INSIGHT

JY v Wiener Landesregierung: Adding Another Stone to the Case Law Built Up by the CJEU on Nationality and EU Citizenship

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Abstract: In case C-118/20 *JY v Wiener Landesregierung* ECLI:EU:C:2022:34, the Grand Chamber of the Court of Justice addressed another preliminary question regarding the relationship between nationality and EU citizenship. The case builds on the two previous cases *Rottmann* and *Tjebbes*. This time, the Court was confronted with the decision to revoke an assurance of naturalisation to a citizen who had already lost the nationality of another Member State. The Grand Chamber ruled that the situation at stake falls within the scope of EU law and offered a demonstration of the proportionality assessment that national authorities must undertake in such cases. In this *Insight*, I argue that this case constitutes another step in the case law progressively built up by the Court on EU citizenship. I also address the question whether this case may be relevant in the context of Brexit, given that British nationals have permanently lost the rights attached to EU citizenship as a consequence of the UK's withdrawal from the Union.

Keywords: EU citizenship – loss and acquisition of nationality – *Rottmann* – *Tjebbes* – proportionality assessment – Brexit

I. Introduction

In the case *JY v Wiener Landesregierung*[1] delivered on 18 January 2022, the Grand Chamber of the Court of Justice was called upon to answer another preliminary question on the relationship between EU citizenship and nationality of a Member State.[2] This case was the opportunity for the Court of Justice to better clarify the extension of the scope of EU law on nationality matters and the features of the proportionality test shaped in two previous

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[1] Case C-118/20 *JY v Wiener Landesriegierung* ECLI:EU:C:2022:34.

[2] See among others S Carrera Nunez and G-R De Groot (eds), *European Citizenship at the Crossroads – The Role of the European Union on Loss and Acquisition of Nationality* (Wolf Legal Publisher 2015); N Cambien, D Kochenov and E Muir (eds), *European Citizenship Under Stress: Social Justice, Brexit and Other Challenges* (Brill Nijhoff 2020).

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similar cases: *Rottmann*[3] and *Tjebbes*.[4] In those cases, the Court recognised that national rules on nationality may be precluded by EU law when they entail the loss of EU citizens' rights.[5] Nevertheless, this time what was at stake was not the *loss* of the nationality of a Member State, but rather the conditions for the *acquisition* of nationality and EU citizenship previously lost.[6]

II. Facts and background of the case

II.1. The *JY* case: acquisition of nationality and EU citizenship

JY was an Estonian national who moved to Austria. Wishing to acquire Austrian nationality, she decided to start a naturalisation procedure.[7] According to Austrian law, the grant of Austrian nationality is submitted to two conditions: first, the individual concerned must relinquish his former nationality and, second, he must not represent a danger to public order or public security. The Austrian legislation explicitly provides that a person may not be granted Austrian nationality if he/she has been the subject of more than one enforceable conviction for a serious administrative offence of a particular degree of gravity.[8] JY asked for and obtained an assurance that she would be granted Austrian nationality.[9] Only then, she permanently relinquished her Estonian nationality and became stateless, thus losing her status as an EU citizen.[10] She thought that this condition would be temporary since she intended to acquire Austrian nationality. However, the assurance previously granted to her was revoked on the ground that she had committed two serious administrative offences related to road safety.[11] JY had committed, since receiving the assurance that she would be granted Austrian nationality, two serious administrative offences, namely failing to display a vehicle inspection disc and driving while under the influence of alcohol.[12] These offences, cumulated with eight administrative offences committed before the assurance was granted, made her a danger to public security and thus

[3] Case C-135/08 *Rottmann* ECLI:EU:C:2010:104.

[4] Case C-121/17 *Tjebbes* ECLI:EU:C:2019:189.

[5] A P van der Mei, 'Member State Nationality, EU Citizenship and Associate European Citizenship' in *European Citizenship Under Stress* cit. 441.

[6] See D de Groot, 'CJEU Asked to Rule on Acquisition of Nationality in Light of EU Citizenship: The Fundamental Status on the Horizon? (C-118/20 JY v Wiener Landesregierung)' (15 June 2020) EU Law Analysis eulawanalysis.blogspot.com.

[7] *JY* cit. para. 13.

[8] Staatsbürgerschaftsgesetz 1985 (Austrian Law on Citizenship) para. 10.

[9] *JY* cit. para. 14.

[10] *Ibid*. para. 14.

[11] *Ibid*. para. 14.

[12] *Ibid*. para. 17.

constituted an impediment to the acquisition of Austrian citizenship.[13] As a consequence, her statelessness became permanent and she also lost her status as an EU citizen.

The preliminary ruling procedure before the Court of Justice originated from the action that JY brought before the Supreme Administrative Court of Vienna. In fact, JY had already challenged the revocation decision before the Administrative Court of Vienna, which had dismissed her action on the ground that EU law did not apply to the case at hand.[14] Seized of an appeal against this decision, the Supreme Administrative Court submitted two preliminary questions to the Court of justice, asking whether a situation such as that of JY falls within the scope of EU law and, in the affirmative, whether national authorities must assess a revocation decision preventing the recovery of citizenship according to the principle of proportionality from the perspective of EU law.[15]

II.2. The background of the case: the relationship between EU citizenship and nationality of a Member State

The case builds on the two previous judgments *Rottmann* and *Tjebbes*, in which the Court of Justice was confronted with the question of whether national authorities should undertake a proportionality assessment under EU law when the nationality of a Member State is withdrawn and, as a consequence, the status of EU citizen is lost.[16]

This question is very sensitive because of its impact on the constitutional balance between the EU and its Member States.[17] While the Member States have exclusive competence to lay down rules on acquisition and loss of nationality, these rules may affect the rights conferred by the Treaties, including art. 20 TFEU which confers on every individual who is national of a Member State the citizenship of the Union. EU citizenship has been defined by the Court Justice as "the fundamental status of nationals of the Member States".[18] Hence, this status is not autonomous, it is additional to the nationality of a Member State and entirely depends on the latter.[19]

The question that arises is: to what extent EU law can intervene on a matter that is an exclusive competence of Member States? In other words, as efficiently summarized

[13] *Ibid*. para. 17.

[14] *Ibid*. para. 20.

[15] *Ibid*. para. 28.

[16] *Rottmann* cit. paras 36-64; *Tjebbes* cit. paras 27-49.

[17] J Shaw (ed), 'Has the European Court of Justice Challenged the Member State Sovereignty in Nationality Law?' (EUI Working Papers 62-2011); X Miny and F Bouhon, 'Nationalité et citoyenneté, les deux visages du Janus européen – La conformité de la perte de plein droit de la nationalité d'un Etat membre au regard du droit européen' (2019) RTDH 719; see also S Carrera Nunez and GR De Groot (eds), *European Citizenship at the Crossroads* cit.; N Cambien, D Kochenov and E Muir (eds), *European Citizenship Under Stress: Social Justice, Brexit and Other Challenges* (Brill Nijhoff 2020).

[18] For the first time in case C-184/99 *Grzelczyk* EU:C:2001:458 para. 31.

[19] Art 20(1) TFEU: "[...] 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."

by Advocate General Poiares Maduro in the *Rottmann* case, what is "the extension of the discretion available to the Member States to determine who their nationals are"?[20]

Legal scholars are divided on the point: while some of them estimate that the CJEU has nothing to say on a matter which is of exclusive competence of the Member States[21], others think that the Court of Justice has not gone far enough in protecting the rights derived from the status conferred by art. 20 TFEU.[22]

In the *Rottmann* case, a German national was faced with the decision to withdraw his naturalisation because he had omitted to reveal that he was suspected for a professional offence in Austria. Since he had already lost his Austrian citizenship to become a German citizen, he became stateless and lost his status as an EU citizen.

The Court of Justice ruled that such a situation falls within the scope of EU law, because the withdrawal of the nationality of an EU Member State entails the loss of EU citizenship, thus affecting rights conferred by the Treaties.[23] The Court relied on its case *Micheletti*, in which it held that "it is for each Member State, *having due regard to [EU law]*,[24] to lay down the conditions for the acquisition and the loss of nationality".[25] Therefore, when they make a decision to withdraw naturalisation that entails the loss of EU citizenship, national authorities are required to undertake a proportionality test under EU law, which means that they must examine the consequences of the decision on the person concerned.[26]

The *Tjebbes* case concerned a different situation: several EU citizens were affected by Dutch legislation establishing the automatic loss of Dutch nationality for third-country nationals living outside the EU for more than 10 years. Differently from Mr. Rottmann, they did not become stateless, however, they lost their status as EU citizens and became third country-nationals.

The Court held that, although in this case the citizens concerned did not exercise their free movement, their situation does fall within the scope of EU law. In fact, by losing the nationality of a Member State, they are also losing the status conferred by art. 20 TFEU. Therefore, such a situation falls "by reason of its nature and its consequences" within the

[20] *Rottmann* cit., opinion of AG Poiares Maduro, para. 1.

[21] See H U Jessurun d'Oliveira, 'Decoupling Nationality and EU Citizenship?' (2011) EuConst 138, 145; M van den Brink, 'Bold but Without Justification? *Tjebbes*' (2010) European Papers (European Forum Insight of 25 April 2019) www.europeanpapers.eu 409; S Coutts, 'Bold and Thoughtful: The Court of Justice Intervenes in Nationality Law' (25 March 2019) European Law Blog europeanlawblog.eu.

[22] See D Kochenov, 'Two Sovereign States v a Human Being: CJEU as a Guardian of Arbitrariness in Citizenship Matters' in J Shaw (ed) *Has the European Court of Justice Challenged the Member State Sovereignty in Nationality Law?* cit. 11; D Kochenov, 'The Tjebbes Fail', (2019) European Papers (European Forum Insight of 25 April 2019) www.europeanpapers.eu 319.

[23] *Rottmann* cit. para. 42; *Tjebbes* cit. para. 32.

[24] Emphasis added.

[25] Case C-369/90 *Micheletti* EU:C:1992:295 para. 10. The *Micheletti* case was not a case about the loss of nationality, but rather about free movement of persons and freedom of establishment in the case of a national of a Member State possessing at the same time the nationality of a non-member country.

[26] *Tjebbes* cit., opinion of AG Mengozzi, para. 88.

scope of EU law.[27] In *Tjebbes*, the Court of Justice further clarified that the proportionality assessment to be undertaken by national authorities in these cases is not intended as an analysis *in abstracto*[28], but rather as an individual and *in concreto* assessment of the consequences of the loss of EU citizenship on the family and professional life of the person concerned.[29]

III. Analysis

The *JY* judgment represents another step in the case law build up progressively by the Court of Justice on nationality matters: first, it has confirmed that a situation such as that of *JY* falls within the scope of EU law; second, it has added some clarifications on the proportionality test; lastly, it is worth mentioning that this judgment, together with the previous line of cases, has been invoked in recent cases regarding the status of British citizens after Brexit.

III.1. The scope of EU law

Both the Advocate General Szpunar and the Grand Chamber agreed that the first question, as to whether the situation in the main proceedings falls within the scope of EU law, should be answered in the affirmative.

According to AG Szpunar, the situation of a person who renounces his/her previous nationality, and loses the citizenship of the Union, with the aim of obtaining the nationality of another Member State, falls within the scope of EU law for several reasons.

In the first place, while it is true that JY was already stateless when the action was introduced, the cause of the loss of her status as an EU citizen must be considered as the naturalisation procedure "as a whole", including the conditions established by Austrian law for the acquisition of nationality.[30] Moreover, in the famous *obiter dictum* of the *Micheletti* case, the Court explicitly referred not only to the *loss* but also to the *acquisition* of the status of EU citizen.[31] JY never intended to renounce permanently to her rights as an EU citizen: she only wanted to acquire Austrian nationality and legitimately expected to recover her status as an EU citizen after a short period of statelessness.[32] Therefore, this situation should be considered as falling within the scope of EU law in application of the principles derived from *Rottmann* and *Tjebbes*.[33]

[27] *Tjebbes* cit. para. 32.

[28] This was what Advocate General Mengozzi argued in his opinion in the *Tjebbes* case (para. 88).

[29] *Tjebbes* cit. para. 44; H van Eijken, 'Tjebbes in Wonderland: On European Citizenship, Nationality and Fundamental Rights' (2019) EuConst 714, 720.

[30] *JY* cit., opinion of AG Szpunar, para. 56.

[31] *Micheletti* cit. para. 10.

[32] *Ibid.* para. 38.

[33] *Ibid.* para. 67.

In addition, the facts of the *JY* case may also be examined in light of the *Zambrano* case.[34] The situation of Mr Zambrano was considered by the Court as falling within the scope of EU law because the substance of rights of an EU citizen was affected.[35] How could the situation of JY fall outside the scope of EU law, when all rights related to the status of EU citizen are affected (as they are lost) in this case?[36]

Finally, contrary to *Tjebbes*, JY has also exercised free movement within the EU. She had moved to Austria exercising her rights as an EU citizen. As the Court ruled in the *Lounes* case, "the rights conferred on a Union citizen by Article 21(1) TFEU [...] are intended, amongst other things, to promote the gradual integration of the Union citizen concerned in the society of the host Member State".[37] And it is precisely to better integrate into the host Member State that JY wanted to become an Austrian citizen. Undoubtedly, according to the Advocate General, a situation of an EU citizen who loses his rights while trying to better integrate into the host Member State, cannot be irrelevant from the point of view of EU law.[38]

The Court of Justice confirmed the view of the Advocate General. This conclusion was to be expected if one looks at the two previous cases abovementioned. However, the answer was not so obvious, given that the judges were confronted for the first time with a situation of a person who had already permanently lost EU citizenship and questioned the procedure for the acquisition of nationality in another Member State.

The Court's reasoning is articulated in three steps. First of all, the Court points out that JY did not renounced voluntarily to EU citizenship. On the contrary, the renunciation was made to comply with Austrian rules on the acquisition of nationality.[39] Second, the Court reminded that, in accordance to its previous case law, Member States must have due regard to EU law when they lay down rules on nationality because of the impact that these rules may have on the status as an EU citizen.[40] Third, the Court of Justice ruled – in the same line of the AG – that the procedure of naturalisation "taken as a whole" affects the rights conferred by art. 20 TFEU, since it may result in a situation in which a person is deprived of all rights conferred by that status.[41] In other words, the combination of the revocation of the assurance and the previous relinquishment of nationality – which was necessary to start the naturalisation procedure – results in a situation in which it is impossible for the person concerned to continue to assert the rights arisen from the status as an EU citizen.

[34] Case C-34/09 *Zambrano* EU:C:2011:124.
[35] *Ibid.* para. 44.
[36] *JY* cit., opinion of AG Szpunar, paras 68-70.
[37] Case C-165/16 *Lounes* EU:C:2017:862 para. 56.
[38] *JY* cit., opinion of AG Szpunar, paras 68-70.
[39] *JY* cit. para. 36.
[40] *Ibid*. para. 37.
[41] *Ibid*. para. 40.

At the end of its reasoning on the first preliminary question, the Court affirms that the exercise of free movement (also) brings the situation within the scope of EU law,[42] in light of the logic of gradual integration that informs art. 21(1) TFEU.[43]

Therefore, it seems that there are two decisive elements to bringing the situation within the scope of EU law, namely the affectation of rights conferred to EU citizens and the exercise of free movement as a means to promote gradual integration.

If one looks at the two previous cases, the situation of Mr. Rottmann was also covered by art. 21(1) TFEU, while in *Tjebbes* the situation was considered as falling within the scope of EU law in absence of the exercise of free movement.

Therefore, while the existence of a freedom of movement certainly brings a situation within the scope of EU law, it is less clear whether and in which situations the status as an EU citizen constitutes *per se* a sufficient link. More clarity and order as to the degree of impact on EU citizenship that is required to consider a situation as falling within the scope of EU law would be welcome.[44] This is a fundamental point since it is also the necessary precondition to trigger the protection of EU fundamental rights.[45]

III.2. The proportionality test

In the second preliminary question, the Court of Justice was called to examine whether national authorities are required to ascertain that the decision to revoke the assurance, which entails the permanent loss of nationality and EU citizenship, is compatible with the principle of proportionality under EU law. The case law of the Court of Justice has built up progressively and reflects the "stone-by-stone approach taken by the Court of Justice on EU citizenship matters".[46] This expression is borrowed by President Koen Lenaerts who affirmed:

> "In order to fully apprehend the approach of the Court of Justice in an area of EU law, a critical observer should also read the relevant case predating as well as postdating that case.[47]
> [...] A joint reading of Rottmann, Ruiz Zambrano, McCarthy, Dereci, Lida, O and S, Ymeraga and Alokpa shows that the legal reasoning of the ECJ is far from being laconic or cryptic.

[42] *Ibid.* paras 41-43.

[43] *Ibid.*

[44] On the scope of EU law and EU citizenship see E Spaventa, 'Understanding Union Citizenship through its Scope' in D Kochenov (ed), *EU Citizenship and Federalism: The Role of Rights* (Cambridge University Press 2017); K Kalaitzaki, 'EU Citizenship as a Means of Broadening the Application of EU Fundamental Rights: Developments and Limits' in N Cambien, D Kochenov and E Muir (eds), *European Citizenship Under Stress* cit. 44.

[45] According to Article 51 of the Charter of fundamental rights of the European Union, as interpreted by settled case law of the Court of Justice, fundamental rights are only applicable to Member States when a given situation fall within the scope of EU law. See also M van den Brink, 'EU Citizenship and (Fundamental) Rights: Empirical, Normative and Conceptual Problems' (2019) ELJ 21.

[46] K Lenaerts, 'EU Citizenship and the European Court of Justice's *"Stone-by-Stone"* Approach' (2015) International Comparative Jurisprudence 1.

[47] *Ibid.* 1.

> The sequence of these cases demonstrates that the new approach set out in Ruiz Zambrano has been built up progressively, i.e., on a 'stone-by-stone' basis".[48]

In the same vein, the Court has proceeded "stone-by-stone" regarding the proportionality assessment to be undertaken by national authorities on nationality matters.

The first stone is the *Rottmann* case, in which the Court ruled that, while in principle it is legitimate for a Member State to wish to protect the relationship of solidarity and good faith with its citizens, national authorities are required to evaluate whether a decision of withdrawal of nationality is or not contrary to EU law.[49] In doing so, they must consider several factors, including the gravity of the offence committed by the person losing the nationality, the lapse of time between the naturalisation and the decision of withdrawal and the possibility to recover the previous nationality.[50]

The second stone is the *Tjebbes* case, in which the Court of Justice has clarified that national authorities must conduct an individual assessment which includes a consideration of the consequences for the family and professional life of the person concerned.[51] This also includes the respect of fundamental rights protected by the Charter, especially arts 7 and 24(2).[52]

The *JY* case may be considered as a third stone added by the Court of Justice to its case law on nationality matters. First, as highlighted above, the Court has included in this case law the situation in which the acquisition of nationality is at stake. Second, in *JY* for the first time, the Court did not only remind national authorities of the general criteria established in previous cases, but also conducted the assessment itself. It ruled that the decision to revoke the assurance does not appear proportionate to the gravity of the offences committed.[53] In fact, while those offences related to road safety did not result in the withdrawal of the driving licence, they were considered sufficient to refuse the naturalisation in a situation in which the consequence of this decision is the permanent loss of the status of EU citizen.[54]

The only point on which the Court disagreed with the Advocate General is the responsibility of Estonian authorities. The Advocate General considered that Estonian authorities should not be blamed for having operationalised the renunciation to Estonian nationality: they founded their decision on "mutual confidence" since they based that decision on the assurance confirming JY's eligibility for Austrian citizenship.[55] On the contrary, the Court reminded that "the principles stemming from EU law with regard to the powers of the Member States in the sphere of nationality, and also their duty to exercise those

[48] *Ibid.* 8.
[49] *Rottmann* cit. para. 51.
[50] *Ibid.* para. 56.
[51] *Tjebbes* cit. para. 44.
[52] *Ibid.* para. 45.
[53] *JY* cit. para. 73.
[54] JY cit. para. 70.
[55] *JY* cit., opinion of AG Szpunar, para. 82.

powers having due regard to EU law, apply both to the host Member State and to the Member State of the original nationality".[56] In this case, the Member State of origin should have made another choice, for example to ensure that the decision to relinquish nationality enters info force only when the new nationality has been acquired.[57]

III.3. Reflecting further: the condition of British nationals after Brexit

Besides the relevance of the judgment regarding the influence of EU law on the loss and acquisition of the nationality of a Member State, it may be questioned whether this judgement is of relevance for British citizens who have lost their rights as EU citizens as a consequence of Brexit. The situation of British citizens is very peculiar: they have not lost their nationality, but their nationality has become the nationality of a third country. This situation led some MEPs to propose the introduction of an 'associate EU citizenship', namely a status that would allow British citizens to keep free movement and the right to vote to the European Parliament after the UK's withdrawal from the EU.[58]

Several cases have already reached the the Court of Justice, challenging the validity of the Withdrawal Agreement in so far as it has deprived British citizens of their status as EU citizens.[59] In one of them, *EP v Préfet du Gers*, a British national contested the removal of her name from the electoral roll of his *commune* in France. In the framework of the preliminary question referred to the Court of Justice, EP argued that in light of the judgments *Rottmann* and *Tjebbes*, such a decision – which deprives her of the benefits of Union citizenship – can be taken only after an assessment of her individual circumstances in light of the principles of proportionality and legitimate expectations.[60]

In other words, EP argued that the principle of proportionality also applies in the case of a citizen that has lost his citizenship in circumstances that are different to those that gave rise to the *Rottmann*, *Tjebbes* and more recently *JY*. In fact, while in the former cases the loss of EU citizenship is related to the conditions established in the legislation of a Member State, in *EP* the loss of rights attached to EU citizenship are the consequence of the withdrawal of the EU from the Union.

In its opinion, Advocate General Collins affirmed that the loss of EU citizenship is a direct consequence of the decision to leave the EU and there is no way to affirm the opposite according to the Treaties.[61] And it is precisely by relying on *Rottmann*, *Tjebbes* and *JY* that

[56] *JY* cit. para. 49.

[57] *Ibid*. para. 50.

[58] A P van der Mei, 'Member State Nationality, EU Citizenship and Associate European Citizenship' cit. 452 ff.

[59] S Peers, 'Brexit Means Brexit for UK Nationals and EU Citizenship: Analysis of an Advocate-General's Opinion' (25 February 2022) EU Law Analysis eulawanalysis.blogspot.com. For an update of case-law regarding Brexit see also S Peers, 'Litigating Brexit: Guide to Case-Law' (24 July 2020) EU Law Analysis eulawanalysis.blogspot.com.

[60] Case C-673/20 *EP v Préfet du Gers* EU:C:2022:449, opinion of AG Collins, para. 40.

[61] *Ibid*. paras 60-63.

the Advocate General supports its conclusion.[62] According to him, the principle of proportionality does not apply because there is no balance exercise to carry out here. The loss of the right to vote is simply a result of the withdrawal from the EU – which is a sovereign decision – and the consideration for the specific circumstance could not have led to a different result according to EU law. Many scholars agree with this conclusion.[63]

The question was thus whether British citizens might persuade the Court of Justice that their situation is disproportionate when regarded from the point of view of EU law. At the time of writing, the Court has delivered its judgment in the *EP* case and confirmed the view of the Advocate General. It has held that the cases *Rottmann*, *Tjebbes* and *JY* are not transposable to the situation of British citizens because "the consequences of the loss of Union citizenship concerned specific situations falling within the scope of EU law, where a Member State had withdrawn its nationality from individual persons, pursuant to a legislative measure of that Member State (...) or an individual decision taken by the competent authorities of that Member State [...]"[64]. Differently, the loss of EU citizenship in the case of EP is "an automatic consequence of the sole sovereign decision taken by the United Kingdom to withdraw from the European Union"[65].

IV. Conclusion

The commented case *JY v Wiener Landesregierung* is another demonstration of the "stone by stone" approach undertaken by the Court of Justice in relation to EU citizenship. The Court confirmed that the situation of an EU citizen who becomes permanently stateless while trying to obtain the nationality of another Member State falls within the scope of EU law because of its impact of the rights conferred by art. 20 TFEU. According to the Court, the fact that the EU citizen was already stateless at the moment in which the case was brought is not relevant: the naturalisation procedure "taken as a whole" affects the rights conferred by the status as an EU citizen and imposes an evaluation of the proportionality of the decision made by national authorities of the Member State. For the first time in this case, the Court of Justice conducted the proportionality assessment itself, giving precise indications to the national authorities. This case also constitutes a step forward when compared to the two previous cases *Rottmann* and *Tjebbes*. The three judgments have been relied upon by British citizens to challenge the disproportionate impact that Brexit had on their personal and professional life. However, the Court of Justice did not consider them relevant since several differences exist between these cases and the peculiar situation of British citizens.

[62] *Ibid*. paras 40-42.

[63] A P van der Mei, 'Member State Nationality, EU Citizenship and Associate European Citizenship' in *European Citizenship Under Stress* cit. 452 ff.; S Peers, 'Brexit Means Brexit for UK Nationals and EU Citizenship: Analysis of an Advocate-General's Opinion' cit.; D Kochenov and M van den Brink, 'Claiming 'We are out but I am in'' (25 February 2022) Verfassungsblog verfassungsblog.de.

[64] *EP v Préfet du Gers* cit. para. 62.

[65] *Ibid.* para. 59.