Amsterdam Centre for European Law and Governance

Amsterdam Center for International Law

23 May 2014 - Expert Round Table

'Secession within the Union' Intersection Points of International and European Law

Within the European Union there have always existed highly mobile sub-state actors that, to varying degrees, aspire to independence. Thus, on 18 September 2014, Scotland will hold its referendum on independence from the United Kingdom, and the Catalan Parliament has decided to hold a referendum on Catalonia's independence from Spain on November 9th 2014. Meanwhile, in the Belgian region of Flanders, one can witness a steadily growing pro-independence movement. Political developments such as these remind one that secession of federated states, countries, or regions of EU Member States is a real possibility.

An exploration of the legal and political aspects of this scenario is therefore a timely matter. In the past, secession of parts of the territories of EU Member States has taken place with the gaining of independence by former colonies such as Algeria or Congo. Yet the Scottish, Catalan, and Flemish examples represent something unprecedented in the history of the EU: these potential new states seek independence, but they do not seek withdrawal from the Union.

In the absence of formal rules in EU law on secession and membership, a legal appraisal would seem to lead us, first of all, to the framework of public international law – both when it comes to the actual (unilateral or consensual) *secession,* and when *succession* to (certain) international rights and obligations of the preceding State is at issue.

Yet can these rules (in as far as they themselves offer sufficient normative guidance) be expected to operate 'normally' within the context of the EU? It would seem that secession *within the Union* raises a number of questions from both the public international law perspective and the EU law perspective. For example: does EU law impose legal constraints on secession from Member States within the Union (constraints operating on the Member States, the aspiring new state, and upon the Union itself)? Does EU law give new substance to the 'external' right of self-determination as it has been traditionally conceptualized in public international law? Do EU Member States have a duty to secure full and continuous performance of their obligations under the European Treaties, and can it be argued that they have a similar duty in respect of the obligations of a newly seceded state? What are the rules on legal succession regarding rights and (financial) duties inside and outside the Union? What is the role and place of the concept of EU Citizenship in this respect? These and other questions, not all of which are legal in nature, can be raised.

The Expert Round Table aims to explore these questions and seeks in particular to address the intersection points of EU law and public international law.

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Venue

University of Amsterdam, Faculty of Law
Oudemanhuispoort 4-6, 1012 CN Amsterdam
Room: **A 1.01**

Program

(Format : Presentation 15 minutes - Discussant (+ reply presenter) 10 minutes - Round table discussion 20 minutes)

13h00 Coffee & Sandwiches
13h30 Welcome & introduction Catherine Brölmann and Thomas Vandamme

Session I: *Secession*

Chair - Catherine Brölmann

13h45 Presentation 1 ***Mapping the Theme of Secession***
David Haljan (*Catholic University of Leuven*)

Discussant Ingo Venzke (*University of Amsterdam - ACIL*)
Round table discussion

14h30 Presentation 2 ***Member States, Aspiring States and the European Union***
Pierre Schmitt (*Catholic University of Leuven*)

Discussant Simone van den Driest (*Leiden University)*
Round table discussion

15h15 Tea

Session II: *Succession*

Chair - Thomas Vandamme

15h45 Presentation 3 **Succession and EU Treaty Obligations**
Paul Dermine (*Catholic University of Leuven, Louvain-la-Neuve*)

Discussant Henri de Waele (*Un. of Antwerp/Radboud Un. Nijmegen*)
Round table discussion

16h30 Presentation 4 **Succession and EU Citizenship**
Paula García Andrade (*Universidad Pontificia de Comillas, Madrid*)
Discussant Annette Schrauwen (*University of Amsterdam - ACELG*)
Round table discussion

17h15 Concluding

17h30 Drinks