

Przeegląd Europejski, ISSN: 1641-2478

vol. 2023, no. 2

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DOI: <https://doi.org/10.31338/1641-2478pe.2.23.3>

The impact of the institution of EU citizenship on the status of migrant citizens

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Abstract

The subject of the considerations undertaken in the article is the impact of the institution of EU citizenship on the status of migrant citizens. The aim of the study is to demonstrate that the introduction of the institution of EU citizenship into the treaties has definitely strengthened the status of an individual in EU law, and in a special way – in the host country. The inclusion of citizens' rights in the catalogue of fundamental rights has radically changed the way, in which one of the citizens' rights – freedom of movement and residence in the territory of the host country – is exercised. A migrant citizen has been granted special protection in contexts where actions aimed at restricting the right of residence are taken. These conclusions will be confirmed in this article by analysis of the evolution of secondary legislation and the interpretation of the Court of Justice of the European Union.

Keywords: EU citizenship, migrant citizen, right of residence of a migrant citizen, derivative right of residence, citizen's rights.

Wpływ instytucji obywatelstwa UE na status obywateli migrujących

Streszczenie

Przedmiotem rozważań podjętych w artykule jest analiza wpływu instytucji obywatelstwa UE na status obywateli migrujących. Celem podjętych badań jest wykazanie, że wprowadzenie instytucji obywatelstwa UE do traktatów zdecydowanie wzmocniło status jednostki w prawie UE, a w sposób szczególny – w państwie przyjmującym. Włączenie praw obywatelskich do katalogu praw podstawowych zmieniło diametralnie sposób realizacji jednego z praw obywatelskich: swobody przemieszczania się i pobytu na terytorium państwa przyjmującego. Obywatel migrujący uzyskał szczególną ochronę w chwili podjęcia działań zmierzających do ograniczenia prawa pobytu. Wnio-

ski te potwierdzono w niniejszym artykule za pomocą analizy ewolucji aktów prawa wtórnego oraz wykładni Trybunatu Sprawiedliwości UE.

Słowa kluczowe: obywatelstwo UE, prawo pobytu, pochodne prawo pobytu, prawa obywatelskie.

The considerations undertaken in this article are an attempt to answer the question, to what extent the institution of citizenship has strengthened the position of a migrant citizen in the host country. The analysis will be focused primarily on the significance of residence rights, which along with the establishment of citizenship have become independent rights of migrant citizens and the source of their rights in the territory of the host country. Consequently, the analysis of acts of secondary law will be undertaken, with particular emphasis on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States introduced by the Directive 2004/38/EC, and interpretation of its provisions.

Legal nature of EU citizenship

The precursor of the idea of European citizenship was Robert Picard, who already in the 1950s proposed the so-called European inter-citizenship formula. He understood it as "temporary naturalisation" in the material aspect by granting an individual all rights and obligations of a citizen for the period of the stay in the territory of one of the European countries. This idea perceived citizenship as a body of rights and freedoms; however, they were not permanent and should be expanded along with the deepening of integration processes (Konopacki 2003: p. 53; see also: Witkowska 2012; Witkowska et al. 2023). The work on European citizenship was continued by a German legal theorist, Jürgen Habermas, who proposed the concept of the so-called "constitutional patriotism". Just like Picard, he based his concept on the need to define a set of rights and freedoms that constitute a group. Citizens must not and should not renounce their national identity in order to create a European society, but they should ensure respect for shared constitutional traditions and subject them to evaluation from the point of view of certain common principles. Constitutional patriotism is not assigned to one country, but it is based on a shared system of values expressed in the constitution, and the only integrating factor is the community's consent to the principles defined in this way (Raczyński 2016: p.6). It is universalistic in nature and refers to the idea of a humanist enlightenment project that opposes particularity and relativisation of the rights of individuals (Habermas 1993: p. 17). Moving directly to the EU level, it should be noted that the institution of citizenship was introduced into the treaties only by virtue of the Maastricht Treaty (1992); however, the first initiatives appeared already in the 1970s. The literature on the subject indicates two basic premises that influenced the establishment of the institution of EU citizenship in the treaties. The first is the interest of the citizens of the Member States in the processes taking place at the EU level (Kiwior 2013: p. 867). The second is the reduction of the democratic deficit that the EU is facing to this day (Rojewska 2019: p. 54). Konopacki indicates the third premise, namely strengthening of the status of an individual on the EU

internal market and the distinction of this category of entities from other entities residing in the territories of the Member States (Konopacki 2003: p.2).

The first documents relating to the institution of EU citizenship were adopted at the EU level in the 1970s. In this regard, it is worth referring to the report of the European Commission *Towards European Citizenship*, which proposed the creation of citizenship as an instrument aimed at shaping European identity, combined with a catalogue of specific rights (Rojewska 2019: p. 71; see also: Witkowska 2012; Witkowska et al. 2023). The next was the Tindemans Report of 1974, and it reminded that European integration is not only cooperation between the Member States, but also rapprochement between people participating in such processes. In 1977, the Shelby Report was presented, and it expressed the position of the European Parliament, namely that integration processes should be combined with the development of rights of citizens of the Member States, especially in the context of migration. This document contributed to the adoption by the EP of a resolution containing a catalogue of citizens' rights.

Further steps towards establishing EU citizenship include the Fontainebleau Summit in 1984, the report of the Pierto Adonini Commission titled *A People's Europe*, and the preparation of the draft Treaty on the European Union by the EP that introduced the concept of "EU citizenship". The actions that immediately preceded the adoption of the Maastricht Treaty were related to the Member States' support for the idea of EU citizenship. In this context, special attention should be paid to the first Spanish memorandum titled *The Road to Citizenship* that was presented on 24 September 1990. This document defined citizenship as "the personal and indivisible status of nationals of the Member States whose membership of the Union means that they have special rights and duties that are specific to the nature of the Union and are exercised and safeguarded specifically within its boundaries, without dismissing the possibility that such a status of European citizen may also extend beyond those boundaries" (Bodnar 2008: p. 6). This proposal was raised by the European Council, which during the summit in Rome in 1990 submitted a request to the Intergovernmental Conference to consider the introduction of solutions concerning the institution of citizenship to primary law. The second Spanish memorandum of 1991 indicated the need to link the scope of citizens' rights with the degree of integration between the states, thus assuming the evolutionary nature of these rights.¹ The above-mentioned proposals were introduced in a modified version to the Maastricht Treaty that in Articles 8 to 8e established a catalogue of citizens' rights which were later supplemented by the Treaty of Amsterdam (1997) in order to specify its nature.

According to the wording of Article 20 TFEU: "Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship" (TFEU: art. 20: par. 1). The definition of the analysed institution of the EU citizenship evokes a broad discussion in the literature on the subject. It is most often emphasised that it means a special formal and legal bond that connects the citizens of the Member

¹ More information about the preparatory work for the establishment of EU citizenship: Bodnar 2008: p. 76–81; Condinanzi et al. 2008: p. 1–2.

States with the EU (Pal 2016: p. 77; Parol 2023: p. 64), or more precisely "a personal, mutual, accidental, dependent and apparent legal bond between a natural person [...] and the European Union" (Galster, Mik 1995: p. 193). When defining the institution of citizenship, R. Grzeszczak indicates three spheres of an individual's activity: (1) participation in a democratic and political community, (2) shared interests and rights, (3) participation in the social, political and economic process that takes place at the EU level (Grzeszczak 2017: p. 17).

The European Parliament, when referring to the idea of citizenship, emphasised that "Union citizenship is a unique and fundamental status that is conferred upon citizens of the Union complementary to national citizenship and represents one of the foremost achievements of Union integration, conferring equal rights to citizens across the Union" (European Parliament 2022: p. 99, E). The literal interpretation of these provisions clearly indicates that citizenship is dependent and derivative. Consequently, the basic condition for obtaining EU citizenship is being a national of one of the Member States. Therefore, the loss of citizenship of one of the Member States results in the loss of EU citizenship.

It should be emphasised, after the Court of Justice, that granting and withdrawal of citizenship is decided by the Member States (Judgement of the Court 1992a,b, 2004a,b, 2010, 2019, 2001a,b) and it is their exclusive competence, while other states cannot restrict the legal effects of a legally granted citizenship (see more: Kobylarz 2022: p. 1).²

As emphasised by the European Parliament, "whereas conferring national citizenship is the prerogative of the Member States, this prerogative must be exercised in good faith, in a spirit of mutual respect, transparently, in accordance with the principle of sincere cooperation and in full compliance with Union law" (European Parliament 2022: p. 99, F). Similarly, the withdrawal of a country from the EU means the loss of EU citizenship.³

Pursuant to the provisions of Article 20 TFEU, the institution of EU citizenship provides specific, treaty-defined rights. However, in accordance with Article 25 TFEU, this catalogue of rights may be extended by the Council "acting unanimously in accordance with a special legislative procedure and after obtaining consent of the European Parliament" (TFEU: art. 25).

The above-mentioned solution demonstrates the dynamic nature of EU citizenship (Kowalik-Bańczyk 2012: 445). When analysing the catalogue of rights of the EU citizens, two sources should be indicated: the provisions of Articles 20–24 TFEU and Articles 39–46 of the Charter of Fundamental Rights. In the first set of the indicated provisions, the catalogue

² In this area, however, it is worth paying attention to the problem of the so-called "golden passports" or "golden visas" that are connected with granting citizenship to investors operating in a given country. In practice, this may lead to purchasing of EU citizenship and acquisition by the interested party of all the rights granted to EU citizens. This phenomenon is considered a serious problem from the perspective of EU law, which was indicated by the EP in its Resolution 2021/2026(INL). The European Commission reviewed the practices of the Member States, especially Malta, Cyprus and Bulgaria. The result of the inspection is a complaint against Malta for the violation of treaty obligations under Article 258 TFEU in relation to the implementation of the programmes: Citizenship against Investment (CBI) and Rights of Residence against Investment (RBI) in the EU, INFR(2020)2301.

³ The United Kingdom's withdrawal from the EU in 2020 resulted in the loss of EU citizenship by British citizens (see: Order of the General Court 2021).

includes four rights: freedom of movement (Directive 2004/38/EC), passive and active electoral rights in elections to the EP (Council Directive 93/109/EC) and in elections to local authorities in the host country (Council Directive 94/80/EC), diplomatic and consular protection (Council Directive (EU) 2015/637), the right to petition the EP (TFEU: art. 227) and the right to complain to the EU Ombudsman (TFEU: art. 228, par. 1). The CFR extends this catalogue to include the right to good administration (CFR: art. 41) and the right of access to documents (CFR: art. 42). It is also worth adding the right to citizens' initiative to the catalogue of citizens' rights (TFEU: art. 24, par. 1; TEU: art. 11, par. 4; Regulation (EU) 2019/788, see also: Witkowska 2013, 2015; Doliwa-Klepcka 2018; Kapsa 2021).

It seems that the indicated catalogue specifies the position of an individual in three areas. Firstly, it strengthens citizen's position in terms of participation in the political life of the EU itself, as well as of the Member States. We should indicate here passive and active electoral rights in elections to the EP, the right of access to documents, the right to good administration or the right to petition the EP and complain to the Ombudsman. Secondly, it gives citizens the right to diplomatic and consular protection that also extends beyond the territory of the EU. Thirdly, it grants the right to freedom of movement which, according to the author, has the greatest impact on strengthening the position of an individual in the host country. This thesis results not only from the narrow understanding as the right to freedom of movement, but also from the broad interpretation of derivative rights made by the Court of Justice. Consequently, further considerations will be focused on the analysis of the impact of the right to freedom of movement on the position of a migrant citizen in a Member State.

The impact of the right to freedom of movement on the position of a citizen in the host country

It should be noted that the very establishment of EU citizenship changed the implementation of one of the fundamental freedoms of the internal market, i.e. free movement of persons. When seen from the perspective of integration processes, the founding treaties originally introduced free movement of workers. Thus, the right of residence was linked to a specific economic activity of citizens of the Member States in the host country (Mitrus 2012: p. 767). In addition, this right only extended to persons engaged in a specific activity. The first ECSC Treaty regulated free movement of workers, but limited the concept of a migrant worker only to qualified nationals of the Member States, who were employed in the coal and steel sector. The Treaties of Rome established a common market, in which free movement of workers was gradually implemented (Krzysztofik 2017). The provisions of the treaties clearly state that citizens of the Member States may freely move to seek employment within the internal market. Thus, the entitled entity is still an employee, but understood as an entity present in the labour market who brings a certain economic value from the perspective of the internal market (*homo economicus*). After the entry into force of the EEC Treaty, a migrant worker was subject to the same rules in the host country as any migrant foreigner. The first significant changes were introduced by three acts of sec-

ondary legislation (Council Directive 64/221/EEC; Regulation (EEC) No 1612/68; Council Directive 68/360/EEC). The first directive addressed the problem of restrictions on free movement of workers. By contrast, the regulation and the second directive focused on the implementation of free movement of workers. They gave rise to effective exercise of the freedom. The Regulation (EEC) No 1612/68 prohibited discrimination of employees based on their origin in terms of broadly understood employment and introduced a number of benefits, as well as social and tax privileges. In addition, it extended protection to family members of migrant workers, also when they were third-country nationals. The Council Directive 68/360/EEC, on the other hand, limited the formalities that had to be completed by a migrant worker on the territory of the host country.

The catalogue of rights of migrant workers has been gradually expanded through the jurisprudence of the Court of Justice and extended not only to the sphere of employment, but also to social and cultural space, education and family life. Gradually, the rights of a migrant worker have also been extended to persons employed or intending to start part-time employment and receiving less than the salary considered sufficient to live on the territory of the host country (Judgment of the Court 1982), persons undergoing apprenticeships (Judgment of the Court 1986), persons undertaking studies after termination of employment (Judgment of the Court 1988), and seasonal workers (Judgment of the Court 1992a). The Court's position influenced EU institutions which adopted three directives (Council Directive 90/364/EEC; Council Directive 90/365/EEC; Council Directive 93/96/EEC) that "extended the personal scope of rights of residence also to those citizens of the Member States who did not [conduct] any economic activity in the host country, students, retirees and pensioners. The indicated categories of entities acquired the right of residence" provided that they had insurance and sufficient funds to support themselves (Krzysztofik 2017).

The establishment of EU citizenship radically changed the status of a migrant citizen. It should be emphasised that it influenced the very concept of freedoms of the internal market and their typology. "Consequently, the Court of Justice and the doctrine began to use the concept of personal freedoms, which refer to free movement of persons and certain aspects of the free movement of services and entrepreneurship" (Krzysztofik 2017). In the present case, the key to exercising the freedom is to launch the institution of citizenship. The person crosses the border and then applies for residence as a migrant citizen. It is only at the moment of acquiring the right of residence that specify the status of an employee in the meaning of EU law, a service provider or an entity starting a business activity. As indicated, the basis is the citizen's right, while the clarification of the status modifies the claims that a citizen migrating to the territory of the host country is entitled to.

As emphasised above, EU citizenship was regulated in the founding treaties, both in the provisions of the TEU, where it is a component of the principle of equality (TEU: art. 9), and in the TFEU, where the rights derived from citizenship are included. The third source is the provisions of the Charter of Fundamental Rights (CFR). This complex regulation allows to draw the following conclusions. Firstly, the right of residence is no longer the right that complements economic activity of an EU citizen, but is an independent

right. Secondly, it is a citizens' right, so every EU citizen has it. Thus, the exercise of this right depends on meeting the conditions for obtaining the status of a citizen, i.e. holding the citizenship of the host country. Thirdly, it is a fundamental right, as evidenced by its regulation as a component of the principle of equality of citizens and the catalogue of rights, freedoms and principles included in the CFR. This nature of the right of residence determines the conditions for its limitation, which must comply with the principles of restriction of fundamental rights.

The Court of Justice repeatedly emphasised that the right of residence is a fundamental right, and its restriction must not affect its essence. This thesis is particularly important in the context of restrictions on the derived right of residence, i.e. for third-country nationals who are family members of an EU citizen. The Court of Justice has stressed that restriction of the derived right of residence must not "negate the effectiveness" of the right of residence of an EU citizen. This means that denying the right of residence to a third-country national who has custody of a minor EU citizen will prevent the latter from exercising the right of residence, which is his or her fundamental right (Judgment of the Court 2004a).

As noted above, the right of residence is an element of the free movement of persons, i.e. in accordance with the applicable rules of the internal market, it is exercised while maintaining the cross-border premise. In the initial period of the functioning of the common market, and then the internal market, this premise was of fundamental importance. The introduction of citizenship has also made a difference in this area. In the *Zambrano* case, the Court addressed the situation of minor EU citizens in a purely internal context. It emphasised that when guardians of minor EU citizens present on the territory of the country of origin are denied the right of residence, such decisions "deprive those children of the genuine enjoyment of the substance of the rights attaching to the status of European Union citizen" (Judgment of the Court 2011: point 45). Restrictions on residence rights must not lead to, as the Court stated in the *Zambrano* case, "a significant violation of the right".

In the context of the indicated cases, the essence of the right of residence concerned legal residence in the territory of the host country, but also in the country of citizenship. Consequently, as emphasised by Advocate General, Maciej Szpunar, in order to restrict residence rights, the principles of restriction of fundamental rights should be used, and respect for the "essence of the right" should be understood as the final and insurmountable limit of all possible restrictions on the exercise of such rights, i.e. the limit of restrictions. Failure to respect the essence of the rights of a citizen of the Union means that they are infringed as such. Therefore, one cannot speak of restriction of these rights, but rather of their classic abolition (Opinion of Advocate General Szpunar 2016).

Derivative rights arising from the right of residence of a migrant citizen

When analysing the nature of EU citizenship, it has been noted above that it is dynamic, which is especially visible in the context of the development of the catalogue of citizens' rights. However, the indicated observation concerned the treaty catalogue that may be

extended by virtue of the law-making activity of EU institutions. This section focuses on the rights that the CJEU derived from the right of residence of a migrant citizen. According to the wording of the treaty, migrant citizens enjoy the right to leave their country of origin, enter the territory of the host country and reside there. The residence directive additionally divides residence rights with regard to the time of residence in the territory of the host country into short-term, long-term and permanent residence rights. In addition, it establishes primary rights of residence for EU citizens only and derivative rights for family members of a migrant citizen, regardless of their country of origin (Krzysztofik 2015: p. 209–228). The basic principle applicable to the status of a migrant citizen in the territory of the host country is the principle of equal treatment. The Court of Justice has emphasised: "Union citizenship is destined to be the fundamental status of nationals of the Member States, enabling those who find themselves in the same situation to enjoy the same treatment in law irrespective of their nationality, subject to such exceptions as are expressly provided for." (Judgment of the Court 2001a: Summary, point 1).

In the *Grzelczyk* case, the Court emphasised that "Articles 6 and 8 of the Treaty (now, after amendment, Articles 12 EC and 17 EC) preclude entitlement to a non-contributory social benefit, such as the minimum subsistence allowance, from being made conditional, in the case of nationals of Member States other than the host State where they are legally resident, on their falling within the scope of Regulation No 1612/68 [...] when no such condition applies to nationals of the host Member State" (Judgment of the Court 2001a: Summary, point 3). Thus, the right to social benefits was separated from the status of an employee, i.e. a person engaged in a specific economic activity, provided, however, that such a requirement does not apply to nationals of the host country.

By contrast, in the *Trojani* case, the Court drew attention to two fundamental issues. Firstly, "a citizen of the European Union who does not enjoy the right of residence in the host Member State" with the status of a migrant worker may, simply due to being a citizen of the Union, still enjoy such right (Judgment of the Court 2004a). However, its exercise is subject to restrictions and conditions provided for in EU law (e.g. having insurance and sufficient means of subsistence). The competent authorities should ensure that the application of these restrictions and conditions respects "the general principles of Community law, in particular the principle of proportionality" (Judgment of the Court 2004a). Secondly, it linked the right to social assistance to having a legal right of residence in the territory of the host country.

A similar position was taken by the CJEU regarding the right to use the language of the country of origin before the law enforcement authorities of the host country. In the *Bickel* case (Judgment of the Court 1998), the CJEU emphasised that if the legislation of a given state grants the possibility of using a language other than the primary language in that state, such right should also be granted to migrant citizens.

The right of residence of EU citizens is one of the objectives of the EU treaties. Consequently, its implementation is of particular importance from the perspective of the functioning of the EU internal market. The Court of Justice, while recognising the above-mentioned feature of the right of residence of EU citizens, derived the concept of serious inconvenience related to the obligation of the Member States to exercise

exclusive competencies in compliance with the objectives of the treaties. This concept was firstly applied in areas related to the right to attribute surnames to migrant citizens of the EU (Krzysztofik 2019: p. 41–56). The actions that the Court considered a serious inconvenience were: refusal to change the name of the children with dual citizenship that was granted in accordance with the laws of one of the countries, of which they are nationals (Judgment of the Court 2003); refusal to register the name of a child with the citizenship of that country that was granted in accordance with the laws of another country, in which they reside (Judgment of the Court 2008); refusal to change the spelling of the surname that was supposed to correspond to its wording, and refusal to spell the surname in accordance with the spelling rules of the country of origin (Judgment of the Court 1993).

The Court of Justice also referred to the above-mentioned concept in cases in the field of family law. In the Coman case (Judgment of the Court 2018), CJEU analysed the right of residence of a third-country national married to a migrant citizen in the host country that does not recognise same-sex marriages in its legal system. It emphasised that the refusal to grant the right of residence to a third-country national with the status of a spouse also causes serious inconvenience, because "the refusal by the authorities of a Member State to recognise, for the sole purpose of granting a derived right of residence to a third-country national, the marriage of that national to a Union citizen of the same sex, concluded, during the period of their genuine residence in another Member State, in accordance with the law of that State, may interfere with the exercise of the right conferred on that citizen by Article 21(1) TFEU to move and reside freely in the territory of the Member States" (Judgment of the Court 2018: point 40).

The CJEU took the similar position in the case of Pancharevo (Judgment of the Court 2021). It emphasised that "in the case of a child, being a minor, who is a Union citizen and whose birth certificate, issued by the competent authorities of the host Member State, designates as that child's parents two persons of the same sex, the Member State of which that child is a national is obliged (i) to issue to that child an identity card or a passport without requiring a birth certificate to be drawn up beforehand by its national authorities, and (ii) to recognise, as is any other Member State, the document from the host Member State that permits that child to exercise, with each of those two persons, the child's right to move and reside freely within the territory of the Member States" (Judgment of the Court 2021: point 69).

Conclusions

The introduction of the institution of EU citizenship into the treaties has definitely strengthened the status of an individual in EU law. The establishment of the catalogue of citizens' rights specifies the position of individuals in three areas. Firstly, it strengthens their position in terms of participation in the political life of the EU itself, as well as of the Member States. Passive and active electoral rights in elections to the EP, the right of access to documents, the right to good administration or the right to petition the EP and complain to the Ombudsman should be indicated here. Secondly, citizens gained the

right to diplomatic and consular protection that also extends beyond the territory of the EU. Thirdly, the right to freedom of movement has the greatest impact on strengthening the position of an individual in the host country. It is the basis for the migrant citizens' residence, but also, together with the principle of equal treatment, it is the source of other rights that are necessary for the full realisation of personal and professional life by such person in the host country.

At the same time, according to the jurisprudence, this right is a fundamental right that may be restricted in a way that does not violate the essence of the right of residence, which is considered to be the actual capacity to stay on the territory of the EU. Additionally, pursuant to the provisions of Article 25 TFEU, this catalogue of rights may be strengthened by a unanimous decision of the Council.

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➔ References:

- BODNAR Adam (2008), *Obywatelstwo wielopoziomowe*, Warszawa.
- CFR, Charter of Fundamental Rights of the European Union (2016/C 202/02), OJ C 202, 07.06.2016.
- CONDINANZI Massimo, LANG Alessandra, NASCIMBENE Bruno (2008), *Citizenship of the Union and Freedom of Movement of Persons*, Leiden–Boston.
- COUNCIL DIRECTIVE 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals, OJ L 329, 30.12.1993.
- COUNCIL DIRECTIVE 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals, OJ L 368, 31.12.1994.
- COUNCIL DIRECTIVE (EU) 2015/637 of 20 April 2015 on the coordination and cooperation measures to facilitate consular protection for unrepresented citizens of the Union in third countries and repealing Decision 95/553/EC, OJ L 106, 24.04.2015.
- COUNCIL DIRECTIVE 64/221/EEC of 25 February 1964 on the co-ordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health, OJ L 56, 04.04.1964.

- COUNCIL DIRECTIVE 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families, OJ L 257, 19.10.1968.
- COUNCIL DIRECTIVE 90/364/EEC of 28 June 1990 on the right of residence, OJ L 180, 13.07.1990.
- COUNCIL DIRECTIVE 90/365/EEC of 28 June 1990 on the right of residence for employees and self-employed persons who have ceased their occupational activity, OJ L 180, 13.07.1990.
- COUNCIL DIRECTIVE 93/96/EEC of 29 October 1993 on the right of residence for students, OJ L 317, 18.12.1993.
- 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, 30.04.2004.
- DOLIWA-KLEPACKA Anna (2018), *Uwarunkowania prawne europejskiej inicjatywy obywatelskiej – od pierwotnych założeń do postulowanych zmian*, „Przegląd Europejski”, no. 2. DOI: 10.5604/01.3001.0013.0806
- EUROPEAN PARLIAMENT (2022), *Citizenship and residence by investment schemes*, European Parliament resolution 2022/C 347/08 of 9 March 2022 with proposals to the Commission on citizenship and residence by investment schemes (2021/2026(INL)), OJ C 347, 09.09.2022.
- GALSTER Jan, MIK Cezary (1995), *Podstawy europejskiego prawa wspólnotowego. Zarys Wykładu*, Toruń.
- GRZESZCZAK Robert (2017), *The citizenship of the European Union and the Free Movement of Workers or There and Back Again*, in: Edyta Krzysztofik (ed.), *Personal Freedoms of the Internal Market of the European Union in the Light of the Changing Political and Economic Situation in Europe*, Berlin.
- HABERMAS Jürgen (1993), *Obywatelstwo a tożsamość narodowa. Rozważania nad przyszłością Europy*, tłum. B. Markiewicz, Warszawa.
- JUDGEMENT OF THE COURT (1982) of 23 March 1982, *D.M. Levin v Staatssecretaris van Justitie*, Case C-53/81.
- JUDGEMENT OF THE COURT (1986) of 3 July 1986, *Deborah Lawrie-Blum v Land Baden-Württemberg*, Case 66/85.
- JUDGEMENT OF THE COURT (1988) of 21 June 1988, *Sylvie Lair v Universität Hannover*, Case 39/86.
- JUDGEMENT OF THE COURT (1992a) of 26 February 1992, *V. J. M. Raulin v Minister van Onderwijs en Wetenschappen*, Case C-357/89.
- JUDGEMENT OF THE COURT (1992b) of 7 July 1992, *Mario Vicente Micheletti and others v Delegación del Gobierno en Cantabria*, Case C-369/90.
- JUDGEMENT OF THE COURT (1993) of 30 March 1993, *Christos Konstantinidis v Stadt Altensteig-Standesamt and Landratsamt Calw-Ordnungsamt*, Case C-168/91.
- JUDGEMENT OF THE COURT (1998) of 24 November 1998, *Criminal proceedings against Horst Otto Bickel Ulrich Franz*, Case C-274/96.
- JUDGEMENT OF THE COURT (2001a) of 20 September 2001, *Rudy Grzelczyk v Centre public d'aide sociale d'Ottignies-Louvain-la-Neuve*, Case C-184/99.
- JUDGEMENT OF THE COURT (2001b) of 20 February 2001, *The Queen v Secretary of State for the Home Department, ex parte: Manjit Kaur*, Case C-192/99.

- JUDGEMENT OF THE COURT (2003) of 2 October 2003, *Carlos Garcia Avello v État belge*, Case C-148/02.
- JUDGEMENT OF THE COURT (2004a) of 7 September 2004, *Michel Trojani v Centre public d'aide sociale de Bruxelles (CPAS)*, case C-456/02.
- JUDGEMENT OF THE COURT (2004b) of 19 October 2004, *Kunqian Catherine Zhu and Man Lavette Chen v Secretary of State for the Home Department*, Case C-200/02.
- JUDGEMENT OF THE COURT (2008) of 14 October 2008, *Stefan Grunkin and Dorothee Regina Paul*, Case C-353/06.
- JUDGEMENT OF THE COURT (2010) of 2 March 2010, *Janko Rottman v Freistaat Bayern*, Case C-135/08.
- JUDGEMENT OF THE COURT (2011) of 8 March 2011, *Gerardo Ruiz Zambrano v Office national de l'emploi (ONEm)*, Case C-34/09.
- JUDGEMENT OF THE COURT (2018) of 5 June 2018, *Relu Adrian Coman and Others v Inspectoratul General pentru Imigrări and Ministerul Afacerilor Interne*, Case C-673/16.
- JUDGEMENT OF THE COURT (2019) of 12 March 2019, *M.G. Tjebbes and Others v Minister van Buitenlandse Zaken*, Case C-221/17.
- JUDGEMENT OF THE COURT (2021) of 14 December 2021, *V.M.A. v Stolichna obshtina, rayon „Pancharevo”*, Case C-490/20.
- KAPSA Izabela (2021), *Analytical framework for researching citizen participation in the era of e-democracy*, "Przegląd Europejski", no. 1/2021. DOI: 10.31338/1641-2478pe.4.21.1
- KIWIOR Damian (2013), *Instytucja obywatelstwa Unii Europejskiej*, Rzeszów, <https://wspia.eu/media/lhodni3b/79-kiwior-damian.pdf> (25.05.2023).
- KOBYLARZ Stefania (2022), *Złote paszporty i wizy – trudny do rozwiązania problem UE*, „Biuletyn PISM”, no. 41 (2460).
- KONOPACKI Stanisław (2003), *Dylematy obywatelstwa europejskiego*, „Studia Europejskie”, no. 3.
- KOWALIK-BAŃCZYK Krystyna (2012), *Komentarz do art. 20 TFUE*, in: Andrzej Wróbel (ed.), *Traktat o Funkcjonowaniu Unii Europejskiej. Komentarz*, T. I, Warszawa.
- KRZYSZTOFIK Edyta (2015), *Charakter praw pobytowych obywateli państw trzech będących członkami rodzin obywatela Unii Europejskiej w orzecznictwie ETS*, in: Tomasz Sieniow (ed.), *Migracje powrotowe: nauka i praktyka*, Lublin.
- KRZYSZTOFIK Edyta (ed.) (2017), *Personal Freedoms of the Internal Market of the European Union in the Light of the Changing Political and Economic Situation in Europe*, Berlin.
- KRZYSZTOFIK EDYTA (2019), *Problem nazwisk obywateli migrujących w orzecznictwie Trybunału Sprawiedliwości*, in: Kinga Stasiak, Wojciech Szczepana Staszewski, Anna Szarek-Zwijacz (eds), *Prawo międzynarodowe publiczne, Studia i materiały*, T. II, Lublin.
- MITRUS Leszek (2012), *Komentarz do art. 45 TFUE*, in: Andrzej Wróbel (ed.), *Traktat o Funkcjonowaniu Unii Europejskiej. Komentarz*, T. I, Warszawa.
- OPINION OF ADVOCATE GENERAL SZPUNAR (2016) of 4 February 2016, *Alfredo Rendón Marín v Administración del Estado*, case C-165/14.
- ORDER OF THE GENERAL COURT (2021) of 8 June 2021, *Joshua David Silver and Others v Council of the European Union*, case T-252/20.
- PAL Renata Maria (2016), *Obywatelstwo UE a problem migracji*, in: Edyta Krzysztofik, Renata Maria Pal (eds), *Prawno-historyczne uwarunkowania migracji Polaków po II wojnie światowej, w okresie solidarnościowym i po akcesji Polski do Unii Europejskiej*, Lublin.

- PAROL Agnieszka (2023), *Status jednostki w prawie Unii Europejskiej i prawa podstawowe*, in: Edyta Krzysztofik (ed.), *Wstęp do źródeł prawa Unii Europejskiej*, Warszawa.
- RACZYŃSKI Mikotaj (2016), *Przyszłość przez przeszłość – rola historii w koncepcji patriotyzmu konstytucyjnego Jürgena Habermasa*, „Świat Idei i Polityki”, no. 15.
- REGULATION (EU) 2019/788 of the European Parliament and of the Council of 17 April 2019 on the European citizens' initiative (Text with EEA relevance), OJ L 130, 17.05.2019.
- REGULATION (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community, OJ L 257, 19.10.1968.
- ROJEWSKA Marta (2019), *European Union citizenship in the federalist perspective*, „Polish Journal of Political Science”, vol. 5, issue 3.
- TREATY on European Union, signed at Maastricht on 7 February 1992, OJ C 191, 29.07.1992.
- TREATY OF AMSTERDAM amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, OJ C 340, 10.11.1997.
- TFEU, Treaty on the Functioning of the European Union (consolidated version), OJ C 202, 07.06.2016.
- TEU, Treaty on European Union (consolidated version), OJ C 202, 07.06.2016.
- WAŚIEWSKI Grzegorz (2010), *Koncepcja „patriotyzmu konstytucyjnego” Jürgena Habermasa. W kręgu poszukiwań modelu ustrojowego Unii Europejskiej*, Toruń.
- WITKOWSKA Marta (2012), *Obywatel UE i jego prawa a deficyt demokracji*, in: J. Szymańska, K. A. Wojtaszczyk (eds), *Deficyt demokracji w Unii Europejskiej*, Warszawa.
- WITKOWSKA Marta (2013), *Regulacja europejskiej inicjatywy obywatelskiej przykładem oddziaływania społeczeństwa obywatelskiego w Unii Europejskiej*, in: A. Olejniczak, Ł. Zamęcki (eds), *Europa dla młodych – szansa ou d'illusion*, Warszawa.
- WITKOWSKA Marta (2015), *Przewycięzanie kryzysu w procesie integracji europejskiej poprzez zmiany regulacji dotyczących udziału obywateli UE w podejmowaniu i realizacji decyzji*, „Przegląd Europejski”, no. 1. DOI: 10.31338/1641-2478pe.115.3
- WITKOWSKA Marta, POTORSKI Radostaw, KABAT-RUDNICKA Danuta, BOIRET Karolina (2023), *Dylematy systemowe Unii Europejskiej u zarania trzeciej dekady XXI w.*, Warszawa. DOI: 10.31338/uw.9788323561859