NÚRIA GONZÁLEZ CAMPAÑÁ, *SECESSION AND EUROPEAN UNION LAW. THE DEFERENTIAL ATTITUDE*, OXFORD, OXFORD UNIVERSITY PRESS, 2024, PP. 288.

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Filling the gap in the literature is one of the most important drivers for researchers and academics in every discipline. *Secession and European Union Law. The Deferential Attitude*, by González Campañá has explicitly done this 'job'. This book lies at the intersection of international law, European law, and constitutional law, focusing on the role of the European Union in shaping the constitutionality of secession in two directions: the legitimacy of secession (i) within the realm of the European Union law as well as (ii) regarding national constitutional law of the Member States. In fact, the normative premises clearly outlined by the author are firstly that 'there is no aim at altering the federal equilibrium between the EU and its Member States'; secondly, it is not investigated the 'moral legitimacy or political convenience of pro-independence movements in EU Member States' (p.1), the latter already discussed by several scholars.[1] Besides the need for a pure normative contribution on the comparative constitutional law of secession[2], a comprehensive account from the European Union legal standpoint was still missing. In this sense this book has filled the gap on this topic.

This research is also timely since secessionist movements and claims seem to be temporary halted by several 'issues' which deserve more attention at the European level. Therefore, the time was thus ripe for a legal analysis with its core devoted to the following broad question: what the EU law has to say to secessionist claims and procedures? This 'angle' is not exclusive in the book given the unfinished (?) EU constitutional (?) integration

[1] See for example: E. Dalle Mulle, The Nationalism of the Rich. Discourses and Strategies of Separatist Parties in Catalonia, Flanders, Northern Italy and Scotland, (London: Routledge 2017)

[2] F. Palermo, Towards a Comparative Constitutional Law of Secession?, in *The Canadian Contribution to a Comparative Law of Secession: Legacies of the Quebec Secession Reference*, eds. Giacomo Delledonne, Giuseppe Martinico, (Springer, Cham 2019), pp. 265-282.

process, paired with the 'still standing and kicking counterweight' of the national constitutions. Therefore, it is explored the interlink between the EU and the Member States regarding secessionist attempts, by analysing the relationship between national constitutional arrangements and the constitutional clauses of the European Treaties. From a methodological standpoint it is notable that the book, being at the crossroads of European Union constitutionalism, international law, and constitutional law, is necessarily nurtured by the legal comparative methodology, with the purpose of prescribing and influencing law's development and decision-makers (p. 11). The starting point is the legal 'autonomy' of the EU law from both international and constitutional law. At the same time, the central claim of the book is that the EU duty to respect national identity generates obligations in the context of secession to respect Member States' constitutional orders (p. 19).

These are the main premises which drive the author in analysing, in Chapter 2 (*Main Terms and Legal Framework of the Book*), secession in international law, in the European law and in comparative constitutional law. From the outline it is noteworthy that if, on the one side, international law unequivocally anchored secession to extreme and special circumstances (remedial secession), on the other side, the constitutional law perspective, especially from the Reference re Secession of Quebec of the Supreme Court of Canada, implies much more. And the constitutional features of the European Union law enrich the debate even though no explicit reference to secession is found in the Treaties.

Afterwards, in Chapter 3 (*Secession and International Law*), two basic features are clearly exposed: that international law may allow secession only in certain circumstances. In fact, the primary goal of international law is to protect the territorial integrity of the States as well as the right to self-determination without authorising secession. This topic has been widely explored by recent scholarship[3] and secession still remains a taboo in international law, where the Kosovo case is a notable exception, whose experience cannot be compared with secessionist claims and attempts in 'mature' or 'stabilised' liberal constitutional democracies. That is the case of Catalonia and Quebec and broadly speaking within the EU and the Member States, since the exceptionalist 'clause' in international does not find place because there is no 'massive abuse of human rights' (p. 65).

In the following Chapter 4 (*Secession and Constitutional Law*), a complete overview of constitutional law and secession is provided with a carefully analysis of both the academic scholarship as well as different review of legal orders to secessionist challenges (p. 70). From Calhoun and the US to Catalonia, from Canada to Scotland it may be argued that such a clear, concise and complete understanding of 'secessionist experiences' also linked

[3] T. Sparks, Self-Determination in the International Legal System. Whose Claim, to What Right?, (London: Hart 2023).

with the EU law dimension in the case of the Member States was still missing. What matters here is that constitutional law has shown the capacity to 'proceduralise' secessionist claims where it is allowed as it the case of Canada and Scotland. It shall also be borne in mind that these constitutional context and legal tradition have represented the most fertile ground for the development of the theory according to which only the right to negotiate exists and it must comply with constitutional law. This also means that secessionist movements need to cope with the different conceptions of democracy, which must be understood in a strict connection to the rule of law as well as within the whole constitutional framework: the latter may include additional legal references as the constitutional clauses of the EU Treaties.

The European Union attitude is explored in chapter 5 (*EU Approach to Secession and Secessionist Challenges: Precedents, Statements, and Reactions*) by examining the EU 'distinctive approach to secession in its internal policies (i.e. recognition policy provided that the secession process respects the rule of law), which coincides with that which it should have (normatively speaking) in internal cases' (pp. 107-108). At first sight the focus over Greenland and the reunification of Germany cases may appear misleading: in fact, despite these experiences nothing have to do with actual secessionist claims they are useful for highlighting that within the EU constitutional landscape the key role is played by the 'affected Member State in the relationship between the EU and a territory under (or previously under) its jurisdiction and the prevalence of political consensus over legal objections' (p. 116). This means that the pragmatism of the Member States as well as the political will to solve the 'territorial' claims must be evaluated which implies the rejection of unilateral secession. This emerges also from the examination of other secessionist experiences, such as Montenegro and Crimea, where certain and procedural legal path allow a peaceful resolution of the statehood in the first case, while the second has seen the only the annexation through military force. Therefore, the EU has shown a cautious attitude towards secession outside and within the EU legal order: while Kosovo is considered only an exception, unilateral independence is considered inacceptable since it violates the national constitutional framework. Thus, the consent of the rump State is required to respect the rule of law and democratic principle the latter which, it should be remembered, ignites secessionist movements.

The Chapter 6 (*EU Law Approach to a Secessionist Challenge: Implicit Responses Within EU Provisions?*) aims at providing 'a general normative interpretation and identify the European Union (EU) law position towards secession that could be of relevance to any EU Member State' (p. 133). This means that the EU cannot and does not take an autonomous approach to secession since it respects the internal structure of each Member State. Therefore, is through the combined interpretation of the fundamental principles envisaged in the Treaties, notably articles 2 and 4(2) of the Treaty on European Union

(TEU), that it is possible to grasp the attitude of the EU towards secessionist claims in the Member States. The chapter analyses competing academic scholarship narratives regarding secession within the EU; for example, on the one side there is who has strongly advised for the moral commitment of the European Union as impeding secessionist breakup while a generous approach has been invoked by those who have detached 'the rule of law from democracy, as if democracy could stand alone, by itself, or even prevail, forgetting that article 2 TEU refers to different but interrelated principles' (p. 144). These opposite visions may be tamed only by reconsidering the overall role of the EU regarding the different typologies of secessionist attempts. The starting point of the core analysis of the book is found in the fact that 'scholars tend to identify or related lawfulness with consensus and unlawfulness with unilaterality' (p. 148). Considering the different options on the table, 1) lawful and consensual scenarios; 2) unlawful and nonconsensual scenarios; and 3) both scenarios, it emerges that interconnection of the EU Treaties and national constitutional framework adds a lot to the constitutional law of secession. In fact, if it is true that art. 4(2) TEU obliges the EU to respect 'the national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government', it should be borne in mind that art. 4(3) has embodies the principle of sincere cooperation, which implies that the principles contained in art. 2 TEU, must be complied by the EU as well as by the Member States. This has mean that a secessionist movement or claim must refer to constitutional obligation related to both national constitution and the EU fundamental principles as developed by the ECJ. In this way it is possible to protect both the national constitutions and the EU legal framework in a 'dialogical non-hierarchical relationship between legal orders that has been advanced throughout this work' (p. 173). Basically, this assumption reinforces the certainty of legal orders by excluding unilateral, non-negotiated and 'extra-constitutional' secessionist attempts, in direct continuity with the reasoning for example of the Italian Constitutional Court (ItCC 118/2015).

The chapter 7 (*EU Law in Relation to States Emerging out of Secession*) additional remarks are made in relation to what it may be called the 'post-secession-accession' to the EU. Despite some reasonable call for a fast-track accession, it is rightly argued that the most suitable approach is recourse to article 49 TEU. Also in this case, it is quite clear that intergovernmental relations will take the lead and that agreements are needed to settle sensitive issues such as citizenship, without disregarding legal obligations, which are mostly anchored in the willingness of the Member States.

To conclude, the lack of explicit normative dispositions and the role that art. 4(2) may play in enforcing the thesis of the deferential attitude of the EU, show an additional limit to the theory that advocates the constitutional relevance of the EU Treaties, which presents only

some constitutional features, since the relevant decision-making lies in the hands of the Member States.

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