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Handbook on public participation in the institutions of the European Union

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Summary

INTRODUCTION	9
1. CONCEPT AND LIMITS OF EU CITIZENSHIP	11
1. The concept and origin of the term “citizenship”	11
2. Nationality vs. citizenship.....	12
3. History of EU citizenship.....	13
4. EU citizenship since the Maastricht Treaty	14
5. Legal basis of EU citizenship in the Lisbon Treaty	15
6. Secondary legislation on EU citizenship	16
7. Schengen Agreement	18
8. Protection of EU citizens beyond the EU borders	21
9. Treatment of third-country nationals in the EU	22
10. Case-law on EU citizenship	27
10.1 Scope of EU citizenship.....	27
10.2 EU citizens seeking to enter another Member State	28
10.3 EU citizens seeking to reside in another Member State	29
10.4 Limits of expulsion of a EU citizen from a host Member State	30
10.5 Freedom of movement of workers within the EU.....	32
10.6 Indirect taxation issues related to EU citizenship	34
10.7 Rights of students within the EU	36
10.8 Principle of non-discrimination among EU citizens.....	36
10.9 Limits and scope of rights of third-country nationals residing within the EU	37
2. POLITICAL RIGHTS IN THE EUROPEAN UNION.....	41
1. The right to vote in the EU.....	41
2. Right to vote in the European Parliament elections.....	44
3. The European Parliament: The guardian of liberties and democracy	45
4. Participation of the EU citizens in the European Parliament elections.....	46
5. Different national electoral systems among Member States.....	47
6. Right to vote of EU citizens in the national elections of another Member State	48
3. POWERS, FUNCTIONS AND MEMBERS OF THE EUROPEAN PARLIAMENT	51
1. Secretariat of the European Parliament.....	51
2. Members of the European Parliament.....	52
2.1 Salary of the MEPs	52
2.2 Immunities of the MEPs	53
3. Members of the political groups	53
4. Parliamentary Committees.....	54

5. Functions of the European Parliament.....	56
5.1 Legislative functions	57
5.1.1 The ordinary legislative procedure.....	58
5.1.2 Fast-Track procedures.....	60
5.1.3 Participation in the annual budget.....	61
5.1.4 Special legislative procedure of the European Parliament.....	62
5.1.5 Role of the Parliament in the special legislative procedure of the Council.....	63
5.2 Appointment functions.....	65
5.3 Control functions	66
4. THE ROLE OF NATIONAL PARLIAMENTS IN THE EU.....	69
1. Origins of the participation of national parliaments	70
2. Tasks of national parliaments.....	71
2.1 Legislative control.....	71
2.2 Oversight functions	72
2.3 Deliberation functions.....	72
3. The subsidiarity principle.....	73
4. Role of the national parliaments as guardians of the subsidiarity principle ..	75
5. Stages of the preventive control on the legislative procedure	75
6. Procedures triggered so far	77
5. REFERENDUMS ON ISSUES RELATED TO THE EUROPEAN UNION	81
1. Membership referendums	81
1.1 Accession referendums	82
1.2 Referendums of association	83
1.3 Withdrawal referendums	84
2. Referendums on the ratification of Treaties.....	85
3. Referendums on EU policies	86
4. Different regulations in the EU Member States.....	87
5. Case study: Brexit	89
6. THE EUROPEAN CITIZENS' INITIATIVE.....	93
1. Phases of the procedure	94
1.1 Preparation and setting up of the citizens' committee	95
1.2 Registration of the proposed initiative	95
1.3 Certification of the online collection system	96
1.4 Collection of statements of support on paper and/or online	96
1.5 Verification of statements of support	98
1.6 Submission of the initiative to the Commission	98
1.7 Examination, public hearing in the European Parliament and answer by the Commission	98
1.8 Start of the legislative procedure.....	99
2. Successful European Citizens' Initiatives to date	99
3. The future Regulation on European Citizens' Initiative	99
7. THE PARTICIPATION OF CIVIL SOCIETY:	
THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE	101
1. Objectives of the EESC.....	101
2. Members of the EESC	102
3. The Groups.....	103

4. Sections	103
5. Work programme	104
6. The presidency of the EESC	104
8. PETITIONS AND COMPLAINTS OF EU CITIZENS	105
1. The right to petition before the European Parliament.....	105
1.1 Procedural issues of the right to petition.....	106
1.2 Action of the Petitions' Committee.....	107
2. The European Ombudsman.....	108
2.1 Origins and evolution.....	109
2.2 Activities of the European Ombudsman	109
2.3 Limits of the European Ombudsman	111
2.4 Differences between the Ombudsman and the CJEU	112
2.5 Relationship between the Ombudsman and the Committee on Petitions.....	113

Introduction

After teaching “Public Participation in the Institutions of the European Union” at the UAB for many years, I have decided to publish the first handbook on this subject. The main reason for this is that until now there has been no book or monograph which explains, in a structured manner, all the rights and actions that EU citizens are entitled to as a national of one of the EU Member States. I struggled myself to find literature that could help students complement their notes taken in class, and I always ended up providing a large amount of additional reading that did not fully correspond with the subject syllabus.

Autonomous University of Barcelona (UAB) attracts many students from both Spain and all over the world. Many are here for a short period – a semester or for an academic year - before returning to their respective universities and countries.

This diversity of students is excellent and welcome for the present subject, but it can introduce some challenges. Many students signing up for this course will not necessarily have any previous knowledge of law or of the European Union itself. Further, some students may be used to other methodologies and ways of learning that are not necessarily the same as those prescribed at the UAB.

As such, this book seeks to help students by simplifying the learning material into a single, succinct source containing all the necessary information to complete both the course and associated activities. It is written to provide an inclusive explanation of the subject so that it can be understood by different audiences, irrespective of nationality, background and previous knowledge.

I believe this handbook will be very useful for both students and any lecturer, or teacher, who aims to provide clear and accurate information about the subject “Public Participation in the Institutions of the European Union”. It will also be an essential tool for the dissemination of content and activities during the entire course.

1. Concept and limits of EU citizenship

SUMMARY: 1) THE CONCEPT AND ORIGIN OF THE TERM “CITIZENSHIP”. 2) NATIONALITY VS. CITIZENSHIP. 3) HISTORY OF EU CITIZENSHIP. 4) EU CITIZENSHIP SINCE THE MAASTRICHT TREATY. 5) LEGAL BASIS OF EU CITIZENSHIP IN THE LISBON TREATY. 6) SECONDARY LEGISLATION ON EU CITIZENSHIP. 7) SCHENGEN AGREEMENT. 8) PROTECTION OF EU CITIZENS BEYOND THE EU BORDERS. 9) THIRD-COUNTRY NATIONALS’ RIGHTS IN THE EU. 10) CASE-LAW ON EU CITIZENSHIP: 10.1) Scope of EU citizenship; 10.2) EU citizens seeking to enter another Member State; 10.3) EU citizens seeking to reside in another Member State; 10.4) Limits of expulsion of an EU citizen from a host Member State; 10.5) Freedom of movement of workers within the EU; 10.6) Indirect taxation issues related to EU citizenship; 10.7) Rights of students within the EU; 10.8) Principle of non-discrimination among EU citizens; 10.9) Limits and scope of rights of third-country nationals residing within the EU.

The concept of “EU citizenship” is a very complex one, and it has not always been clear for EU citizens themselves. If we asked ten EU citizens what it means for them to have “EU citizenship”, we would probably receive ten different answers, and maybe they all would be somehow correct. This is because EU citizenship is a status that confers many different rights on those who possess it; but at the same time, it obliges them to comply with EU laws too.

ACTIVITY 1

Before starting this lesson, try to answer the following initial questions. Responses will be discussed in class.

- Name 3 advantages of holding EU citizenship
- What are the mechanisms for obtaining EU citizenship?
- Who is entitled to obtain EU citizenship?
- Is the concept “EU citizenship” the same as “nationality”?

1. The concept and origin of the term “citizenship”

The term “citizenship” is related to full membership of a community, and “citizens” are those individuals to whom the state has assigned such status. As a distinctive sign of nation-state, citizenship is used to define a **legal status** that ties a person to a state and a nation.

Citizenship is thus a concept that is usually linked to a state – in the case of EU citizenship it would include all Member States – but it could also be connected to international organizations – in the case of EU citizenship, that organization would be the European Union. However, the concept of citizenship is rather unknown at international level.

In times of the **Greek and the Roman empires**, many exceptions were established in the assignment of citizenship. Particularly, women, slaves and foreigners were excluded from the conferring of citizenship. Back then, having citizenship already had great importance, since only citizens could a) vote, b) become judges, and c) decide on state issues. Moreover, the condition of citizenship was related to people who were in a good financial situation, and those who were citizens were also protected by the state.

During the **18th century**, with the French Revolution, citizens were also protected by the Declaration of the Rights of Man and of the Citizen (*Déclaration des Droits de l'Homme et du Citoyen*), which is a document drawn up by France's National Constituent Assembly in 1789 that establishes the origin of human civil rights.

In the **19th century**, in the United States of America (USA), citizens started to extend their rights to include the possibility of a) travelling around the country b) working in public service, and c) becoming part of a jury. Those rights were excluded from slaves and Indians at the beginning, and it was not until the 1950s when Afro-Americans' struggle led to the amendment of the US Constitution and the establishment of equality rights.

2. Nationality vs. citizenship

In the US the rights of “US citizens” and the rights of “US nationals” are exactly the same, so there is no distinction between both categories in practice. These include the freedom of movement of US citizens, the possibility of applying for US nationality in the case of permanent residents, the entitlement to work in the US public sector, the admissibility in certain jobs (e.g. law enforcement agencies), labour protection, the possibility to be part of a jury, the access to the US courts and judicial redress, the admission to the US military service and the possibility to enjoy certain tax benefits, among others.

In contrast, the EU distinguishes between “citizenship” and “nationality”. On the one hand, **nationality** is connected to the idea of culture, whereas **citizenship** has a political element. Such differentiation depends on each Member State. For instance, in the Netherlands only the concept of nationality is recognised in the Constitution, but not the status of citizenship. On the other hand, in France the Constitution only refers to the concept of citizenship. As for the majority of “new” Member States (i.e. those that became members in 2004 and after), their regulation of the concepts of citizenship and nationality fully coincide. Yet, some problems arose during the accession of Latvia and Hungary to the European Union precisely because of these issues. In the case of Latvia, that country did not recognise EU citizenship for its Russian inhabitants because they are not considered Latvian citizens in the first place. Russians have been the largest ethnic minority in Latvia for the last two centuries, and today 13% of Latvia's population are Russian-speaking “non-citizens” without the right to vote.

Similarly, Hungary had debates as regards what to do with Hungarian nationals living in the old Hungarian territories located within Ukraine and Romania. In particular, there are more than 156,000 Hungarians in Ukraine and more than 1,227,000 living in Romania. Therefore, Hungary decided to consider those individuals as EU citizens since they hold Hungarian nationality.

In order to give a solution to these exceptional situations, there has been a tendency among Member States to align the concepts of citizenship and nationality in the last decades.