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COMPARATIVE ASPECTS OF PROFIT AND LOSS OF CITIZENSHIP

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INTRODUCTION

According to the etymological meaning the word citizenship represents the existence of the state. But this does not mean that the citizenship of natural persons may speak with the filing of the initial state. By the time when the bourgeois national states were established, territorial scope of which is in principle with the national, only then it can be spoken about citizenship. Citizenship represents legal connection to the public-legal character between the individual and sovereign state on the basis of which the person has the status by which in legal form disposes all civil, political and socio-economic rights regardless that is located within or outside the national territory. Various branches deal with citizenship on various aspects of law such as private or public law. The worth of citizenship can be understood with the fact that the right to citizenship in many cases presents a prerequisite for the use of other rights such as the right to work and employment, education, health and social insurance, tax relief etc.

Citizenship can be understood as a legal category (entirely legal) and legal links (relations, legal report).

Citizenship means the norms (legal provisions) of the legal system of a particular state to determine the manner of profit and loss of citizenship.

Citizenship as a legal link (legal relations) of legal-public character is a permanent legal relation of the physical person with a particular country, relation that is expressed in a range of rights and duties in relation to the state, according to which the person in formal-legal views enjoys civil, political, economic and social rights, regardless that it lies in its territory or in the territory of a foreign state.

Citizenship is a contract link (relationship) between an individual and sovereign state. In the XIX Century this is represented by the French doctrine where as main representative is Andre Weiss. The origin of which is by the theory of Jean-Jacques Rousseau's social contract according to which the state is created on the basis of the contract on which mutual rights and obligations arise.

But when we analyze the contract as legal title, we understand that for its establishment there are needed at least two parties and the main elements without which an agreement would not be valid are the will and consent of the parties to respect the contract.

In these circumstances the above theory is inapplicable based on the fact that the child is just born which gains the state's nationality by the (*iussanguinis*) way, by origin, or (*ius soli*), by country of birth is not possible to express the will and consent for the relation of contract with the right country.

Even Niboyet's theory under which citizenship represents political and spiritual relation between the individual and the sovereign state but which cannot be accepted as a correct theory because such criteria are not safe and among other things the provision of political rights to a foreigner does not represent the criteria of distinction between nationals and foreigners, here we have in mind that throughout history there have been cases where

foreigners are given to political rights to such an extent that they have been entitled to vote but still were considered as foreigners. Concrete example is the Soviet Union until 1936 in the regulation of the rights of workers and peasants.

There are theories that besides the affiliation of natural persons they identify the citizenship of legal persons, so the author Borislav T. Bllagojevic says that "At its base the citizenship of natural persons responds to legal persons' citizenship, but the connection points of citizenship between the state and natural person respectively the state and legal person change (ius soli and ius sanguinis)." And this theory is contrary to all constituent elements of the acquisition of citizenship and as such is unenforceable by an absolute majority of global legal orders.

The embryo of the state as a regulator of human behavior within the territory was from the ancient times where the cause of his birth was property and therefore property owners who were usually tribal leaders who although perhaps were more intelligent than others and not necessarily have been physically the fittest where the fear that their properties will get down by someone else stronger than those, set rules of conduct of its members tribes where for their violation there will be sanctions (penalties) .

Rules established at the time as a result of lack of knowledge of literacy were unwritten rules but whose importance lies in the fact that they are the embryo of a legal regulation state of today states.

Based on the history of the birth of the state and its following development to today we conclude that the state presents security with repressive protection tools and preservation of a legal system, content and arrangement of which is regulated by the political class. By this repressive tool the public order, goods and rights provided by law to citizens are maintained in a particular state territory.

According to this logic state represents rules of behavior constructed by legal norms which are incorporated in the highest judicial act of the particular state, laws and regulations which regulate certain areas from the population's life in the state territory.

It should be noted that even in today's times being a citizen of a state represents the fact that there is a tremendous implication on the opportunities and rights of citizens both inside and outside the country whose citizenship is kept by the individual. Based on what was mentioned above, today the vast majority of legal systems in the world pay special attention to equipment with citizenship of persons who do not have one and not allowing the loss of the citizenship of individuals who are at risk of becoming stateless.

CONCLUSION

Citizenship as an institute which contains rights and obligations of the individual and sovereign state should be treated and regulated in such a way that each sovereign state to respond to demographic circumstances and socio-economic circumstances of the certain place.

On the basis of what was concluded during the analysis of the citizenship laws of five (5) countries involved in this scientific work can conclude that the laws on their citizenship in some points are in full compliance with regard to regulating the issues of citizenship but at some points they also have significant differences. During the examination of these laws on citizenship as a positive matter is the minimizing of the possibility of keeping persons stateless, global problem which for the first time is detected in the first half of the twentieth century (XX). Universal Declaration of Human Rights in article fifteen (15) states: "Every person has the right of citizenship; no one dares to willingly become stateless or to change citizenship as they want and when they want."

Dual citizenship is another phenomenon which according to the author of this scientific paper should be regulated by reciprocity between the countries which in the first place will help minority communities who live in these states (concrete example are Albanians who live in Macedonia, Serbia and Montenegro but also other communities) where these persons will have the opportunity for double employment, education, property rights etc. Dual citizenship prescribed by the laws of the respective states would be an advantage when taking into account the benefits which are created for persons with dual citizenship despite the fact that this phenomenon has negative impact on solving the problems in civil relations when we are dealing with individuals with dual citizenship. With the introduction of dual citizenship, persons who would apply for citizenship would not need to bring a certificate from the body of the other state with which they will get guaranteed that the acquisition of citizenship will be released from previous citizenship, which would be a great relief for applicants for citizenship.

While the loss of citizenship by release, the request for warranty from the competent authority of another country that with the loss of citizenship by release from the state where the applicant has applied the same request will acquire the citizenship of another state, should remain in force from all five respective states since it has great influence on the elimination of the possibility that natural persons remain stateless.

Request for the duration of legal and continuing stay of persons who apply for the acquisition of citizenship represents a necessary condition that must be filled, but the requirements of the author's opinion of this scientific work of the Republic of Montenegro and the Republic of Macedonia that this term should be within ten (10) respectively eight (8) is a long term, where the term of five (5) years would be ideal, term which is within the law of Kosovo and Albanian citizenship.

During the analysis of the law on citizenship of the Republic of Macedonia, it is concluded that in the eleventh (11) article of this law discrimination is done against other communities

in relation to the Macedonian community where as persons with the status of so-called "displaced the Republic of Macedonia" have facilities in the acquisition of citizenship, it is stated that the "displaced" according to this law is considered a citizen of the Republic of Macedonia who moved from country to another country, except in their home country.

With this provision communities (Albanians, Serbs, Turks etc.) which have lived in Macedonia, but for various reasons have moved to the origin country (example for Albanians in Albania or Kosovo or Serbs in Serbia) in the case of their desire for return to Macedonian citizenship their right of access to the facilities are not recognized, provided by the status of "the displaced the Republic of Macedonia".

By studying the laws on citizenship of the top five countries which are addressed in this scientific paper, we conclude that the existing regulations applied to some of them do not allow their citizen in any way have a second citizenship.

Damage from these provisions is played by members of minority communities who although physically are close to their home state, in terms of rights exploitation in their home country are equal to all foreigners.

All this happens as a result of states' fear that if they allow the members of minority communities who live in their country they obtain citizenship of the home country. This will affect the creation of the spiritual relations but also closer socio-economic relations to the home country than the state in which they live. Then suspicion arises that as a result of the creation of these closer relations with the home country, the country could have an impact by its community through the expression of discontent to destabilize the neighboring state where the community lives. These are some of the phobias of some stated which have impacted that through these laws of citizenship to make it impossible for its citizens in any other way besides the citizenship of the country where they live to keep the citizenship of their home country.

So after some protests of the Montenegrin opposition, Montenegro identified that the most of the protesters who were protesting at these protests were from the Serb Community and who have the citizenship of Serbia, for which the proceedings against them has started for the Montenegrin citizenship. According to "novosti.rs." which is a Serbian magazine states that "In Montenegro the receiving of Montenegrin documents has began by the Serbian opposition leaders who have Serbian citizenship and by some calculations besides such opposition leaders from 30.000-70.000 Montenegrin residents with Serbian citizenship may remain undocumented."

Based on what was said above, the author of this work has created an idea that would affect that the minority communities in various countries both in the region and wider to possess the advanced rights in the home country but on the other side of the state in whose territory they live, this community have guarantees that this option will not affect in the weakening of the relations of this country about that community. The idea is not to treat citizenship as something rigid and to be treated as editable and as something that suits the country and situation.

Consequently citizenship would divide into two types as follows:

1. Citizenship C-1
2. Citizenship C-2

Citizenship C-1 is applied in all states which in itself contains all rights and obligations by positive laws in the world. This will be the primary citizenship that citizens by birth, descent, etc must have.

Citizenship C-2 is the second citizenship of which the individual applies without losing the first citizenship (C-1), where this citizenship will be modified so that the citizen have rights in the state in which they apply but the difference between the citizenship C-1 from C-2 is that citizenship C-2 brings rights and creates limited obligations for its holder and can be called shadow citizenship in relation to the first.

The difference in the rights and obligations between these two types of citizenships would create a more favorable climate that the different countries not worry if their citizens carry the second citizenship of the other state (C-2) which will be secondary citizenship in relation to the first.

As a result of the primacy of main statehood, the C-1 citizenship in the various international relations every citizen who has dual citizenship would be treated always as a citizen of the C-1 citizenship, while the C-2 citizenship in these relations may be used only by the decision of the competent authority of the third country where the relevant legal work in cases where the main citizenship on the basis of reciprocity will be an obstacle to the conclusion of this legal work.

Below the C-2 citizenship will appear, treated as law and divided into twelve (12) articles.

C-2 CITIZENSHIP

ARTICLE 1

C-2 Citizenship is secondary citizenship in relation to the main citizenship of an individual and can be obtained only by persons who carry their main citizenship (C-1) of the other state.

ARTICLE 2

C-2 Citizenship is applied in package and reciprocity between different states respecting all foreseen provisions by this citizenship.

ARTICLE 3

Citizen with the C-2 citizenship is a citizen of the country that owns this citizenship.

ARTICIEL 4

Citizen with C-2 citizenship can be provided with all documents except the identity and legitimizing documents besides the document for travelling abroad, document that will be provided by the state of C-1 citizenship of which possesses.

ARTICLE 5

Citizen with C-2 citizenship may participate in state's general elections as voters but not get selected, while in local elections they can take part in the event only if they have legal and continuous residence in the territory of the state of the C-2 type it possesses.

ARTICLE 6

Citizen with C-2 citizenship has no obligation in relation to the military service of the state whose citizen according to this type of citizenship is.

ARTICLE 7

Citizen with C-2 citizenship is prohibited from participating in:

- State military forces
- State police forces
- Smart services

ARTICLE 8

Citizen with C-2 citizenship cannot hold public and state professions.

ARTICLE 9

Citizen with C-2 citizenship will be registered in the list of citizens of the country in the capital city of the country where the capital's assembly will decide on each citizen of this type in which of the municipalities of the capital city they will be registered.

ARTICLE 10

Citizen with C-2 citizenship excluding some certain rights and obligations which were described above, uses all other rights and bear other obligations as any other citizen of the country.

ARTICLE 11

In case that the holder of the nationality of type C-2 connects legal work in a third country, the nationality of type C-2 can be used as citizenship only by the decision of the competent authority of the third country where it is envisaged that as a result of application of reciprocity by the country in relation to the citizenship of the C-1 state that this citizen has threatens to not have the opportunity for the legal work.

ARTICLE 12

In case of identification that citizen with C-2 citizenship violates the rules set above, will bring punishment that will be foreseen with agreement from countries that apply this citizenship where such a sentence could get to the removal of the C-1 citizenship.