

Prof. Dr. Dr. h.c. mult. Norbert Reich
Emeritus, University of Bremen Law Faculty
e-mail; n.reich1@gmx.net

LASOK-Lecture at Exeter Law School on 29 April 2015 (Abstract)

"EU Citizenship - Progressive Concept or Regressive Failure"?

“The idea that a Union citizen could say ‘*civis europeus sum*’ and invoke that status against hardships encountered in other Member States was famously pioneered 20 years ago” (AG Wahl in his opinion of 29 May 2013 in Case C-140/12 referring to the opinion of AG Jacobs in Case C-168/93 *Konstantinidis*). Art. 8 EEC of the Maastricht Treaty affirmed that “citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union”. The Amsterdam Treaty added the following: “Citizenship of the Union shall complement and not replace national citizenship”, Art. 17 (2) EC. The Lisbon Treaty has taken over this concept in Art. 20 TFEU. What has become of this pronouncement? Has it increased European identity or re-nationalised conflicts?

The lecture will take a critical-methodological approach to the topic, which remains controversial both in the UK and in my own country. I will take a critical look at the CJEU case law starting with the *Sala* judgment (Case C-85/96) of 12 May 1998 extending the right to a child-allowance to a Spanish citizen who did not have, as was then the requirement of the “Freistaat Bayern” (Free State of Bavaria), the defendant, a valid residence permit. The later *Grzelczyk* judgment (Case C-184/99) of 20 September 2002 coined the famous phrase repeated again and again in later judgments:

Union citizenship is destined to be the [*fundamental status of nationals of the Member State*], 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 (para 31).

Citizenship has recently been used as a “marketing instrument” to attract investors by “selling golden passports and visa” – is this legitimate use or an abuse of the very idea of citizenship by Member States?

The lecture will consist, following a general introduction, of 4 sections:

- I. A closer look at the indeterminate case law of the CJEU
- II. Solidarity without – or rather with – limits?
- III. EU-Citizenship and competence .
- IV. The marketing of EU-citizenship: “Golden passports” and “golden visa”

CONCLUSION: EU Citizenship - Time to change the tide?

Note: The lecture is based on Section 5 “The Concept of Union Citizenship: Present Position” in Reich/Nordhausen Scholes/Scholes, *Understanding EU Internal Market Law* (2nd edition), forthcoming 2015 Intersentia.