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Judgment of the Court in Case C-673/20 | *Préfet du Gers and Institut national de la statistique et des études économiques*

Consequences of *Brexit*: British nationals who used to enjoy the rights attached to European citizenship no longer benefit, after the withdrawal of the United Kingdom from the European Union, from the right to vote and to stand as a candidate in municipal elections in their Member State of residence

EP is a British national who has resided in France since 1984 and is married to a French citizen. She has not applied for or obtained French nationality. Following the entry into force of the Withdrawal Agreement linked to *Brexit*, the Institut national de la statistique et des études économiques (National Institute for Statistics and Economic Studies, France; 'INSEE')¹ removed EP from the electoral roll of the Commune of Thoux (France). EP was therefore unable to take part in the municipal elections held in France on 15 March 2020.

On 6 October 2020, EP filed an application to be re-registered on the electoral roll for non-French citizens of the European Union. That application was rejected the next day by the Mayor of the Commune of Thoux. On 9 November 2020, EP brought an action before the tribunal judiciaire d'Auch (Court of Auch, France) to contest that decision.

Before that court, which is the referring court, EP asserts, inter alia, that she no longer has the right to vote and to stand as a candidate in the United Kingdom because of the British '15-year' rule by virtue of which a British national who has resided abroad for more than 15 years is no longer entitled to take part in elections held in the United Kingdom. EP argues that she is thus deprived of the right to vote and to stand as a candidate both in France and in the United Kingdom.

The referring court asks whether British nationals who, like EP, transferred their residence to a Member State before the end of the transition period laid down in the Withdrawal Agreement continue to benefit from the status of citizen of the Union and, more specifically, the right to vote and to stand as a candidate in municipal elections in their Member State of residence. If that is not the case, that court asks the Court of Justice to assess, in particular in the light of the principle of proportionality, the validity of the Withdrawal Agreement.²

By today's judgment, the Court of Justice replies that, as of the withdrawal of the United Kingdom from the

¹ INSEE is empowered to remove deceased electors and those who no longer have the right to vote from the electoral roll.

² Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ 2020 L 29, p. 1).

European Union, on 1 February 2020, nationals of that State who transferred their residence to a Member State before the end of the transition period, **no longer enjoy the status of citizen of the Union, nor, more specifically, the right to vote and to stand as a candidate in municipal elections in their Member State of residence**, including where they are also deprived, by virtue of the law of the State of which they are nationals, of the right to vote in elections held by that State.

The Court notes that **citizenship of the Union requires possession of the nationality of a Member State**. While that citizenship confers on citizens of the Union residing in a Member State of which they are not nationals the right to vote and to stand as a candidate in municipal elections in the Member State in which they reside, under the same conditions as nationals of the latter Member State, there is, by contrast, no provision of the treaties enshrining that right in favour of nationals of third States.

Consequently, the fact that an individual has, where the State of which he or she is a national used to be a Member State, transferred his or her residence to the territory of another Member State is **not such as to enable him or her to retain the status of citizen of the Union** and all the rights attached thereto under EU law if, following the withdrawal of his or her State of origin from the European Union, he or she no longer holds the nationality of a Member State.

Since United Kingdom nationals have been, as from 1 February 2020, nationals of a third State, they lost the status of citizen of the Union as from that date. Accordingly, they no longer enjoy the right to vote and to stand as a candidate in municipal elections in their Member State of residence.

This is **an automatic consequence of the sole sovereign decision taken by the United Kingdom to withdraw from the European Union**.

The Court finds, furthermore, that Decision 2020/135 which approved the Withdrawal Agreement is not invalid on the ground that that agreement does not confer on British nationals who transferred their residence to a Member State before the end of the transition period the right to vote and to stand as a candidate in municipal elections in their Member State of residence.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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