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THE EU RESPONSE TOWARDS SECESSION OF SUB-STATE NATIONS: A COMPARATIVE ANALYSIS OF THE CASES OF CATALONIA AND SCOTLAND

ABSTRACT: *The study aims to examine the EU attitude towards secession resulted from the rise of nationalism at the sub-state level by focusing on the rising of nationalist secessionist tendencies in the sub-state nations, namely the cases of Catalonia and Scotland. The study relies on the comparative case study approach, which helps to observe, describe, and interpret different statuses through its application to specific models. This study depends on reviewing the diverse literature, EU treaties, documents, and political statements regarding the secession of sub-state nations. Also, this study contributes significantly to stress on the differences between the two case studies and presents an important analysis of the EU attitude towards the nationalist calls for secession in both cases. This study seeks to clarify that the EU response towards the secessionist cases of Scotland and Catalonia differs based on the situation of each case, which represents a challenge to the EU attitude while dealing with the sub-state nations.*

KEYWORDS: nationalism; sub-state nations; secession; Catalonia; Scotland.

1. Introduction

Nationalism has very deep roots in recent Europe, and it is linked with the evolution of the nation-state in Europe (Mansbach and Rafferty 2008). The establishment of the nation-state structure followed a gradual process. The most significant event in the process of the establishment of the nation-state was the French Revolution (1789-1799). Prior to the Revolution, sovereignty was dominated by the king's authority and was justified by religious and dynastic purposes. Following the Revolution, people or the nation gained authority, a concept known as national or popular sovereignty. During the nineteenth century, the dynastic rule in Europe was challenged by a growing spread of nationalism and a prominent national aspiration. (Mansbach and Rafferty 2008: 63-69).

After the Second World War, a new feature of world politics has appeared. There was an increasing growth in the numbers of supranational or multinational organizations and regional institutions. Europe has been oriented to establish a supranational system that maintains peace and security since the creation of the European Coal and Steel Community (ECSC) in 1951. After the foundation of ECSC, Europe has gone through a long process of integration that led to the formation of the European Union (EU) in 1993 and the

joining of more European countries to the EU (Reinisch 2009: 1). The evolution of the EU has been founded on encouraging economic collaboration and boosting civil rights and human values to support the emerging political identity (Grimm 2021: 35).

Nevertheless, recently Europe's political spectrum witnessed an increase in the votes supporting the nationalist and populist parties. In part, voters are disappointed with the political atmosphere, but they are also concerned with various issues such as immigration, globalization, and threats to national identity (*BBC News* 2019).

The objective of this study is to discuss the EU attitude towards secession resulted from the rise of nationalism at the sub-state level. Nationalism at the sub-state level can be demonstrated as nationalism in “nations without states”. According to Montserrat Guibernau, “nations without states” means nations that feel they hold distinct national identity that involves common culture and history, are attached to certain territory, and seek to develop an independent state. These nations do not have the state, which is the political component upon which the nation should be formed and identified (Guibernau 2004: 1254-1255).

The article aims to discuss *“How the rise of nationalist secession at the sub-state level impacts the EU attitude?”* by analyzing the rising of nationalist secessionist tendencies in the sub-state nations (the cases of Scotland in the United Kingdom and Catalonia in Spain). In this respect, the article, on the one hand, will analyze the relationship between the EU and sub-state secession, and the role of the EU in the sub-state secession process. On the other hand, it is worthy to discuss the issue of sub-state secession in the EU legal context, focusing on the difference between the two cases.

2. The literature review

The objective of this study is to investigate the impact of rising nationalist secession on the EU attitude at the sub-state level. In this context, the scholarly literature has focused on two main perspectives: The first one analyzes secession and its reasons, and the second perspective discusses the evolution of nationalism.

The first perspective analyzes secession and its reasons. The concept of **Secession** can be understood as “the unilateral withdrawal of territory and people from a state for the creation of a new and separate state.” According to this definition, it is considered that secession is always viewed as illegitimate by the parent state. Also, undisputed separations and colonial interdependence actions are not counted as real cases of secession (Bishai 1999: 43). Secession could be considered as one of the few options for the creation of new states in the international system; so, it seems to be an important issue for the theory and study of international relations. If the study of international relations can be interpreted as focusing on either the analysis of relations between

states, or of the existence of a global system or society among states, or the relations between diverse state and non-state actors in the international system, or a mix of all of these issues, then secession — as an incident that embraces and impacts all these forms of relations — must be viewed as a significant relevant characteristic of the modern international system. Secessionist movements strongly influence relations between states. It makes all the states in the system confront the challenge of whether to recognize these secessionist states, and whether to grant them the legal status of sovereignty and consequently create international relations with them (Bishai 1999: 11).

- Consequently, secession is a considerable factor that might impact the relation between the EU and other states, whether member states like Spain (case of Catalonia) or non-member states like the UK (case of Scotland).

This perspective includes two groups of studies: studies that focus on secession in general, its definition, and its causes, while the other group of studies is more concerned with the state of secession in Europe in particular.

One of the studies of the first that focus on the positive theory of secession and secessionism, the causes that drive people to ask for self-government and its consequences is “*Secessionism: identity, interest, and strategy*” (Sorens 2012). This study supports that identity and cultural variations are motives for secession. However, this study findings clarify that political and economic considerations play an important role in the evolution of secessionism; mere cultural variation is not enough. Furthermore, allowing secession might also decrease ethnic violence indirectly by raising the number of newly independent states, although border modifications may lead to other forms of ethnic struggles, such as intercommunal riots.

With respect to the group of studies that focus on secession in Europe, there is a study entitled “*Independence in Europe: Secession, Sovereignty, and the European Union*” (Connolly 2013). It analyzes basically the relationship between nationalism, secession, the rising of the separatist tendencies in Europe, the right to self-determination, and the European integration in the context of these secessionist movements.

Under this group, there are some studies that focus on specific cases within Europe that witness the rise of sub-state loyalties and pursue secession from the European states. A study entitled “*Scotland, Secession, and the European Union*” (Douglas-Scott 2019) that analyzes Scotland’s relationship with the EU with respect to two different secession events. The first argues about an independent Scotland’s EU membership in the case of Scotland’s secession from the UK. The second discusses the position of Scotland from the UK in-out referendum on EU membership. This study showed that in neither case should Scotland be obliged to leave the EU against its desire.

There is also an important study that discusses the case of Catalonia entitled “*Secession from a Member State and EU Membership: the View from the Union*” (Closa 2016). This study analyzes the legal and political implications of a region within an EU Member State seeking independence, particularly regarding its

continued EU membership status. The authors examine the EU's legal framework, including the Lisbon Treaty, which does not explicitly address scenarios where part of a Member State secedes. This ambiguity has led to debates about whether an independent state emerging from secession would automatically inherit EU membership or need to apply anew.

The paper generally suggests that the EU would likely treat a newly independent state as a non-Member, requiring it to undergo the standard accession process to join the Union. This position aligns with the EU's commitment to respecting existing treaties and Member States' integrity, thus avoiding a precedent that could destabilize other regions within the EU with secessionist aspirations. The paper concludes that while the EU is likely to require a reapplication, there may be room for tailored pathways or negotiations, depending on the context and political dynamics of the secession.

Literature in this group of studies is helpful to understand the discussion of this article that focuses on the relationship between the secession of sub-state nations and the EU. These readings analyze the EU position on sub-state secession and the issue of sub-state secession in the EU legal context.

Under the second perspective, there are many studies that illustrate the definition of nationalism, the evolution of nationalism in Europe, the reasons behind the increasing sense of nationalism, and its effect.

One of the significant articles that focuses on the definition of nationalism and the relation between nationalism and ethnicity is "*Ethnonationalism, ethnic nationalism, and mini nationalism: A comparison of Connor, Smith and Snyder*" (Yun 1990). In this context, the definition of **nationalism** according to Snyder is "a condition of mind, feeling, or sentiment of a group of people living in a well-defined geographical area, speaking a common language, professing a literature in which the aspirations of the nation have been expressed, being attached to the common traditions, and, in some cases, having a common origin" (Snyder (ed.) 1964).

Also, there is a study that discusses the rise of nationalism in the EU is "*The Resurgence of Nationalism in the European Union*" (Calance 2012). It focuses on the meanings and dimensions of nationalism. Also, it illustrates the impact of nationalist thoughts in the European Union, stressing the times of recession. The study demonstrated that there are some perspectives of the EU that challenge national economies and national sovereignty.

As mentioned above, the studies of this perspective focus on the conceptualization of nationalism, its forms, and the rise of nationalism across Europe. However, each study focuses on different interpretations or aspects behind the increasing sense of nationalism and nationalist trends. The studies under this perspective support the article in understanding the evolution of nationalism and the factors that led to the rise of nationalist attitudes.

So, the literature review presents the various perspectives in literature that discuss nationalism and its forms, secession and the way it is affected by nationalist trends, and particularly the cases of European countries that witness secessionist tendencies. In the European Union, the relationship between nationalism and secession is complex and intertwined, especially as member states grapple with regional identity, sovereignty, and EU integration. Within the EU, several regions (like Catalonia in Spain and Scotland in the UK) have seen a surge in nationalist movements that seek greater autonomy or outright independence. These movements often promote the distinct cultural, linguistic, and historical identities of these regions, positioning them as unique "nations" within the larger EU framework. Regional nationalists view that they should govern themselves to better serve their communities, with control over local resources and policies. The EU's support for minority rights and regional identities often fuels their confidence, making independence seem more feasible.

The EU's emphasis on self-determination, minority rights, and democratic values boosts peaceful expressions of regional identity and can provide a platform for marginalized voices. The EU's stance, however, is careful: it generally promotes the territorial integrity of member states and avoids taking a side in secessionist disputes. This ambiguity fuels tension, as regional nationalists consider the EU as a potential partner in achieving autonomy, while the EU remains cautious about setting precedents that might encourage fragmentation.

Consequently, this article will give more concern to the EU attitude towards the rise of nationalist secession at the sub-states' level- in the context of rising pressures from secessionist tendencies. The importance of this article is related to the following considerations:

- It presents a deeper understanding of the relationship between EU and nationalist secession at the sub-state level.
- The influence of the EU legal context on the EU's strategies towards the secessionist call in Scotland and Catalonia.
- Consequently, this article emphasizes the difference between the EU responses towards both cases.

3. Methodology

This article depends on the qualitative content analysis of the articles of the EU treaties, and speeches of elites. There are significant surveys such as the Scottish Social Attitudes Survey¹ keen on analyzing the support towards the EU. Also, it examines the declarations of the representatives of the EU institutions, such as the European Commission, in the light of growing secessionist tendencies.

The article employs qualitative methods (the case study analysis and the comparative method). The case study analysis discusses the cases of Catalonia and Scotland. The rationale for choosing the two cases is that, currently, independence arguments in Scotland and Catalonia are the highest profile cases of secession movements in Europe. Both cases share similarities, such as pursuing immediate EU membership. The Catalan and the Scottish cases, as Guibernau believes, are a ‘democratic type of nationalism [...] defending the nation’s right to decide upon its political future by democratic means’. Calls for independence have followed democratic steps, like the electoral triumph of minority nationalist parties and campaigns for holding independence referenda. Thus, the public domain and democratic process of deliberation therein have played a significant role in which secession results are negotiated (Bourne 2014: 96).

In both cases, political elites and political parties play a significant role in the rise of nationalism at the sub-state level. Also, the EU represented in its institutions and its political actors issued several reports, statements, and documents. Consequently, this article analyzes the elite discourses and provisions of the Spanish constitution, depending on some readings like “*The evolution of the political discourse in Catalonia 2003-2014: From Self-government to Self-determination*” (Serrano 2014). In the case of Scotland, the article clarifies the position of the largest three parties in Scotland from secession, the Scottish National Party (SNP), the Labor Party, and the Conservative Party, by focusing on some studies like “*Nationalism, party political discourse and Scottish independence: comparing discursive visions of Scotland's constitutional status*” (Whigham 2019).

With respect to the comparative method, it relies on comparing between the mentioned two cases in the sub-state level by analyzing the EU response towards each case in the light of rising nationalist secessionist tendencies.

4. Discussion

1) The relationship between the secession of sub-state nations and the EU

The analysis of the relationship between the sub-state nationalism and the EU is complex and reveals contradiction. The role of the EU is indefinite and ambiguous, as it sometimes permits the pursuit of nationalist aims, while at other times it restricts national ambitions towards secession. However, the EU showed to be a significant actor for the sub-state nationalist aspirations. Thus, the legal and political arena of the EU, such as the position of states in the institutional structure of the EU and the requirements of the EU membership, impact the sub-state nationalist potentials (Connolly 2013: 54). The arguments about the EU position from sub-state secession are founded on three main ideas (Closa 2016: 241).

a) The EU role in the nationalist sub-state secession process

The intentions from the calls for secession have changed over time. In the past, the claims for independence were associated with oppression, colonial status, or exploitation. Such conditions are dismissed by the EU and conceived as inconsistent with the EU membership demands, which rely on honoring human rights, the rule of law, and democracy. In recent times, demands for secession within the EU show other claims than the traditional ones. The EU existence and the probability of requesting membership after the secession from a member state constitute a remarkable concern for territories seeking secession. These territories aiming to secede suppose that independence will give them the chance to perform better than belonging to a member state. Consequently, in the condition of seceding from a member state, newly independent states pursue to preserve its situation within the EU and to maintain the EU membership (Closa 2016: 242).

Thus, the existence of the EU impacts the independence calculus. To transform from a sub-national unit into a new independent state within the EU encompasses costs and benefits. However, the EU demands particular standards for governance to be remodeled to the supranational sphere; the EU guarantees stability and security to face the waves of globalization, which are viewed as a serious challenge for a newly independent state (Closa 2016: 243).

b) The impact of sub-state secession on the EU

There is an argument centered on the effect of secession from a member state on the EU. Taking into account the willingness of the new independent state to obtain the EU membership, this requires an EU membership enlargement, which necessitates institutional, structural, decision-making, and policy modifications. This incorporates new EU adjustments or policies, amendments in the seats of the European Parliament, changes in the structure of the Commission, and votes in the Council, which affect the coalition and the distribution of power among states. Moreover, the decision of secession includes many doubts and debates about the status and the rights of the individuals in the seceding entities. Thus, the impact of secession exceeds being an operation of territorial borders. In a supranational institution like the EU where spillover effects are likely to occur, it is important to realize that disregarding the consequences of secession will impact the image of the EU (Closa 2016: 244).

c) The effect of sub-state secession on the applicant states

There is a considerable debate about the impact of secession on countries that pursue the EU membership. Comprising new EU states is associated with the expression “absorption capacity” which refers to the impact of the enlargement on the decision-making process and the ability to implement the policies. Thus, the Commission President in 2014 clearly and officially declared that there are no EU enlargements during the term (2014- 2019). Furthermore, if the EU agreed to accept the newly independent states, this might lead to unequal treatment among states aiming for EU membership (Closa 2016: 244-245).

The above-mentioned discussions emphasize the importance of being aware of the legal status of the EU in the light of dealing with secession. In the EU multi-level legal order, debates about secession are controversial. As indicated by Joseph Weiler, secession challenges the EU Treaty obligations of fostering European integration by creating “an ever-closer union among the peoples of Europe” (Weiler 2012: 910). Contrary to this perspective, it is argued that secession does not contradict the EU basic principles at any constitutional level. This perspective rests on three assumptions; the first argument relies on Article 4.2 (TEU)ⁱⁱ that the EU does not reject the secessionist attitude. The second assumption counts on Article 2 (TEU)ⁱⁱⁱ which ensures the compatibility of the EU norms and standards with international law to accept the right to self-determination. The third argument is associated with the EU’s *raison d’être* as a peace scheme rather than a process to eliminate nationalism. Since the establishment of the EU, it has been perceived as a political, economic, and legal institution where several nationalisms coexist, negotiate, and cooperate. Thus, the agreed secession does not contrast with the EU legal norms (Skoutaris 2023).

Nevertheless, the preceding claims were opposed by the argument that the EU Treaties did not refer explicitly to the rejection of secession, as it can be deduced implicitly such refusal according to the norms and values of the EU as mentioned in Articles 2, 3, and 4 of the (TEU). Consequently, the EU’s Treaties’ silence with respect to secession resulted in several and even contradictory understandings. Moreover, taking into account that states are perceived as “masters of the Treaties”, it is reasonable that they are not interested in adopting decisions or laws at the supranational level that might contrast with their national constitutions (Tejada 2014: 3-4).

Thus, it is noteworthy that the compatibility of secession with the EU legal standards relies on whether the act of secession is unilateral (without consensus) or it is a consensual act that stems from an accord between the parent state and the seceding entity (Bárceñas 2014: 228).

a) Unilateral secession

The unilateral secession is accepted if it is a response to improve a condition of repression, colonialism, or suppression. This remedial secession is compatible with EU standards and values. There are three particular provisions that clarify the EU position in law: the responsibility of respecting the territorial integrity of the member states (Article 4.2 TEU), the beliefs and principles of the EU (Article 2 TEU), and the rule of sincere cooperation (Article 4.3 TEU)^{iv} (Closa 2016: 248).

I. The commitment to respect the territorial integrity of the member states (Article 4.2 TEU)

Based on this Article, the EU recognizes that the member states can exclusively decide on their legal and political arrangements and provisions correlated with autonomy, in particular the state’s territorial integrity. So, it is concluded that member states are the main players ruling their territorial and legal frameworks, while the EU role at that level is excluded. So, member states are the masters in admitting or rejecting any

territorial and structural modifications, and developments must be grounded on the state's consent (Closa 2016: 248-249).

II. The norms and values of the EU (Article 2 TEU)

This article contradicts the automatic EU membership after secession of a territory. This perspective supports the shallow signification of the definition of democracy, which relies solely on the majority voting principle. An inclusive explanation of democracy comprises following the rule of law and honoring the fundamental human rights. In this framework, democracy is much more than concentrating on the majority's choices. And these principles of democracy are basic standards to access the EU. Thus, unilateral secession does not follow the rule of law of the parent state, violates Article 2 (TEU), and could be seen as illegitimate (Closa 2016, pp.249&250).

III. The principle of sincere cooperation (Article 4.3 TEU)

The norm of sincere cooperation is centered on combining the EU and the member states decisions. As the unilateral secession violates Article 2 (TEU), the EU and its member states should not approve any territorial secession that is legally under the authority of a member state because it is unilateral secession. Also, this rule imposes some restrictions on the actions of the member states to avoid any strategies that might conflict with the EU ambitions, like procedures against the interest of the single market (Closa 2016: 250-251).

b) Consensual secession

The acceptance of a member state on the secession of an area of its lands neutralizes the three discussed perspectives that the EU would present to the cases of unilateral secession. Furthermore, this acceptance allows us to ask hypothetically about the chance of achieving independence and an automatic EU membership at the same time (Closa 2016: 250-251).

Based on Article 4^v of the Vienna Convention in 1978 concerning the succession of states in terms of treaties, the membership of an international organization is centered on the standards and norms of this organization (Connolly 2013, p.85). The EU institutions favored this position adopted by international law. In 2004, Romano Prodi, the Commission President, announced that lands seceded from member states will no longer follow the Treaties, and these newly independent states must ask for new membership, according to Article 49 (TEU) (*Official Journal of the European Union* 2004). In 2012, President Barroso adopted this perspective (UK Parliament (2012). and later in 2017, President Juncker has followed the same path, while perceiving the independence vote in Catalonia as illegal (European Commission 2017). Some EU institutions consolidated the Commission's stance, like the President of the European Council, Herman Van Rompuy (European Council 2013), and the Committee of Regions (*Official Journal of the European Union* 2013). Furthermore, the European Court of Justice has illustrated that the EU should not encompass a larger number

of member states than that between which the Treaties were grounded (European Court of Justice 1997). In this regard, the EU institutions adopt a coherent approach towards the newly independent state as it transformed into a third country, so treaties are not applicable anymore on its territories. Although some debates emphasize that seceding territories will not be allowed for automatic membership, direct expulsion is incompatible with the EU principles and treaties (Graham 2014).

The cornerstone argument for the implementation of automatic accession at the same time of independence is centered on Article 2 (TEU), which relies on EU standards, in particular democracy. Secession is obtained through democratic measures. Thus, the EU- whether its member states or its institutions- should recognize this democratic route; otherwise, it would be breaching the EU norms. So, the abstention to give an automatic EU membership to the seceding territories clarifies the non-recognition of the democratic rights of the individuals in these territories by the EU law (Closa 2016: 254).

Consequently, in such discussion, it is important to concentrate on two main points. On the one hand, the right to secede through democratic tools does not contrast with the EU principles. On the other hand, the acceptance of the results of secession by the EU and its member states, even if it is a democratic decision, might impose externalities on them. So, it is worthy to notice that democratic theory does not oblige those outside the demos to accept the implications of the decisions within the demos. The respect of democratic decisions must involve that the outsiders admit the legitimacy of such decisions. However, the acknowledgment of the legitimacy of the decisions within a demo suggests that this demo can project the impact of its decisions. Sometimes democracies might impact other states through unintended consequences (externalities). Thus, the argument on automatic membership includes the result of the decision of secession on third parties like the EU and its member states, because externalities are not compatible with the objectives of the EU project (Closa 2016: 255).

2) The Catalan independence referendum and the EU reaction

There are many elements that distinguish Catalan national identity, such as the Catalan language, the special national character, the distinctive flags (*senyera* and *estelada*), festivals, and celebrations like the *sardana* dance (Johannes 2019: 23).

At the beginning of Catalan nationalism, Catalans do not consider developing a “state” as a default historical fact. According to them, the most significant issue is the process of building national consciousness, which consolidates cultural bonds and national identity. The Spanish transition from authoritarianism to a

democratic system, followed by integration with the European Communities, helped to raise the national consciousness of Catalans (Llanos-Antczak 2021, p.15). Transformation of Catalan nationalism towards independence based on several social, economic, and political reasons (Madaula 2012: 39-40).

The social factor plays an important role. Catalonia started to involve a new generation that was raised in a democratic atmosphere. This generation is aware of their rights, like the “right to decide”. This new generation calls for the use of democratic mechanisms like the development of referendums.

In 2008, the global financial crisis influenced the national debate in Catalonia. The economic crisis stressed the link between a taxation system that was considered unfair and the problems that resulted from the crisis. Between 2010 and 2015, the CiU government implemented some cuts to Catalan public services. Artur Mas, the president of the Catalan government, asked for creating an independent Catalan taxation system in 2012 and called for new fiscal agreements between Catalonia and the Spanish government. Nevertheless, the Spanish government did not adopt a positive action and the right-wing Catalanists participated in the pro-independence movement (Madaula 2012).

The political tensions started with the 2006 Statute of Autonomy. The Statute marked the main source of disagreements between the Catalan and Spanish governments. In 2005, the Catalan government presented a reform to the 1979 Statute of Autonomy, seeking greater self-government. In 2006, the Catalans voted for the approval of the Statute. Nevertheless, the central government, led by Mariano Rajoy, leader of the right-wing People’s Party (PP), rejected the reform and had to resort to the constitutional court. In 2010, the constitutional court ruled in favor of the cancellation because certain articles of the Statute of Autonomy were unconstitutional. This led to an increase in pro-independence votes, from 14% in 2006 to around 30% in 2011, following the cancellation of the Statute, to 47% in 2017, based on a survey conducted by *Podemos* (Marini 2017).

In 2013, Artur Mas, the President of Catalonia, declared the intention of running an independence referendum with the EU leaders’ support. Artur Mas requested from the European powers to show solidarity to the democratic procedure, which the centre-right government of Spain presided over by Mariano Rajoy described as an unconstitutional action (Reuters 2014). But, later in 2016, Mr. Mas announced to quit the regional presidency after many disputes with parties. That in turn has brought on the presidency of Carles Puigdemont^{vi} (BBC News 2016).

Carles Puigdemont announced on the 1st of October 2017 that Catalonia will carry out an independence referendum. The results of this referendum showed that 90.18% of the Catalans voted for independence. Nevertheless, this percentage only constituted 2.3 million citizens, representing 43% of the registered voters (Reuters 2017).

As a consequence of this referendum, Carles Puigdemont and some Catalan politicians encountered many charges (Sanz 2017). The Spanish government proclaimed the illegality of the referendum and considered it violating three articles of the Spanish constitution. As stated in Article 2^{vii} of the Spanish Constitution, the integrity of the Spanish territory is indissoluble. Spain is a nation of all Spaniards, respects the right to autonomy of the nationalities and regions within the country, and is keen on the coherence and consistency amongst them all (Marini 2017).

Based on this article, a nation of indissoluble unity indicates the involvement of diverse nationalities. Constitutionally, this nation should not allow the execution of a pro-independence referendum. This is the main discussion about the Catalan position. Even so, this article, which highlights the “plurality of nationalities” is confusing in the context of the right to self-determination (Marini 2017).

With regard to Article 92, it shows that the referendum should be suggested by the government and necessitates the ratification of the Congress and to be invoked by the king. While Article No. 155 gives the central government the authorization to rule regional institutions if autonomy is contradictory with the Central State policy. As a result, Spain reacted unprecedentedly with the suspension of Catalonia’s status of autonomy, applied the direct rule, dissolved the Catalan parliament, and requested new regional elections in December 2017 (Marini 2017).

In May 2018, Quim Torra presided over the *Generalitat*. He is regarded as a separatist. Concurrently, Mariano Rajoy, the leader of the Spanish government, was accused of political corruption and mismanaging the Catalan crisis. The scenario resulted in a vote of no confidence from other parties. Then, the socialist Pedro Sánchez took control, who was believed to be more receptive to better autonomous status for Catalonia (Johannes 2019: 21).

At the European level, the European Commission issued a statement declaring that, in accordance with the Spanish Constitution, the vote in Catalonia was unconstitutional. In the opinion of the European Commission, this is an internal affair for Spain that must be handled in consistency with the constitutional order of Spain (European Commission 2017).

Carles Puigdemont criticized the EU approach towards the Catalan conflict, and even with the continuous efforts from the independentists to obtain EU support, the EU has strongly consolidated the central government in Spain. Thus, the EU has been a considerable actor in framing the political positions of the independentists and the unionists, as well, in Catalonia. For the central government, there is a need for EU support to legitimize its actions, while for the secessionists, the EU backing assures the internationalizing of the issue and guarantees protection of the fundamental rights (Aumaitre 2017).

Recently, the European Parliament released a report in February 2021 to deprive three Catalan Members of the EP from parliamentary immunity- Carles Puigdemont and two other Catalan separatist lawmakers.

All are constrained by European arrest warrants declared by Spain for their role in arranging an independence referendum in 2017 which is regarded as illegal by the Spanish court (European Parliament 2021). Nevertheless, Puigdemont described the EP's voting to strip the parliamentary immunity as "a sad day for the European Parliament", commenting it was "a clear case of political persecution". He stated that "We have lost our immunity, but the European Parliament has lost something more: European democracy" (Herszenhorn 2021).

In this regard, the Council of Europe issued a report in June 2021 focusing on respect for the legal order of Spain. Also, it ensured the importance of providing a democratic sphere where politicians can practice their mandates and enjoy freedom of expression (Council of Europe, Parliamentary Assembly 2021).

3) The Scottish independence referendum and the EU response

The Scottish people depended on manifesting their national distinctiveness through different symbols. These symbols of Scottish nationalism helped to justify their desire for the right to self-determination. There are many manifestations that distinguish Scottish national identity, such as the Scottish language, the special national symbols like the thistle and the kilt, and the distinctive flags (the Saltire and the Lion Rampant) (Duncan 2012).

To understand the shift towards independence that took place in Scotland, there is a need to highlight three main constitutional traditions: unionism, home rule or devolution, and the independentist tradition (Keaing 2015: 74-75).

a. Unionism

It is a British doctrine that was developed because of the Act of the Union in 1707. According to the unionists, the United Kingdom should have a unitary parliament at Westminster, without any delegation of power to the nations of Ireland, Scotland, or Wales.

b. Home Rule or devolution

Devolution means the shift of power or the delegation of responsibilities from the central government to the local government.

The debate on devolution in the post-war period expanded. The UK suffered from an unstable economy and a decline in industry. During the 1960s, nationalist parties like the Plaid Cymru Party in Wales and the Scottish National Party (SNP) began to grow considerably in Scotland (Masetti 2019: 8-12).

After the oil and gas discoveries in the North Sea during the 1970s, the SNP did not want to share the revenues with England and adopted the "It's Scotland's oil" slogan. This campaign helped the SNP in the

1974 general election to become the second largest party in Scotland, behind the Labor Party, which won the election, and ahead of the Conservative Party (Masetti 2019: 14).

c. The independentist tradition

This tradition aims to have a separate nation-state. It was considered an insignificant tradition until the 1970^s, when the Scottish National Party (SNP) started to gain electoral progress (Masetti 2019: 20).

So, Scotland followed a devolution process, which resulted in two main tendencies: The first tendency is the Unionist, which seeks more devolved authorities, while the second tendency is the pro-independent, represented in the Scottish National Party (SNP). The Unionists are represented mainly by the Conservative, Labor, and Liberal Democrat Parties. These parties managed through the Calman Commission to reach an approval on the Scotland Act 2012, which provided more financial authorities for the Parliament of Scotland and attempted to prevent the possibility of carrying out an independence referendum. Nevertheless, in a quick response, the SNP's leader, Alex Salmond, succeeded in reaching an agreement with Westminster. The Edinburgh Agreement in 2012 concluded in implementing the Scottish independence referendum in 2014. Consequently, the SNP had the opportunity to implement a referendum on Scottish independence before 2014 ends. Thus, the Scottish Parliament was allowed to legislate for the referendum, devolving an affair that belonged to Westminster (Masetti 2019: 21).

The main question of the referendum was: "Should Scotland be an independent country?" Therefore, the SNP sustained independence with its "YES Scotland" campaign, while the Unionist Parties raised the slogan "Better Together" (Council of Europe, Parliamentary Assembly 2021).

The Scottish independence referendum in 2014 resulted in the highest voter registration in Scottish or British history, as 4,285,323 people were listed to vote and when the ballot was ended, 3,619,915 had truly voted. The outcome was 55% against the independence of Scotland with 2,001,926 votes for "No", while 45% of the votes were in favor of independence with 1,617,989 votes for "Yes" (Davidson 2014: 21).

At the European level, Europe was a significant actor in the Scottish referendum. Contrary to most of the regions in the UK, Eurosceptic parties witnessed a limited electoral backing in Scotland, although the UKIP (UK Independence Party) managed to have a seat for the first time in the May 2014 European election. Furthermore, the Conservative Party obtained the third place in Scotland, while the significant political parties in Scotland, like the SNP, Labor, and the Liberal Democrats, showed a pro-European position. Thus, the Scottish pro-independence supporters used the EU membership as a tool by highlighting the membership's economic and social benefits. Actually, the SNP has always demanded Scottish independence within Europe. The SNP has proclaimed that Europe would maintain the autonomy of Scotland better than belonging to the UK. Europe would mitigate the economic costs of secession by being included in a bigger single market and granting a substitutive sense of security other than that provided by the nation state (Schnapper 2015: 2-3).

This perspective was discussed by Michael Keating that the institutional framework of the EU allows the nonstate actors to interfere, achieve recognition, and guarantee protection. Also, it favors the claim that Scottish nationalism is inclusive and internationalist, contrary to the English Tory/UKIP, which appears to be anti-EU nationalism (Keating 2004: 17).

Moreover, the Scottish independence is considered an unprecedented action for the EU. No territory of an actual Member State that achieved independence while seeking to belong to the EU simultaneously. This might lead to turmoil with regard to the Scottish membership in the EU. In spite of this vague situation, the EU membership did not impact the voter's choices- neither the "Yes" nor the "No"- in the independence referendum (Jan Eichhorn and Daniel Kenealy 2014).

According to data formulated from the 2013 Scottish Social Attitudes Survey, it illustrates that 67% of 'Yes' electorate want an independent Scotland within the EU, while 70% of 'No' electorate have the same opinion. There is no prominent difference.

Such outcomes are centered on people's direct answers on issues that appear to be associated with their decision-making about the referendum. For example, based on a poll concluded in early 2014, only 3% of people viewed EU membership as the most important matter. This might be surprising for people who suppose that Scottish citizens are more concerned with the EU than people in England, where the UKIP is a remarkable force. Scottish citizens hold a positive view of the EU in contrast to their neighbors (Jan Eichhorn and Daniel Kenealy 2014).

Consequently, by comparing the Catalan and the Scottish cases, it can be deduced that both cases are clear examples of sub-state nationalism that hold distinguished symbols of identity. In both cases, the evolution of the historical and political events played a significant role in directing sub-state nationalism towards the calls for independence. Nevertheless, the most notable difference between the Catalan and the Scottish cases is the EU response towards both cases. In the next section, there is an illustration for the EU attitude based on its legal framework.

4) The Catalan and the Scottish secession in the EU legal context

According to the EU legal framework, the EU attitude towards processes of secession relies on the main principles, standards, and values founding the EU. Nevertheless, there are no explicit, decisive legal articles to define the EU position on sub-state secession. Thus, the EU attitude can hold various interpretations, sometimes contradictory, and differs relative to each case of secession, whether unilateral or consensual. In

this context, the Catalan and Scottish cases are two significant examples that clarify the EU response towards unilateral and consensual secessions.

The Catalan case represents an obvious example of unilateral secession, which is considered a notable challenge to the EU for many reasons: First, the EU and Catalonia are two divergent models. The EU model is centered on the gradual relocation of sovereignty from the national to the supranational level, while the nationalist model of Catalonia pursues to shift sovereignty from the national level to the regional level. Second, the anxiety of other member states from a domino effect in states that encompass diverse cultural clusters that might ask for establishing their own state following the example of Catalan nationalism. This clarifies the difficulties that confront the EU if it recognizes the new nation-based states (Ramiro, Troitiño & Kerikmäe 2021: 10).

Moreover, Catalan nationalism faces another hypothetical challenge if it achieves independence. The secession of Catalonia leads to the automatic exit from the EU. This move implies the beginning of a new EU enlargement process that most seemingly might face political barriers. According to the standards of the EU, enlargement processes rely on a unanimous consensus of all member states. In such a case of unilateral secession, not in favor of the central government, Spain might make use of veto to impede the Catalan membership in the EU. Also, other member states worry about the domino effect of the secession of Catalonia and its influence on the internal uniformity of these member states (Ramiro, Troitiño & Kerikmäe 2021: 11).

Consequently, the Catalan government submitted a proposition in 2019 to solicit carrying out some adjustments in the EU internal mechanism that allows the enlargement process. Despite the explicit ambition of the Catalan government to join the EU, this modification seems to be unrealistic because structural changes inside the EU demand the consensus of its member states (Ramiro, Troitiño & Kerikmäe 2021: 11).

With regard to the Scottish case, in contrast to the unilateral action of Catalonia, the 2014 referendum has abided by the UK constitutional law. The Edinburgh Agreement between the UK and the Scottish Governments affirmed that the outcome of the referendum is recognized by all parties and is regarded as legitimate, so it must be respected by the EU. Since the Scottish referendum is viewed as a fully legal process that constitutes the will of the Scottish citizens through a democratic procedure, it would be inconsistent with the EU norms and principles to oblige Scotland to exit the EU (Douglas-Scott 2019). As a result, the EU's principles and *raison d'être* are at issue here. This might undermine the EU's credibility as a supranational institution that consolidates democracy and respects fundamental human rights.

5. Conclusion

The article examines the EU response towards nationalism at the sub-state level by concentrating on the rise of nationalist secessionist tendencies in the sub-state nations, namely the cases of Scotland and Catalonia.

The article helped to answer the question, *“How the rise of nationalist secession at the sub-state level impacts the EU attitude?”* and concluded that, although the EU norms support the integration process, there was no obvious rejection in the EU treaty articles against secession. Even so, there is a significant factor that helps explain the consistency of secession with the EU legal norms. This factor relies on the type of secession, whether it is unilateral or consensual secession. Consequently, the EU response towards sub-state secession differs from case to case; this can be deduced from the EU response towards the secessionist cases of Scotland and Catalonia.

Catalan and Scottish nationalism are examples of sub-state nationalism that developed over the historical and political progress of Spain and the UK in general and these regions in particular. There are many elements that distinguish Catalan and Scottish identities. In both cases, there is a distinctive language (Catalan in Catalonia and Scottish in Scotland) and distinguished flags (the Seneyera and the Estelada in Catalonia and the Saltire and the Lion Rampant in Scotland). And there are privileged celebrations, festivals, and local events in Catalonia, while Scotland is characterized by special symbols like the thistle and the kilt. Thus, this article supports literature that identity and cultural variations are motives for secession.

The article illustrated that the diverse political, economic, and social events marked the shift in Catalan and Scottish attitudes towards pro-independence. And as mentioned in the methodology, the article analyzed the role of political parties and elites in the evolution of Catalan and Scottish nationalism by focusing on literature that clarifies that political and economic considerations play an important role in the evolution of secession.

The article showed that the EU attitude towards Catalan independence seems contradictory. However, the EU claims respect for civic elements such as democracy, integration of minorities, the rule of law, etc.; the EU response showed a double standard. The EU decided to respect the constitution of the Spanish state while ignoring the civic demands of Catalan nationalism. In the Scottish case, Europe played a significant role in the Scottish referendum. The EU perceived the Scottish referendum as a legal process. Thus, the EU attitude towards sub-state secession aligns with literature in distinguishing between unilateral and consensual secession.

Notes

¹ The Scottish Social Attitudes Survey is concerned with measuring and tracking citizens' social, moral and political views in Scotland.

¹ Article 4.2 (TEU) states that "The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State."

¹ Article 2 (TEU) states that: "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."

¹ Article 4.3 (TEU) states that "Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties".

¹ Article 4 of Vienna Convention states that "Non-retroactivity of the present Convention: Without prejudice to the application of any rules set forth in the present Convention to which treaties would be subject under international law independently of the Convention, the Convention applies only to treaties which are concluded by States after the entry into force of the present Convention with regard to such States."

¹ Carles Puigdemont was the president of Catalonia from 2016, but removed in 2017 by the Spanish government after the illegal declaration of the Catalan independence.

¹ Article 2 of the Spanish Constitution states: "The Constitution is based on the indissoluble unity of the Spanish nation, the common and indivisible country of all Spaniards; it recognizes and guarantees the right to autonomy of the nationalities and regions of which it is composed, and the solidarity amongst them all".

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