



Presentation

Giacomo Di Federico*

This “booklet” brings together the presentations delivered during the seminar on “*The EU Citizenship as an element of European Identity*” that took place on 27 February 2026 at the Department of Legal Studies of the University of Bologna. The event was part of the PhD Program in EU Law and was intended to offer an insight on the developments that occurred in the case law of the Court of Justice of the European Union (CJEU) since the creation of Union citizenship with the Maastricht Treaty.

The speakers elaborated on the findings of the Court in the seminal judgement in *Commission/Malta* with a view to determine to what extent Union citizenship is becoming a constitutional building block of European identity. For PhD students, the seminar was particularly useful to appreciate how a single landmark judgment can be examined through different lenses and open new research questions on future developments concerning the EU legal order.

The booklet opens with a contribution by Judge Siniša Rodin that situates *Commission/Malta* within the broader evolution of EU constitutionalism. He argues that the judgment should be understood in light of the Union’s values which effectively impinge on the exercise of

* Full Professor of European Union Law, *Alma Mater Studiorum* – Università di Bologna.

Member States' retained competences, like the granting of nationality. The commodification of Union citizenship hinders mutual trust and solidarity, and ultimately violates EU law. In this regard, the ruling is believed to be yet another example of constitutional confrontation on primacy that highlights how judicial review can be, and is, conducted in light of the values listed in Art. 2 TEU.

Federico Casolari examines *Commission/Malta* from the perspective of the constitutional evolution of Union citizenship. Contrasting the Opinion by Advocate General Collins with the Court's decision, he claims that the latter marks a significant shift towards understanding Union citizenship as intrinsically linked to the values enshrined in Article 2 TEU, particularly solidarity. The systemic implications of the ruling, nonetheless, require a rather cautious approach on the part of the Luxembourg judges. Moreover, the top-down approach used in *Commission/Malta* should be complemented by a bottom-up process at the political level.

Adelina Adinolfi, in turn, analyses how the judgment reshapes the very concept of Union citizenship. The main contention is that *Commission/Malta* marks the transition from a rights-based to a value-oriented understanding of EU citizenship thereby introducing new limits on Member States' discretion in conferring nationality. By grounding Union citizenship in the common values of Art. 2 TEU and in the principle of mutual trust, the Court effectively redefines the constitutional balance between national sovereignty and EU law without clarifying, however, the controversial notion of genuine link between the individual and the interested Member State.

Giacomo Di Federico critically assesses the scope of *Commission/Malta* focusing on the relationship between Union citizenship and the national identity clause contained in Art. 4(2) TEU. While not contesting the final outcome, the contribution claims that the constitutional nature of the judgment would have required a more solid and clear reasoning on the part of the CJEU. In particular, besides the unconvincing legal arguments used to justify the reach of Art. 20 TFEU notwithstanding Declaration No 2, the choice to disregard Malta's defense based on national identity is puzzling and undermines the legitimacy of this far-reaching judgement.

In his contribution, Carlo Tovo examines the relationship between European identity and political rights. The analysis confirms that *Commission/Malta* is part of a broader jurisprudential trend towards a value-oriented conception of Union citizenship. Focusing in particular on the Grand Chamber judgments in *Commission/Czech Republic* and *Commission/Poland*, he shows how the Court has progressively linked the political rights attached to the latter with the values of democracy and equality enshrined in Art. 2 TEU and the principle of representative democracy laid down in Art. 10 TEU.

Finally, Lucia Serena Rossi acknowledges that the identity of the Union is grounded in the values enshrined in Art. 2 TEU, but argues that their legal affirmation alone is insufficient. A truly European identity requires those values to be effectively implemented in society and recognized by citizens