be 10 years for French citizens).

Although the text of the Agreement, in its Preamble, only alludes to its intention "to pay tribute to the historical relationships between the two countries," we believe that the future Agreement goes beyond a "simple" bilateral relationship between two border States, and forms part of a broader context of European integration. From the legislative point of view, for Spain it has meant, "finally", the materialization of the ample possibilities offered by its constitutional text, which will require authorization by the Cortes Generales (Parliament), in accordance with Art. 94.1 EC. Although it is a bilateral agreement between two countries, it is a seed for a change at the EU level, in which agreements would be the only feasible channel. Let us not overlook that in those matters in which the transfer of competences to EU institutions had been lacking, a series of previous actions have been taken at the intergovernmental level; it is enough to recall the signing of the Schengen Agreements and their subsequent application to the EU institutional system. From this perspective, the greatest progress⁴⁷ could materialize through new agreements with other countries, or a subsequent metamorphosis from

⁴⁷ According to ministerial-level sources, efforts are also being done to conclude similar agreements with other European countries, see <https://es.euronews.com/2020/07/09/espana-firmara-con-francia-su-primer-convenio-de-doble-nacionalidad-en-europa>.

bilaterality to multilateralism, which would allow for the creation of links with countries such as Portugal (also tolerant of plurinationality), or others, such as Germany and Belgium, whose regulations allow dual EU citizenship.

Although the brevity of its language makes it difficult to ascertain the dual nationality model established, it seems that it departs from that established in the dual nationality agreements with Latin America. In general, Dual Nationality Agreements with Ibero-America grant efficacy to *one* of the acquired nationalities; that is, the person has two nationalities, but one is “dormant” in terms of its production of legal effects. There is even talk of “false” dual nationality agreements.⁴⁸ The model established in the Agreement between France and Spain allows for two operational nationalities (as is the case with Portugal), though this does not, logically, mean that the legislation of the two countries is fully applied to the dual national. This will be a situation of dual nationality in which there will be a simultaneous enjoyment of Spanish and French nationality; hence its development requires its inclusion in Art. 24 CC.

While the removal of the requirement to renounce one’s original nationality, the main objective of this agreement, is a noteworthy step, other necessary changes have not been made. In the first place, a reduction in the time periods for the acquisition of the respective nationalities is lacking: the French could have acquired Spanish nationality by legal and continuous residence in Spain for 2 years, and Spaniards residing in France could have seen this period reduced from 5 years to 2, as occurs in the exceptional cases provided for in Art 21-18 CC. Indeed, given the reduced period provided for with all the countries with which dual nationality is admitted, whether via treaties or not (as in the case of Portugal), it makes no sense to maintain the general term.

Second, express reference to conflict-of-law rules is lacking. In accordance with our Art. 9.9 CC, the prevalence of *lex fori* declines, adhering to that specified in the Agreement itself and, in the absence of any mention, that coinciding with one’s last habitual residence, or failing this, the last one acquired, would apply. In this regard the Dual Nationality Agreement between Spain and France should have taken a qualitative step forward, placing both nationalities on equal footing and allowing people to autonomously exercise their will in certain matters. This would accord with proposals such as the

⁴⁸ CALVO CARAVACA, A. L. , y CARRASCOSA GONZÁLEZ, J. *Derecho internacional privado*, Vol. II, Granada, Comares, 19^a Ed. 2018, pp. 14 and 15.

document entitled *Embryon de Règlement portant Code européen de droit international privé*, whose Art. 114 proposes a harmonized solution regarding dual nationality⁴⁹ and equality for cases in which both nationalities are of a MS, based on the notion of Union citizenship.

And thirdly, full democratic participation of the national of another Member State resident in Spain is prevented. To date, the citizenship status enshrines only a level playing field in terms of democratic participation in the EU and its institutions; when it comes to participation through active and passive suffrage in the country of residence, his is limited to the local level. Full democratic participation is one of the elements that determine and enhance the idea of EU citizenship, as an essential ingredient for the integration of European citizens in their country of residence⁵⁰. In this sense, a change in the renunciation of the nationality of origin will also allow a full exercise of the democratic rights of nationals of other MS who after a prolonged residence in Spain access Spanish nationality.

V. FINAL REFLECTION

The almost total autonomy of States to set the criteria governing the acquisition, recovery and loss of nationality gives rise to a hodgepodge of situations with respect to nationality. Although all EU countries consider nationality a fundamental right of all people, we can distinguish two models regarding the recognition of dual nationality. On the one hand, there are countries where there is no adequate protection of dual nationality, one of the main obstacles being the mandatory renunciation of one's original nationality. The laws of other countries in our part of the world, by means of more flexible provisions, generally accept and accommodate the current reality, permitting cases of multinationality, particularly in cases close to our European reality.

One of the most rigid countries in this regard is Spain, where the classic

⁴⁹ FALLON, M. "Embryon de Règlement portant Code européen de droit international privé: Titre I -Parte Generale", *Rebels Zeitschrift für ausländisches und internationales Privatrecht*, No. 3, 2011, pp. 673-676. For a more in-depth analysis of this initiative, see FALLON, M., LAGARDE, P. et POILLOT-PEROZZETTO, S. (Dir.), *Quelle architecture pour un code européen de Droit international privé?*, Peter Lang, Brussels, 2011.

⁵⁰ GARCÍA GARCÍA, M.J. "Alcance y límites de la participación en los asuntos públicos a través del Estatuto de la Ciudadanía de la UE", *Revista Vasca de Administración Pública*, n° 112, 2018, pp. 99-133, p. 100.

axiom of single nationality, and the entrenched idea of dual nationality as an “anomalous” situation, endure. This conception, however, admits exceptions and is understood in a less rigid way by Spaniards themselves. Thus, for years the aforementioned renunciation of one’s original nationality has not been required from a group of foreign citizens (from Latin America, Andorra, the Philippines, Equatorial Guinea, Portugal, Sephardic Jews from Spain, and international brigade members who participated in the Spanish Civil War) and we trust that French nationals will soon join this group. In addition, when it comes to the loss of Spanish nationality, our system allows Spaniards to keep it together with the new nationality. Thus, our legal system uses different “yardsticks,” accepting “voluntariness” when it comes to the loss of Spanish nationality, and the “requirement” of renunciation with reference to the foreign nationality.

In the current stage of the development of European citizenship, without borders, understood in a broad way, the demand for renunciation, and its implications, are increasingly unsustainable. In this regard I consider it essential that, just as our legal system articulates formulas for the “conservation” of Spanish nationality, it extends this possibility, “bilateralizing” this option for citizens of other EU States who, acquiring Spanish nationality by means of residence, wish to retain their original nationalities. Several channels are possible for a paradigm shift.

Constitutional accommodation of Art. 11.3 EC would not be complex, a broader regulation of dual nationality via treaties that transcend the current geographical sphere and extend to the Member States of the EU being possible. Moreover, almost from the incipient stages of its drafting, our Constitution’s potential breadth and flexibility was noted,⁵¹ which clashes with the subsequent legislative inactivity developing it beyond the provisions made for the Ibero-American States and other countries with historical ties to Spain.⁵²

Also possible is the regulation by means of treaties, in principle an ideal instrument, transcending the strict state plane and preventing the lack of coordination that exists in the matter. Thus, initiatives that are already a reality at a bilateral level, such as the Dual Nationality Agreement with France signed last March 2021, could be extended to other European countries,

⁵¹ PÉREZ VERA, E., *op. cit.* p. 689.

⁵² PALAO MORENO, G., *op.cit.*, p. 63.

taking into account, *inter alia*, the presence of their respective nationals in each other's territory, as would be the case of Germany, the United Kingdom and Ireland. And, finally, progress could be made through coordinated action at the EU level through initiatives such as the draft version of the European Private International Law Regulation, which, following the same dynamic of establishing equality between the nationalities of the Member States in cases of dual nationality, could take a further step towards the recognition of both, guaranteeing the acquisition of the new nationality without the individual renouncing his old one.

The legal instruments for the implementation of the matter are not the obstacle. Rather, what is necessary is a transformation in the way nationality is understood and, therefore, dual nationality, supported by the necessary political will towards real legislative change in this area.

We cannot overlook the fact that the main objective of EU citizenship is to bolster European identity, and empower people in the process of European integration, whose basic instrument at present is a liberal conception of free movement. The recognition and enjoyment of two nationalities of different Member States is a manifestation of this European concept/value; through the enjoyment of both, the right to circulate in the EU is guaranteed, with said plurinational legal status forming part of people's personal identities. Just as EU citizenship does not replace, but rather complements, the citizenship of each State, the nationality granted by a State – and with which the person feels identified – is not meant to replace that granted by another, but rather to complete the person, being a manifestation of a feeling of belonging and responsibility towards both communities.

The requirement to give up previous Member State's nationality by Spanish law —and other 9 Member States— results outdated and inappropriate. This obstacle to enjoy two nationalities, while justifiable from the perspective of national law, just as classic private international law, is increasingly irreconcilable with current stage of the European integration process and the free movement of persons. On the one side, the requirement to have only one Member State nationality enforced sits uneasily with the current scope of EU citizenship. As interpreted by the case law of the CJEU, preventing the legal recognition and enjoyment of two European nationality obstructs the full respect for own personal and plural identity as European citizens. And the other hand, this

requirement is an obstacle to full integration of European citizens into the host society and is a barrier on the way of wider political inclusion of these EU citizens benefiting from full equally treatment with nationals of the country of residence. Finally, the compatibility and recognition of this dual European nationality is a further instrument for the shaping towards the objective of an ever-closer Union the Member States are striving to build since the beginning of the European integration process.

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