

## BASIC PRINCIPLES OF CITIZENSHIP OF THE REPUBLIC OF UZBEKISTAN: CONSTITUTIONAL AND LEGAL ANALYSIS

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### KEYWORDS

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of inadmissibility of extradition  
of a citizen to another state

### ABSTRACT

The article analyzes the essence of the institution of citizenship, the main principles of this institution, clarification of the constitutional bases, their types, scope and importance in the system of legal status of the citizenship of the Republic of Uzbekistan on the basis of comparative analysis of the sources of constitutional law and legislation of foreign countries, and exploration of the study of international law and universally recognized standards. It identifies legal gaps and contradictions in the field of legal regulation of citizenship of the Republic of Uzbekistan on the basis of comparison of the legislation of the CIS and the Baltic states, and provides scientifically based proposals and recommendations for their elimination. Moreover, the need and benefits of the implementation into national legislation, including the Constitution of the Republic of Uzbekistan based on the results of the research of the level of compliance of the legislation on citizenship of the Republic of Uzbekistan with the universally recognized rules and principles of international law. In addition to, the article emphasizes the significance of the application of universally recognized legal norms in internal law, which improves the “image” of the Republic of Uzbekistan in the international arena and show clear position on the right to citizenship (or change it).

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## **INTRODUCTION**

The research on the citizenship is closely connected to human rights and freedoms as well as state sovereignty. Because the strong legal relationship between the individual and the state is formed via the citizenship. There are some views on this issue; however, there is no generally recognized and accepted single position. It creates certain ambiguities in realizing the basic principles of the institution of citizenship and the nature of the conditions for their application in practice.

In current, international standards imply the effective guarantee of the individual's natural and civil rights as the primary task. Every state decides on the acquisition and abolition of citizenship in the manner prescribed by internal law. This means that the requirements of international law should be taken into consideration in the development of legal norms. On this basis, it is important to scientifically theoretical research the principles that the citizenship of the Republic of Uzbekistan is based on.

## **RESULTS AND ITS DISCUSSION**

One of the important elements of a person's legal status is the principles that it is possible to define the level of guarantee of individual rights and freedoms, to what extent the national legislation is appropriate to the international standards.

According to P. E. Nedbaylo, "law principles reflect the objective features of society that arise under the influence of the laws of development, various historical interests, needs and contradictions" [1]. Kartashov V. N. points out that, "law principles are the preliminary (initial) instructions (strict requirements) that determine the general direction of the legal regulation of social relations" [2]. Accordingly, professor Kh.T.Odilkoriev emphasizes law principles as the target, leading criterion that guides the formation and development of law [3].

According to the scope of application of the law principles in the legal literature, conditionally divided into: 1) general law (applies to all spheres of law); 2) inter-sectoral (specific to a group of interconnected sphere of law); 3) sectoral (related to separate sphere of law) [4]. The legal principles of the institution of citizenship are also special rules in this sphere and do not contradict the general legal principles in essence.

Based on the above-mentioned general scientific approaches, it can be said that the basic principles of the institution of citizenship are also the leading ideas and rules that determine (guarantee) the effectiveness of the institution. According to M. A. Buchakova, the legal principles of citizenship should be suitable with generally accepted norms of international law, ensuring the mutual balance of the individual, society and the state [5]. That is why the application of universally recognized legal norms in the internal legislation of the states is of great importance. On this basis, we analyze the extent to which the relationship of citizenship of the Republic of Uzbekistan is covered by legal principles.

The analysis of the norms of the Constitution of the Republic of Uzbekistan shows that despite the fact that they have a separate chapter for the institution of citizenship (Chapter VI. Citizenship), nevertheless do not fully reflect the basic provisions guaranteeing the rights

to citizenship. In particular, it stipulates only for the principles of unique and equal citizenship (Article 21), as well as legal and diplomatic protection (Article 22). This, in our view, as lawyer S.A. Akimova points out, “principles that are not defined at the constitutional level hinder the creation of the content of national institutions of citizenship and rules, undermining the clarity and attention they need” [6].

Furthermore, the Article 4 of the Law of the Republic of Uzbekistan “On citizenship of the Republic of Uzbekistan” No. LRU-610 dated on March 13, 2020 (title of the article: “Citizenship in the Republic of Uzbekistan”) stipulates rules (norms) disclosing the content and specifics of the institution of citizenship however, they have not been recognized as the principles of this institution. The laws of most CIS and Baltic states clearly state that these rules are the principles of the institution of citizenship. For instance, the citizenship laws of the states such as Belarus (Article 3), Kyrgyzstan (Article 4), Lithuania (Article 3), Moldova (Article 7), Russia (Article 4), Tajikistan (Article 4), Turkmenistan (Article 4) and Ukraine (Article 2) are the examples.

In our view, it is expedient to clearly define the principles on which the citizenship of the Republic of Uzbekistan is based in the current legislation. Indeed, as V.N.Kartashov points out, “different ideas can become law principles only if they are directly reflected in legislation or other forms of law” [7]. Otherwise, their importance naturally decrease in practical activities.

The basic principles of the institution of citizenship are reflected in the European Convention on Citizenship dated on November 6, 1997 as the following: 1) everyone has the right to obtain citizenship; 2) reduction of statelessness; 3) no one may be arbitrarily deprived of his/her citizenship; 4) the marital relationship does not automatically change the civil status of the husband (wife). It is necessary to study in-depth the scientific basis of the constitutional regulation of these rules in our national legislation. Let`s analyze some of them:

1) “The principle of the right to citizenship (right to citizenship)” – this principle means that a person has the opportunity to make independent decisions on matters of citizenship. It is based on the free exercise of a person`s subjective (natural) rights to citizenship and the protection of this process by the state. This rule means that citizenship or the right to change it cannot be the subject of pressure on a citizen, and according to E.N. Izotova, it is one of the most important principles that determine the level of democracy in the state [8]. This principle is also internationally guaranteed by the fact that it was included in the Universal Declaration of Human Rights of December 10, 1948 (Article 15) [9] as a natural human right.

The legislation of the CIS and the Baltic states stipulates that the deprivation of the right to obtain or change citizenship is not allowed at the constitutional level. For example, it can be considered in the constitutions of Armenia (Article 47, Part 5), Belarus (Article 10, Part 2), Georgia (Article 13, Part 2), Kyrgyzstan (Article 50, Part 2), Kazakhstan (Article 10, Part 2) Moldova (Article 17, Part 2), Azerbaijan (Article 53, Part 1), Russia (Article 6, Part

3), Turkmenistan (Article 10, Part 2), Ukraine (Article 25, Part 1) and Estonia (Article 8, part 2).

The results of the study of foreign legislation on the issue under discussion show that the states guarantee the above-mentioned rights of the citizen at different levels and on different terms. Specifically, 1) the legislation of Armenia, Belarus, Georgia, Russia, Turkmenistan, Ukraine stipulates on general grounds (unconditionally) that deprivation of citizenship (the right to change it) is not allowed; 2) The Constitution of Kyrgyzstan states that this right may be restricted only in the manner prescribed by constitutional law; 3) According to the legislation of Kazakhstan, deprivation of citizenship may be allowed only on the basis of the court decision; 4) The Constitution of Moldova stipulates that arbitrary (unjustified) deprivation of citizenship is not allowed; 5) The constitutional norms of Azerbaijan stipulate that in no case shall a person be deprived of his / her citizenship (or the right to change it) in the country.

A slightly different approach can be seen in the legislation of Estonia. According to it, persons who obtain citizenship on the basis of birth in the country can not be deprived of citizenship under any circumstances. It is also inadmissible for any citizen to be deprived of his status due to his faith (religious beliefs). Estonia's democratic position, based on the denial of the "influence" of faith in the determination of civil relations, is certainly praiseworthy.

However, it should be noted that the inadmissibility of abolition of citizenship by birth only is a special privilege granted by the state to such persons, creates contradiction with the principle of "non-discrimination" (equal citizenship) as enshrined in the European Convention on Citizenship as of November 6, 1997 (Article 5 (2) [10]. At the same time, there is a tendency in the legislation of some foreign countries to argue that the rights of persons with citizenship by birth should be greater than those with citizenship by naturalization. For example, in the case of acquisition of citizenship on the basis of false information, the measure of deprivation of citizenship is applied only if the person has acquired citizenship on the basis of naturalization [11].

Based on the above, it is necessary to strengthen the right of person to citizenship at the level of principle, given that in the constitutional norms of our national legislation the right to citizenship "can be limited only by law". For this purpose, it is expedient to supplement the Article 21 of the Constitution of the Republic of Uzbekistan with the following paragraph: "Everyone has the right to be a citizen of the Republic of Uzbekistan. A citizen of the Republic of Uzbekistan may not be deprived of the citizenship of Uzbekistan or the right to change it in any case, except as provided by law". We believe that the consideration of this proposal serve to improve the "image" of our country in the international arena and to show a clear position on the issue of a person's right to citizenship (or change it). 2) "The principle of inadmissibility of the Article 13 of the recommendable law "On agreed principles of the regulation of citizenship" [12] adopted by the CIS Interparliamentary Assembly (December 29, 1992); According to this, it is expedient

to strengthen in the internal legislation of the member states “the extradition of citizen to foreign state, except as provided by interstate agreements”.

Although this document is of recommendatory nature, most CIS and Baltic states have tried to incorporate its democratic provisions into their national legislation. The constitutions of Kyrgyzstan (Article 50, Part 4), Moldova (Article 18, Part 2), Azerbaijan (Article 53, Part 2), Russia (Article 61, Part 1), Turkmenistan (Article 10, Part 2), Ukraine (Part 2 of Article 25) strictly prohibit the extradition (detention) of the citizen to another state. The citizen may be extradited to another state only on the basis of the international treaty and bilateral agreements in accordance of the legislation of Belarus (Article 10, part 2), Georgia (Article 13, part 4) <sup>2</sup>, Kazakhstan (Article 11, part 2), Latvia (Article 98, part 2), Lithuania (Article 13, part 2) and Tajikistan (Article 16, part 1).

This situation demonstrates, firstly, the position of these states on the issue of extradition of their citizens, and secondly, the compliance of internal law with the norms of international law, which stipulates that the rights of persons with civil status may be restricted only in cases provided by law. Therefore, in our opinion, it is expedient to supplement Article 22 of the Constitution of the Republic of Uzbekistan with a separate paragraph: “Citizen of the Republic of Uzbekistan may not be deported from the Republic of Uzbekistan or extradited to another state in any case, except as provided by international treaties and agreements with the Republic of Uzbekistan”.

As a result of the analysis, it can be concluded that today there is a great need to strengthen the basic principles of citizenship of the Republic of Uzbekistan at the constitutional level.

## **CONCLUSIONS**

As a result of research conducted in order to coordinate the basic principles of the institution of citizenship in line with the requirements of international law, the proposals and recommendations aimed at improving the legal regulation of citizenship of the Republic of Uzbekistan are as follows:

1. As a result of the analysis, it can be concluded that the universally recognized rules and principles of international law do not directly regulate issues related to citizenship. They identify the legal framework in which states can regulate their citizenship. The criterion for the validity of internal legislation on citizenship is its degree of compliance with the generally accepted rules and principles of international law; therefore, the regulatory function of internal documents is largely determined by international standards.

2. There is a need to strengthen the following basic principles of citizenship of the Republic of Uzbekistan at the constitutional-legal level based on the study of international legal aspects of the institution of citizenship: a) It is expedient to supplement the Article 21 of the Constitution of the Republic of Uzbekistan with the following stipulation: “Everyone has the right to be the citizen of the Republic of Uzbekistan. Citizen of the Republic of Uzbekistan may not be deprived of the citizenship of Uzbekistan or the right to change it in any case, except as specified by law”; b) It is expedient to supplement the Article 22 of the Constitution of the Republic of Uzbekistan with a separate paragraph of the following

content: "Citizen of the Republic of Uzbekistan may not be deported from the Republic of Uzbekistan or extradited to another state in any case, except as specified by international treaties and agreements with the Republic of Uzbekistan".

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