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MULTIPLE CITIZENSHIP: INTERNATIONAL EXPERIENCE AND IMPLEMENTATION IN UKRAINE (ECONOMIC, POLITICAL AND SECURITY ASPECTS)

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Denysiuk S., Kononenko V., Rezenkina N. Multiple citizenship: international experience and implementation in Ukraine (economic, political and security aspects).

The article is dedicated to the study of issues related to multiple citizenship in the context of international law and security. In the current conditions of increasing globalization, the regulation of multiple citizenship is becoming ever more relevant, particularly in terms of national security and state sovereignty. The article examines key challenges associated with the involvement of individuals with multiple citizenship in armed forces during military conflicts, potential conflicts of interest that may arise in such cases, and the risks of other states interfering in internal affairs under the pretext of protecting the rights of their citizens.

Special attention is given to the analysis of legal practices for the protection of citizens in cases of multiple citizenship, specifically through the lens of the "effective citizenship" concept formulated by the International Court of Justice in the „Notteboom" case. The article also explores the economic aspects of multiple citizenship, including issues of double taxation and possible ways to resolve these issues through international agreements.

Based on an analysis of national and international legal systems, the authors conclude that there is a need to improve legal regulation of citizenship to avoid legal conflicts and ensure a stable political situation in the context of globalization. Particular attention is given to aspects of state sovereignty, which are increasingly under threat due to the growing number of individuals with multiple citizenships.

The article offers recommendations to enhance international legal regulation to protect state sovereignty and the rights of individuals with multiple citizenship in the face of modern global challenges.

In the context of martial law, the issue of maintaining ties with the Ukrainian diaspora around the world and preserving social capital is examined. Emphasis is placed on multiple citizenship, which is often seen as a result of conflicts between the laws of different countries. One of the risks to national security, both for the state of residence and the state of origin, is the issue of preserving state secrets and ensuring the inviolability of borders for individuals with multiple citizenships. To maintain close contact with Ukrainian refugees, the host countries and Ukraine must cooperate to strengthen financial ties, promote the reduction of remittance costs, and prevent double taxation. The need for effective cooperation between Ukraine and other states to create a legal framework for legal migration and

cross-border mobility of Ukrainians after the war is substantiated.

It has been proven that for the sake of security, control over migration processes, and post-war reconstruction after the Russia-Ukraine war, the legalization of multiple citizenship in Ukraine is the optimal step.

Key words: multiple citizenship, multipatriotism, migration, Russia-Ukraine war, national security, social capital.

Денисюк С., Кононеко В., Резенкіна Н. Множинне громадянство: міжнародний досвід і реалізація в Україні (економічні, політичні та безпекові аспекти).

Стаття присвячена дослідженню проблем множинного громадянства у контексті міжнародного права та безпеки. У сучасних умовах зростаючої глобалізації, питання регулювання множинного громадянства набуває дедалі більшої актуальності, особливо в аспектах національної безпеки та суверенітету держав. У статті розглянуто ключові виклики, пов'язані з залученням осіб з множинним громадянством до збройних сил під час військових конфліктів, можливі конфлікти інтересів, які можуть виникати у таких випадках, а також ризики, пов'язані із втручанням інших держав у внутрішні справи під гаслом захисту прав своїх громадян.

Особлива увага приділена аналізу правової практики захисту громадян у випадках з множинним громадянством, зокрема, через призму концепції ефективного громадянства, яка була сформульована Судом ООН у справі «Nottebohm». У статті також досліджуються економічні аспекти множинного громадянства, включаючи проблеми подвійного оподаткування та можливі шляхи розв□язання цих питань через міжнародні угоди.

На основі аналізу національних та міжнародних правових систем, автори роблять висновки щодо необхідності удосконалення правового регулювання громадянства для уникнення правових колізій та забезпечення стабільної політичної ситуації в умовах глобалізації. Окремо виділено аспекти суверенітету держав, які перебувають під загрозою внаслідок зростання кількості осіб із множинним громадянством.

Стаття пропонує рекомендації для покращення міжнародного правового регулювання з метою захисту суверенітету держав і прав осіб із множинним громадянством в умовах сучасних глобальних викликів.

Розглянуто питання збереження зв'язків із українською діаспорою у світі в умовах воєнного стану соціального капіталу. Акцентується увага на множинному громадянстві, яке часто розглядається як наслідок колізії між законодавством різних держав світу. Одним із ризиків для національної безпеки як держави проживання, так і держави походження є питання збереження особами з множинним громадянством державної таємниці та забезпечення непорушності кордонів. Для підтримки тісних контактів із українськими біженцями, країни їх перебування та Україна повинні співпрацювати у зміцненні фінансових зв'язків, сприяти зниженню вартості грошових переказів, запобігати подвійному оподаткуванню. Обґрунтована необхідність ефективної співпраці України з іншими державами для створення правової бази для легальної міграції та транскордонної мобільності українців після закінчення війни.

Доведено, що заради безпеки, контролю над міграційними процесами та відбудови держави після російсько-української війни легалізація множинного громадянства в Україні є оптимальним кроком.

Ключові слова: множинне громадянство, мультипатризм, міграція, російсько-українська війна, національна безпека, соціальний капітал.

Problem Statement. Multiple citizenship in Ukraine is a complex and controversial issue. This topic encompasses a range of different aspects, including certain legal restrictions and socio-economic and political factors. As is known, under the current legislation of Ukraine (the Constitution and the Law on Ukrainian Citizenship [1]) individuals who acquire citizenship of another state automatically lose their Ukrainian citizenship. Multipatriotism is the status of citizenship whereby a person is simultaneously recognized as a citizen of two or more states according to their laws. This status can create difficulties for Ukrainians living abroad or those with family ties in other countries.

Regarding socio-economic factors, many Ukrainians have relatives in other countries. Accordingly, the possibility of holding multiple citizenships simplifies access to education, work, and social services for them. Multiple citizenship can be a factor that fosters the development of various international connections for Ukraine. Finally, the political aspects are most evident in issues related to national security and integration into the European Union. Here, there is a need for a more flexible approach to citizenship.

Thus, the need for research into this topic is underscored by the increasing cases of multiple citizenship. However, different countries have varying approaches to regulating multiple citizenship, which creates legal challenges and contradictions.

The aim of the study is to provide a comprehensive analysis of the phenomenon of multiple citizenship in the context of international law and practice, as well as its implementation within the legal system of Ukraine. The research

involves examining the international experiences of countries regarding multiple citizenship, identifying challenges related to its legal regulation, and determining ways to optimize Ukrainian legislation for the effective integration of the concept of multiple citizenship into the Ukrainian legal system.

The current state of research on the topic. It is known that some politicians, scholars, and experts advocate for the legalization of multiple citizenship, while others believe it may pose risks to statehood. The study of multiple citizenship has become an important area in academic circles, particularly in jurisprudence, sociology, political science, and international relations. Specifically, A. Quinn has researched issues related to citizen rights in the context of multiple citizenship. R. Mandeville analyzed the impact of multiple citizenship on national identity. P. Bloom studied the legal aspects and policies of various countries regarding multiple citizenship. Notable works include those by T. Panchenko [2], O. Poidynok [3], C. Chekhovych [4], L. Henel, K. Ohanesyan, D. Bilyk [5], N. Konstantinov`s [6] and many others.

Presentation of the main material. The doctrine views multiple citizenship ambivalently, as it pertains, on one hand, to the rights and freedoms of individuals and citizens, and on the other hand, to the interests of the state and its security [7, c. 124].

Dual citizenship (hereinafter referred to as bi-nationality) refers to an individual holding citizenship in two or more states. A person may become a bi-national either by their own desire or due to conflicts in the national laws regarding citizenship of different countries. For example, a woman may marry a foreigner, and the laws of his country automatically grant her his citizenship (Brazil has such legislation), while she retains her own citizenship. A child whose parents are citizens of a country that recognizes the «right of blood» and is born in a country that applies the «right of soil» also becomes a bi-national.

Countries define their stance on dual citizenship in their legislation, and many do not recognize it. If a citizen of such a country possesses a second citizenship, this legal circumstance is often disregarded. The individual will be considered solely a citizen of that country. This provision is enshrined in the Hague Convention, which regulates certain issues related to the conflict of laws concerning citizenship from 1930.

The status of a person holding citizenship in two or more states presents certain negative aspects. First and foremost, this relates to the diplomatic protection afforded to such individuals and their obligations regarding military service.

The essence of the first issue can be illustrated by the well-known Notteboom case. In 1951, the government of Liechtenstein brought a case against Guatemala before the International Court of Justice, demanding restitution and compensation for Mr. Notteboom due to actions taken by Guatemala that Liechtenstein believed were contrary to international law. Guatemala, in turn, argued that Notteboom could hardly be considered a citizen of Liechtenstein, and thus, the latter could not provide him with diplomatic protection. Mr. Notteboom was born in Germany in 1881 and obtained Liechtenstein citizenship by naturalization in 1939. However, from 1905 to 1943, he lived permanently in Guatemala and engaged in business there. During World War II, Notteboom was deported from Guatemala. The Court emphasized that Liechtenstein, like any other state, has the authority to establish its rules for acquiring citizenship; however, the crux of the issue was that, in this case, Guatemala was obliged to recognize Notteboom's Liechtenstein citizenship. Since the matter escalated to the level of providing diplomatic protection, this case shifted from the realm of domestic law to international law.

The Court noted that, according to state practice, citizenship constitutes a legal bond between a person and the state that granted the citizenship, as well as an acknowledgment that the individual has a closer connection with that state than with any other. Based on this premise, the Court pointed out the very weak link between Mr. Notteboom and Liechtenstein, contrasting it with his strong connection to Guatemala, where he had lived for over 30 years. Due to the absence of a «real connection» between Notteboom and Liechtenstein, the Court did not recognize the latter's right to provide diplomatic protection to Mr. Notteboom. Although this ruling by the International Court of Justice faced criticism from several international law experts, the doctrine of «real connection» or «effective nationality» gained prominence regarding the provision of diplomatic protection to dual nationals. Its essence is that a dual national can expect diplomatic protection from the state of effective nationality, meaning the state with which they have genuine ties. More often than not, such a state is determined by the individual's place of permanent residence [8, c. 166-167].

Since the practice of the International Court of Justice has a precedent-setting nature [9, c. 223], its legal positions are significant for the study of the issue of multiple citizenship, even considering the fair criticism of the UN and its bodies [10, c. 166-167].

To implement multiculturalism in practice, it is necessary for states to enter into bilateral agreements with each other, in which they mutually recognize the status of individuals

with dual citizenship, along with their rights and obligations. Additionally, the Law of Ukraine on Citizenship establishes the grounds for renunciation of citizenship, its loss, or its official termination. For example, a person can lose their Ukrainian citizenship if they voluntarily acquire another citizenship, enlist in the military service of another country, or obtain Ukrainian citizenship based on false information. Notably, it was under this provision that former Georgian President Mikheil Saakashvili was stripped of his citizenship at one time [11].

However, the Constitution of Ukraine (Article 4) states that there is a single citizenship in Ukraine, and Article 25 stipulates that a citizen of Ukraine cannot be deprived of citizenship or the right to change citizenship. Thus, these two provisions are contradictory. Although the law establishes deprivation of citizenship if a person obtains a passport of another state, the Constitution explicitly prohibits this. Therefore, there is a certain legal conflict in Ukraine, and lawyers often point out that in reality, multiple citizenship exists in Ukraine, although it is legally prohibited.

Let us consider different perspectives on this status. Multiple citizenship is often perceived by analysts and politicians as an undesirable legal status for an individual in their relationship with a particular state. From the perspective of the nation-state's interests, multiple citizenship is also seen primarily as a potential threat or risk to state security and national unity. After all, there is no distinction between belonging to a nation and belonging to a state, and a person should have one citizenship, one homeland, and one native language [2, c. 39].

In this context, multiple citizenship is often seen as a result of the collision between the laws of various countries around the world, as it grants both rights and obligations to individuals. This includes obligations such as military service, tax payments, and others. Therefore, multiple citizenship comes with many advantages as well as risks for both individuals and states. As T. Panchenko rightly points out, individuals with multiple citizenship can be held legally accountable by one of the states whose obligations they are evading. Furthermore, such individuals cannot rely on diplomatic protection from the state of one of their citizenships while in the territory of another citizenship. A dual citizen cannot equally fulfill their obligations or participate in the socio-political life of several states. Typically, such an individual will tend to favor one state over others, thereby weakening the institution of citizenship in the other state [2, c. 40].

It is emphasized that there are risks to national security for both the country of residence and the country of origin regarding the preservation of state secrets by individuals with multiple citizenships and ensuring the inviolability of borders. In conditions of armed conflicts, it is quite difficult to form armed forces from individuals with dual citizenship. This leads to a reduction in the state's defense capability and creates risks of one state interfering in the internal affairs of another when it comes to protecting the violated rights of individuals with multiple citizenships. This can even become a basis for the escalation of military conflict under the guise of protecting its citizens.

Instead, the issue of forming armed forces should not be automatically associated with the risks of dual citizenship. In many states, such as France, Israel, and the United States, citizens with dual citizenship actively serve in the armed forces. The state has mechanisms to verify loyalty, which help avoid problems related to conflicts of interest. The presence of dual citizenship does not necessarily imply a potential conflict between obligations to different states.

The assertion that citizens with multiple (or dual) citizenship automatically reduce a state's defense capability is overly generalized. In reality, national security depends on the effectiveness of military governance, technological advancement, the level of military training, and other factors. Dual citizenship, in itself, is not a key risk.

It is also important to note that the majority of international treaties and national legislations have provisions regulating the legal responsibility of individuals with dual citizenship. In the case of armed conflicts, foreign states may demand the protection of their citizens, but this does not always lead to the escalation of military conflicts. International law and diplomatic channels serve as effective tools for resolving such issues.

Therefore, the problem of dual citizenship in the context of armed conflicts is significantly more complex and cannot be viewed as a primary factor in diminishing defense capabilities.

We believe that involving individuals with dual citizenship in military service during armed conflicts cannot be regarded as an automatic threat to a state's defense capabilities. While there are certain risks associated with conflicts of interest or foreign interference, many countries successfully integrate citizens with dual citizenship into their armed forces. Effective legal and administrative mechanisms, such as loyalty checks, can minimize these risks. The main risks can be politicized and used as a pretext for aggression, requiring careful legal regulation at the international level.

However, for various reasons, including the Russo-Ukrainian war, many citizens live in different countries around the world for extended periods, work, adapt, and have the opportunity to acquire citizenship in another state. It is known that in January 2024, Ukrainian President

Volodymyr Zelensky submitted a draft law to the Verkhovna Rada of Ukraine, which regulates «dual citizenship.» Currently, in Ukraine, the institution of citizenship is governed by the Law of Ukraine on Citizenship No. 2235-III of January 18, 2001, and the European Convention on Citizenship, ratified by the Verkhovna Rada of Ukraine on September 20, 2006. This document establishes the principle of single citizenship; however, it does not contain a provision prohibiting dual citizenship. Thus, the law does not forbid dual citizenship but merely does not recognize it. Therefore, if a citizen of Ukraine holds citizenship in another state, the laws apply to them just as they do to other citizens of Ukraine [7].

That is, such a person is recognized as a citizen of Ukraine in legal relations with Ukraine. However, according to the law of Ukraine on citizenship, it is stated that Ukrainians can acquire the citizenship of other states. If a citizen of Ukraine acquires the citizenship of other states, they are not deprived of their Ukrainian citizenship and are recognized solely as a citizen of Ukraine. Since there is no established procedure for declaring another citizenship in Ukraine, it is practically impossible to prove the existence of another citizenship.

Let's systematize the legal risks of multiple citizenships for Ukrainians, taking into account the current socio-political situation in Ukraine. If a person holds Ukrainian citizenship as well as citizenship of another state, this may lead to conflicts regarding the fulfillment of military duty. The prolonged course of the Russian-Ukrainian war has created an acute need for human resources. For instance, Ukrainians who have military obligations may face legal problems if the second state also requires them to serve in the military [8].

Of course, in the context of war, there can be difficulties in protecting the rights of individuals with multiple citizenships. For instance, it may be challenging to obtain consular assistance or support from another country. One of the issues could be restrictions on movement between countries that are experiencing political conflict. This can lead to serious legal difficulties [9].

The issue of legalization is also relevant. Changes in legislation related to military actions may complicate the procedures for legalization, obtaining documents, or recognizing citizenship status. One of the concerns is the conflict of laws. Situations may arise where the laws of the two countries of which a person is a citizen contradict each other, leading to legal collisions [10].

In some cases, individuals with multiple citizenships may become targets of political repression or bias from one of the countries due to their status. Moreover, in times of war, laws may be enacted that alter the conditions for granting or revoking citizenship, which can affect the status of individuals with multiple citizenships. Therefore, it is important for Ukrainians with multiple citizenships to be attentive to the legal aspects that may arise in the current circumstances and, if possible, to consult with lawyers to avoid complications [11].

Despite the challenges, in practice, many Ukrainians hold multiple citizenships since the state does not control or record cases of acquiring a second citizenship. This is especially common among people who have emigrated.

International experience shows that having two passports is allowed in more than 130 countries worldwide. These countries include Belgium, Bulgaria, the Vatican, the United Kingdom, Denmark, Canada, Cyprus, Latvia, Lithuania, Luxembourg, Germany, Spain, Poland, Portugal, Romania, Serbia, the United States of America, Croatia, the Czech Republic, Finland, France, Hungary, Sweden, and Switzerland.

Two and a half years after the large-scale Russian invasion of Ukraine, the issue of multiple citizenship for Ukrainians is highly relevant. A law on multiple citizenship could help resolve the problem of the state's migration policy. It is important to maintain legal ties with Ukrainian refugees, develop connections with the diaspora, and involve foreigners in the post-war reconstruction of Ukraine. It can be assumed that such a law is also intended to institutionalize interaction with Ukrainian diasporas worldwide.

Moreover, citizens of 33 countries have the opportunity to obtain a Ukrainian passport through a simplified procedure. This applies to citizens of Austria, Belgium, Bulgaria, the United Kingdom, Greece, Denmark, Estonia, Ireland, Spain, Italy, Canada, Cyprus, Norway, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Germany, Poland, Portugal, Romania, Slovakia, Slovenia, the United States of America, Hungary, Finland, France, Croatia, the Czech Republic, Sweden, Switzerland, and Japan. Their citizens only need to submit a declaration recognizing themselves as citizens of Ukraine without renouncing their first citizenship. However, in legal relations with Ukraine, they will recognize themselves solely as citizens of Ukraine [12].

To revive Ukraine after the war and prevent a mass exodus of Ukrainians abroad, multiple citizenship may serve as an effective remedy. According to forecasts from the United Nations High Commissioner for Refugees (UNHCR), the number of Ukrainian refugees in Europe will remain significant in 2024 due to the prolonged conflict, with estimates of approximately 5.9 million individuals. Among them, 39% are women of working age, 38% are children under 18 years old, 14% are individuals over 60 years old, and 10% are men. Additionally, 51% of the refugees have

higher education, while 28% possess vocational training [13].

To maintain close contacts with refugees, host countries of Ukrainians and Ukraine itself must cooperate to strengthen the financial connections of refugees with Ukraine, facilitate the reduction of money transfer costs, prevent double taxation, and so on. Certainly, effective collaboration is necessary to create a legal framework for the legal migration and cross-border mobility of Ukrainians after the war ends. It can be assumed that Ukrainian refugees will be more actively returning to their homeland after the war if they have the opportunity to travel abroad again.

Conclusions.

1. The phenomenon of multiple citizenship raises significant concerns regarding national security, particularly during armed conflicts. Individuals with multiple citizenships may face conflicting obligations, especially concerning military service. This potential conflict could weaken the defense capability of a state if loyalty to one country contradicts that to another. The presence of individuals with multiple citizenships in armed forces can lead to divided loyalties, and multiple citizenship increases the risk of foreign interference under the pretext of protecting citizens.

2. Multiple citizenship complicates diplomatic protection. The doctrine of «effective nationality» states that diplomatic protection can only be granted by the state with which the individual has the most substantial connection. This can result in situations where a person with dual citizenship remains unprotected, especially if one country questions the citizenship status granted by another. Such legal ambiguity presents challenges to the implementation of international treaties and norms.

3. From an economic perspective, multiple citizenship can provide benefits such as enhanced mobility for business and access to broader social services and markets. However, it also presents challenges in the form of double taxation, which may lead to tax evasion in the absence of clear agreements between the involved countries. Managing the economic implications for such individuals requires careful bilateral negotiations to avoid financial disputes and maintain fiscal responsibility.

4. In the context of wartime challenges, changing approaches to citizenship acquisition should serve as an effective tool for addressing many pressing state issues. Conversely, the issuance of passports alone will not resolve the problem of population decline in Ukraine post-war.

5. Engaging foreign workers for the purpose of restoring Ukraine's economy and improving the demographic situation will necessitate a departure from conservative immigration policies. The establishment of a multiple citizenship institution presents significant advantages and risks that have not been fully considered in the proposed draft law before the Verkhovna Rada. One possible solution to this situation could be the implementation of a document similar to the Polish Card, which confirms the Polish origin and affiliation of a foreigner with the Polish nation without granting Polish citizenship.

6. Citizenship is an agreement between an individual and the state, where both parties have rights and obligations that must be respected. Therefore, in the context of martial law in Ukraine, the creation and implementation of a multiple citizenship institution should be approached with maximum caution, taking into account both potential benefits and future risks..

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