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BRUSSELS

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BORDERS and RIGHTS

How can stateless
nations contribute to
the democratisation
of Europe?

Borders and Rights

How can stateless nations contribute to the democratisation of Europe

Saioa Azpirotz Lakidain

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Coppieters
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1 - Introduction

In his opening remarks at the conference "Borders and Rights: How can stateless nations contribute to the democratisation of Europe", Xabier Macias of the Coppieters Foundation highlighted a critical reality: approximately 30 percent of the EU's population lives near its internal borders. For these individuals, daily life unfolds in cross-border regions where personal, commercial, and professional activities naturally form what are now called functional areas — spaces where borders hold little significance. People instinctively organize their lives around linguistic and cultural affinities, often transcending official boundaries. However, significant challenges remain, including border costs and legal, bureaucratic, and psychological barriers. Despite the opportunities presented by the European framework, nation-states remain hesitant to embrace the concept of more porous borders. Yet society often outpaces institutions, creating new possibilities for collaboration and inclusion. Addressing these obstacles is not only a matter of democratic quality but also of economic opportunity: according to the EU Directorate-General for Regional Policy, eliminating just one-fifth of cross-border barriers could increase GDP in these regions by 2 percent and generate one million new jobs.

As the European Union begins a new Parliament mandate, the need to ensure political participation for all is once again in the spotlight. Among the many challenges, the inclusion of stateless people is particularly urgent. Guaranteeing their social rights is essential for fostering democracy across the EU.

On November 5, 2024, the Coppieters Foundation, in collaboration with the Iratzar Foundation, organized a conference at Sparks Meeting in Brussels, to explore political and legal mechanisms that could ensure the full participation of stateless people within the EU. The event was structured around two roundtable discussions.

The first roundtable examined existing political and legal frameworks, along with potential policy options, building on the theoretical groundwork laid at last year's conference. Contributions came from Nikos Skoutaris, Associate Professor in EU Law at the University of East Anglia, and Jaume Lopez, a faculty member at the University of Pompeu Fabra's Faculty of Political and Social Sciences.

The second roundtable focused on cross-border cooperation policies as transitional tools to enhance the visibility of stateless nations and promote a more inclusive and democratic Europe. This discussion adopted Irish and Basque perspectives, with insights from Daniel Holder, Director of the Belfast-based human rights NGO Committee on the Administration of Justice (CAJ), and Elena Casiarain, a member of the Consolidated Research Group - GAIT.

II - Program of the event

18:00 - 18:15

[Opening remarks](#)

Xabier Macias, Vice President of Coppieters Foundation

18:15 - 19:00

[Existing political-legal framework and the different options](#)

Nikos Skoutaris, Associate Professor in EU Law at the University of East Anglia

Jaume Lopez, Faculty Member in the Faculty of Political and Social Sciences at the University of Pompeu Fabra

19:00 - 19:45

[Instruments offered by cross-border cooperation policies](#)

Elena Casiarain, Member of the Consolidated Research Group- GAIT

Daniel Holder, Director of the Belfast-based human rights NGO the Committee on the Administration of Justice (CAJ)

19:45 - 20:00

[Closing Remarks](#)

Elena Beloki Resa, Iratzar Foundation

III - Speakers bio

Nikos Skoutaris

Nikos Skoutaris is an Associate Professor in EU Law at the University of East Anglia. His research focuses on European Union law, constitutional law, and the legal aspects of territorial and secessionist conflicts in Europe. Skoutaris has published extensively on topics such as cross-border governance, minority rights, and constitutional arrangements within the EU framework.

Jaume López

Jaume López is a faculty member in the Faculty of Political and Social Sciences at the University of Pompeu Fabra in Barcelona. His work centers on political theory, democratic innovations, and the political dynamics of self-determination and stateless nations. López has contributed to the academic and policy discourse on Catalonia's political status and broader debates on democracy in Europe.

Elena Casiarain

Elena Casiarain is a researcher in the Consolidated Research Group (GAIT), which focuses on governance and innovation in territorial development. Her research interests include cross-border cooperation, political borders, and the social and economic implications of territorial policies in Europe. Casiarain has been actively involved in projects promoting regional development and interregional collaboration.

Daniel Holder

Daniel Holder is the Deputy Director of the Belfast-based human rights NGO Committee on the Administration of Justice (CAJ). He is an expert in human rights law, with a particular focus on equality, policing, and the legacy of the North of Ireland conflict. Holder has played a key role in advocating for human rights-based approaches to addressing political and social challenges in North of Ireland and beyond.

IV - Existing political-legal framework and the different options

The first roundtable delved into existing political and legal frameworks, alongside exploring potential policy options, building upon the theoretical groundwork laid during last year's conference. The discussion featured contributions from Nikos Skoutaris, Associate Professor in EU Law at the University of East Anglia, and Jaume López, a faculty member in the Faculty of Political and Social Sciences at the University of Pompeu Fabra. Together, they provided valuable insights into the complexities of cross-border cooperation, democratic participation, and the evolving role of stateless nations within the European context.

Jaume Lopez - The European union as an actor in territorial conflicts

Jaume Lopez explained that the management of territorial conflicts in the European context focuses less on traditional borders and more on issues of sovereignty. In this sense, the European Union provides a unique framework for addressing these challenges due to its structure of shared sovereignties and porous borders. The main points are as follows:

1. Key factors in the eu conflict management

The European Union plays a significant role in conflict management by creating an environment where territorial conflicts can be addressed without the need for the parties involved to exit the European system. A key factor in resolving these conflicts is the recognition of stateless nations as legitimate political entities. Without this recognition, these nations are often treated as anomalies, which perpetuates their marginalization and obstructs efforts to find lasting resolutions.

2. Perceived limitations

The perceived limitations of the European Union in resolving conflicts are not rooted in its institutional structure, but rather in a lack of political will among its leaders. The EU's nature as a confederation of states, united by European citizenship, flexible borders, and linguistic plurality, inherently facilitates conflict resolution. European treaties further reinforce this by requiring member states to respect the rule of law and democracy, enabling the EU to act as a mediator in internal disputes.

3. Conflict resolution and democratic principles

Sovereignty conflicts often reflect democratic demands, and their resolution requires an approach that upholds democratic principles, recognizes a common "demos," and applies majority rule. To effectively address these conflicts, the European Union should implement regulations that guarantee the rights of citizens involved in territorial disputes. Additionally, the EU should intervene when member states are unable to find democratic solutions to these issues.

In conclusion, as stated by Jaume Lopez, the European Union possesses a suitable structure for managing territorial conflicts, provided there is political will and recognition of stateless nations. To this end, it is necessary to reframe these conflicts as democratic issues, prioritize the rights of those involved, and promote effective mediation within the European framework.

Nikos Skoutaris - About the EUs structural limitations

Nikos Skoutaris views that territorial conflicts inherently involve opposition as they vary geographically and contextually. They pertain to disputes about where a region's borders lie and debates over the constitutional future of a territory. Within the EU, such conflicts centre on whether the territory remains part of the EU framework or exists outside it.

Why would the EU engage in these conflicts?

According to Skoutaris, the European Union has compelling reasons to address territorial conflicts. Firstly, such engagement aligns with its role as a peace promoter. Secondly, constitutional questions within member states directly impact the EU's constitutional framework.

However, there are **structural limitations**:

1. **State sovereignty:** Member states retain control over treaties, making them the "masters of the treaties."
2. **Lack of shared understanding:** Most EU states have no significant constitutional conflicts, which limits their perspective and understanding of such issues.
3. **Legal basis challenges:** Defining the EU's legal authority to intervene in territorial conflicts is complex.
4. **Loyal cooperation principle:** The principle of loyal cooperation among member states could be violated if actions are perceived to undermine a state's territorial integrity.

How can these conflicts be resolved?

Skoutaris explained that historical crises often involve two approaches: a **revolutionary strategy**, which disregards constitutional norms, and a **procedural strategy**, which adheres to structural rules. Understanding the EU's structural limitations is crucial for developing realistic solutions.

For instance, procedural strategies such as the self-determination caucus offer a constructive pathway to addressing these conflicts within the framework of constitutional rules. However, finding a majority willing to accept such solutions remains challenging. While the EU has the capacity to accommodate constitutional conflicts democratically and peacefully, the current political climate lacks sufficient willpower to pursue these solutions effectively.

Audience questions

During the audience Q&A, two key questions sparked insightful discussions from the panellists.

On retaining EU citizenship in the event of referendums in stateless nations such as North of Ireland or Catalonia:

Nikos Skoutaris explained that North of Ireland presents a unique case due to its constitutional right to secede from the UK under the Good Friday Agreement. This agreement allows for reunification with Ireland and ensures that all residents can hold either a British or Irish passport. Since EU citizenship is tied to national citizenship, individuals in North of Ireland would retain EU citizenship through Irish passports in the event of reunification. This situation differs significantly from other regions where no such constitutional recognition exists.

Jaume López addressed the Catalan context, proposing that in the event of a successful self-determination referendum, new regulations could be introduced to facilitate the seamless inclusion of a new state into the EU. That guarantees European citizens right to decide. Such regulations could serve as a precedent and guide for other stateless nations seeking integration into the Union.

On the rise of far-right forces and their impact on stateless nations:

Jaume López cautioned against focusing solely on political parties, arguing that the true danger lies in the spread of hegemonic ideas from both the right and left. He stressed the importance of countering narratives that threaten inclusivity and democracy, emphasizing that the European Union is not only a union of states but also of peoples and citizens.

Nikos Skoutaris urged vigilance against far-right populist parties that might exploit the movements of stateless nations for their own ends. He emphasized the need to uphold the fundamental rights at the heart of these movements and ensure that populist rhetoric does not erode their legitimacy.

These discussions underscored the complex interplay of legal, political, and cultural factors shaping the future of stateless nations within Europe.

V - Instruments offered by cross-border cooperation policies

The second roundtable focused on the instruments provided by cross-border cooperation policies, examining their role as transitional mechanisms for enhancing the visibility of stateless nations and fostering a more diverse and democratic European Union. The discussion featured perspectives from Daniel Holder, Director of the Belfast-based human rights NGO Committee on the Administration of Justice (CAJ), and Elena Casiarain, a member of the Consolidated Research Group - GAIT. Their contributions shed light on how these policies can address border-related challenges and promote regional collaboration while ensuring respect for cultural and linguistic diversity.

Daniel Holder - The impact of EU policies in the Irish case

Daniel Holder's analysis highlights how EU policies have influenced the dynamics of North of Ireland, particularly in the context of the Good Friday Agreement (GFA) and Brexit. Ireland is divided, with North of Ireland under UK jurisdiction, and the GFA allows for a referendum on Irish unification, fostering cross-border cooperation between Northern Ireland and the South of Ireland. Most individuals born in Northern Ireland can claim Irish nationality, yet the population remains divided along lines of Irish-Catholics and British-Protestants, with historical discrimination against Irish-Catholics shaping the social landscape. From the establishment of Northern Ireland, this discrimination was mostly the fact and in some cases di jure to impede and prevent that Irish citizens from the South to come to work in the north.

The EU played a crucial role in shaping this context, particularly through the dismantling of physical and legal barriers following the UK and Ireland's membership. EU principles such as freedom of movement and equality of treatment contributed to the alignment of the two regions' economies and systems. The border between South of Ireland and North of Ireland, once a significant source of division, became effectively dematerialized due to shared standards and cooperation facilitated by the EU.

However, Brexit disrupted this fragile balance, as both Ireland and the EU pushed for maintaining trade and customs controls in the Irish Sea to avoid the reintroduction of a hard border on the island. Brexit also weakened certain rights, particularly those related to Irish and Gaelic culture, as EU funding for these areas ceased. While the border between South of Ireland and North of Ireland may be physically invisible, it remains closed for many people, particularly those facing racist passport controls or those from visa-required countries, who experience a hard border despite the Common Travel Area arrangement between Ireland and the UK.

Elena Casiarain - An anthropological point of view on borders: seeing the border as a performative construction in the Basque Country

The anthropological perspective of Elena Casiarain is to give a capacity to act to the people living in these cross-border spaces. The border is not seen as a result of nation states, but as how people live and participate in that space. The border is constantly in a process of "bordering" and "debordering". The work also focuses on the arbitrary reality of the border. Anthropology allows us to see the border as a change of state. Elena Casiarain has made a fieldwork in the Basque Country to describe the social mechanisms and practices that allow us another focus on the border perspective, focusing on the citizen to define what the border is for them with respect to their day-to-day life in that space.

From anthropology and border spaces, Elena Casiarain doesn't only see how the border has an impact on life but also how the inhabitants produce that border. This is a way of seeing the border as performative. What about those stateless nations such as the Basque Country? There are natural, cultural, linguistic and identitary spaces that oppose the established order of borders by states. Nowadays there is a reality of the feeling of division of Basque citizenship between Iparralde (under French administration), Navarre and Euskadi (both under the Spanish administration). At the same time, there is the paradox that since this transborder space entered the Schengen area; the Basque people are feeling more and more divided between the French Basque country and the Spanish one, despite the freedom of movement.

Audience questions

During the audience Q&A, two additional questions led to engaging discussions from the panellists.

On how EU institutions can strengthen policies for cultural and linguistic rights in divided nations such as the Kurdish communities:

Daniel Holder explained that existing EU and Council of Europe treaties already provide a framework to safeguard minority cultural and linguistic rights. Rather than creating new frameworks, the challenge lies in ensuring that these institutions actively support and promote public policies within this existing structure. These mechanisms are well established and can be leveraged to address the needs of divided nations striving to preserve their cultural and linguistic identities despite border restrictions.

On the status of those who may not wish to hold EU citizenship in the context of Irish reunification:

Daniel Holder highlighted that, under the Good Friday Agreement, the UK would likely continue allowing residents of North of Ireland to retain British citizenship in a united Ireland. Daniel Holder emphasized that if the Irish government respects the Agreement, individuals in North of Ireland could remain British citizens without automatically becoming EU citizens. However, this scenario would require a constitutional framework ensuring equal treatment for both national groups. For instance, British citizens in North would need mechanisms to participate in Irish elections. At the same time, participation in European Parliament elections would remain limited to those holding Irish (and thus EU) citizenship.

These discussions underscored the complexity of accommodating diverse identities and rights within evolving political frameworks.

VI - Conclusion

In her closing remarks, Elena Beloki Resa from the Iratzar Foundation highlighted two key ideas presented by the speakers that accurately summarize the conference key points.

The issue of ensuring political participation for stateless nations re-emerged as a key concern during the European Parliament's new mandate. The conference explored the opportunities and challenges to recognizing stateless nations, calling for a broader exercise of European democracy. While European institutions often prioritize state interests and reserve the authority to determine political status, speakers like Jaume Lopez highlighted the evolving nature of European institutions and the political development of stateless nations within shared autonomies. This evolution reflects the dynamic character of stateless nations, whose political development is shaped within shared autonomies under nation-states as illustrated by Elena Casiarain. Drawing from international practice and transconstitutional jurisprudence, the speakers argued that respecting the majority's will and facilitating negotiation processes are democratic imperatives. Encouraging such procedures and establishing a legal framework could be a meaningful step for European institutions, recognizing that this issue is as much political as it is legal. Nikos Skoutaris, meanwhile, pointed out the EU's structural limitations in resolving territorial conflicts, noting that while the EU has a role in promoting peace, its ability to intervene is restricted by member states' sovereignty and a lack of consensus on such issues. He argued that procedural strategies, such as self-determination, could offer solutions, but political will remains lacking.

Second, borders remain a persistent reality. The French anthropologist Sami El Amari noted that since 1991, over 27,000 kilometres of new borders have been created, leaving the world with more borders than ever before. Daniel Holder emphasized that discussions about borders are inherently about rights, while Elena Casiarain described today's political borders as "sick." Against this backdrop, the speakers posed a critical question: can borders become sustainable and desirable? Beloki encouraged the audience to reflect on this challenge with insights shared during the conference.

To conclude, Beloki emphasized that the participation of stateless nations, as highlighted by the speakers at the conference, plays a crucial role in enriching democracy and expanding rights across Europe. Stateless nations, by virtue of their unique political and cultural identities, bring diverse perspectives and experiences to the table that enhance the democratic process. Their inclusion fosters a more inclusive political landscape, where minority voices are heard and their rights are recognized within the broader European context. This not only strengthens the democratic fabric of Europe but also ensures that the rights of all citizens are better protected. By engaging stateless nations in decision-making processes, the EU can better reflect the diversity of its member states and promote a more just, equitable, and democratic Europe for everyone.

Acknowledgements

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Coordination

Elena Beloki, Hana Kreso and Angeliki Athanasoula

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About the Coppieters Foundation: *Coppieters Foundation is a think tank focusing on European affairs. It develops new ideas and produces knowledge on the management of cultural and linguistic diversity, collective and minority rights, multi-level governance, decentralization, state and constitutional reform, statehood processes, self-determination, migration, peace studies and the protection of human rights in Europe. Coppieters Foundation has commissioned this report with the aim to contribute to a global debate in the framework of the United Nations and advance Human Rights, Democracy and Rule of Law.*

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