INSTITUTE OF COMPARATIVE LAW (ISTITUTO DI DIRITTO COMPARATO)
UNIVERSITY "NICCOLÒ CUSANO" (UNIVERSITÀ "NICCOLÒ CUSANO")

INTERNATIONAL SCIENTIFIC THEMATIC CONFERENCE
CONVEGNO SCIENTIFICO INTERNAZIONALE

FROM NATIONAL SOVEREIGNTY TO NEGOTIATION SOVEREIGNTY
"Days of Law Rolando Quadri"

DALLA SOVRANITÀ NAZIONALE ALLA SOVRANITÀ NEGOZIALE
"Giorni del Diritto Rolando Quadri"

Thematic Conference Proceedings of International Significance
Atti di convegni tematici di rilevanza internazionale

Editors/A Cura di

Jelena Kostić
Valentina Ranaldi
Augusto Sinagra

Belgrade, 14 June 2024
Belgrado, 14 giugno 2024

INTERNATIONAL SCIENTIFIC THEMATIC CONFERENCE
CONVEGNO SCIENTIFICO INTERNAZIONALE
From National Sovereignty to Negotiation Sovereignty
"Days of Law Rolando Quadri"
Dalla sovranità nazionale alla sovranità negoziale
"Giorni del Diritto Rolando Quadri"

Publishers/Editori
Institute of Comparative Law
(Istituto di diritto comparato)
University "Niccolò Cusano" of Rome
(Università di Roma "Niccolò Cusano")

For the Publishers/Per gli Editori
Prof. dr Jelena Ćeranić Perišić
Prof. dr Anna Pirozzoli

Reviewers/Revisori
Prof. Cristiana Fioravanti (Italy)
Prof. dr Miloš Stanić (Serbia)

Official Languages/Lingue ufficiali
English and Italian/Inglese e italiano

Technical Editor/Redattore tecnico
Miloš Vasović, LLM

Prepress/Prestampa
Branimir Trošić

Printed by/Stampato da
Birograf Comp d.o.o., Beograd

Copies/Copie
150

ISBN 978-86-82582-18-2

DOI: https://doi.org/10.56461/ZR_24.FNSTNS

This Collection of papers is a result of the research conducted at the Institute of Comparative Law financed by the Ministry of Science, Technological Development and Innovation of the Republic of Serbia under the Contract on realisation and financing of scientific research of SRO in 2024 registered under no. 451-03-66/2024-03/200049.

Il presente Volume è il risultato della ricerca condotta presso l'Istituto di diritto comparato finanziato dal Ministero della Scienza, dello sviluppo tecnologico e dell'innovazione della Repubblica di Serbia nell'ambito del Contratto sulla realizzazione e il finanziamento della ricerca scientifica della SRO nel 2024 registrato con il n. 451-03-66/2024-03/200049.

Vasilije Marković* **DOI: 10.56461/ZR_24.FNSTNS.19**

A NOTE ON THE DUAL CITIZENSHIP TENDENCIES WITHIN THE EUROPEAN PERSPECTIVE**

Abstract

The policy of dual citizenship on the European continent has undergone significant changes in recent decades. The reasons for these changes are multiple: from increased migration, the impact of the globalization process, gender perspectives, but also the changed role of the state, which is no longer perceived only as an instrument of authoritative governing, but also as a service to citizens, i.e. public service. In the paper, the author describes these influences and tries to show the changed character of dual citizenship on a theoretical level, which is no longer perceived as an a priori negative phenomenon that should be restrained, but as a fact that should be reckoned with, or as a phenomenon that should be strengthened, having in mind in terms of the theoretical framework of the right to dual citizenship. In addition to the theoretical framework, the author also shows the change of citizenship policy on the European continent and on the example of relevant international documents. The evolution can thus be clearly observed if two documents of the Council of Europe, Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality from 1963 and Convention of the Council of Europe on nationality from 1997, are compared. And while the first, older document has a very negative attitude towards the possibility of dual citizenship, the 1997 convention affirms dual citizenship. This change on the international level was followed by certain changes in the legislation of European countries, which, by applying the comparative law method, will be adequately presented in the paper. Especially in this sense are illustrative examples of countries that until recently were very significant opponents of dual citizenship, such as Denmark, and a special focus will be placed on the solution present in this country. The author's conclusion is that the politics of citizenship, both on the international and the national level, is evolving, but that even now one has to reckon with the irreversibly changed perspective of dual citizenship.

Keywords: *Citizesnip, Dual citizenship, Council of Europe, Comparative Law*

---

* LLM, Junior Research Assistant, Institute of Comparative Law, Belgrade.

ORCID: *https://orcid.org/0000-0001-9258-5015*

E-mail: *v.markovic@iup.rs*

** This paper is a result of the research conducted at the Institute of Comparative Law financed by the Ministry of Science, Technological Development and Innovation of the Republic of Serbia under the Contract on realization and financing of scientific research of SRO in 2024 registered under no. 451-03-66/2024-03/200049.

CRTICA O TENDENCIJAMA DVOJNOG DRŽAVLJANSTVA U EVROPSKOJ PERSPEKTIVI

Apstrakt

Politika dvojnog državljanstva na evropskom kontinentu pretrpela je značajne promene poslednjih decenija. Razlozi za ove promene su višestruki: od povećane migracije, uticaja procesa globalizacije, rodnih perspektiva, ali i izmenjene uloge države, koja se više ne doživljava samo kao instrument autoritativnog upravljanja, već i kao servis za građana, odnosno javnog servisa. U radu autor opisuje ove uticaje i pokušava da na teorijskom planu prikaže promenjeni karakter dvojnog državljanstva, koje se više ne doživljava kao apriorno negativna pojava koju treba suzdržati, već kao činjenica sa kojom treba računati, ili kao fenomen koji treba osnažiti imajući u vidu teorijski okvir prava na dvojno državljanstvo. Pored teorijskog okvira, autor prikazuje i promenu politike građanstva na evropskom kontinentu i na primeru relevantnih međunarodnih dokumenata. Evolucija se stoga može jasno uočiti ako se uporede dva dokumenta Saveta Evrope, Konvencija o smanjenju slučajeva višestrukog državljanstva i o vojnim obavezama u slučajevima višestrukog državljanstva iz 1963. godine i Konvencija Saveta Evrope o državljanstvu iz 1997. godine. . I dok prvi, stariji dokument ima veoma negativan stav prema mogućnosti dvojnog državljanstva, konvencija iz 1997. afirmiše dvojno državljanstvo. Ovu promenu na međunarodnom planu pratile su i određene izmene u zakonodavstvu evropskih zemalja, koje će primenom uporednopravne metode biti na adekvatan način prikazane u radu. Posebno su u tom smislu ilustrativni primeri zemalja koje su donedavno bile veoma značajni protivnici dvojnog državljanstva, poput Danske, a poseban fokus biće stavljen na rešenje koje je prisutno u ovoj zemlji. Zaključak autora je da se politika građanstva, kako na međunarodnom tako i na nacionalnom planu, razvija, ali da se i sada mora računati sa nepovratno izmenjenom perspektivom dvojnog državljanstva.

Ključne reči: *državljanstvo, dvojno državljanstvo, Savet Europe, uporedno pravo*

1. Introduction

The connection between citizenship and sovereignty is obvious and one might say inherent. Citizenship as a special legal relationship between an individual and the state was rightly viewed as the exclusive domain of regulation by the state, and for the reason of preserving undivided loyalty to the state, the policy of one citizenship was in force for a long time. At its core, such a policy contained the argument of state sovereignty, which itself is unique and indivisible, so the loyalty to the state that derives from citizenship should be unique and indivisible. In such a framework, dual citizenship was considered an anomaly at best, that is, a phenomenon that should be threatened at worst.[1] This attitude is very vividly described in a sentence that dates back to the 19th century, according to which "a man with two citizenships should be tolerated as much as a man with two wives, and unlike polygamy, divided allegiance to several states is so repugnant to common sense that there is not even a term coined for this phenomenon".[2]

However, due to faster and more prevalent globalization and more frequent migrations, dual citizenship has become a necessity that states should count on. Moreover, according to certain researches, it cannot be taken as an accurate a priori view that dual citizenship undermines the sovereignty of the state, but, in fact, on the contrary, dual citizenship is also used by states to increase their sovereignty, for example promoting national interest abroad through expatriates and trans-border minorities.[3]

At the same time, the evolution of the understanding of dual citizenship is also noticeable in the field of both international law and the national rights of states, which will be shown in chapters 2 and 3. In the introductory part, it seems useful to mention two more things. The first is numerical data on the increasingly frequent granting of dual citizenship, both worldwide and at the level of the European continent. The second circumstance is a useful tool for expressing the degree of liberality of a particular national solution regarding dual citizenship. It is about the so-called Citizenship Policy Index.

Thus, we first see an illustrative presentation of the mentioned evolution if we compare the number of countries in which citizenship is automatically lost after acquiring another citizenship. That number was 63% in 1960, but in 2020 it would drop to only 24%. Also, in 1960, only six countries accepted dual citizenship both in the form of entry and exit naturalization, and by 2022, that number would increase to as many as 91 countries.[4] If we shift the focus from the described global trend to the context of the European Union, we will reach similar conclusions. Namely, out of 756 possible interactions between EU member states, as many as 461 (61%) include full acceptance of dual citizenship. That percentage is even higher if it is converted into the number of successful

[1] P. Spiro, „Dual citizenship as human right", *International Journal of Constitutional Law* 8, 1/2010, 111.

[2] M. Howard, "Variation in Dual Citizenships Policies in the Countries of the EU", *The International Migration Review* 39, 3/2005, 700.

[3] S. Pogonyi, "Dual citizenship and sovereignty", *Nationalities Papers*, 5/2011, 685-704.

[4] L. van der Baaren, *Dual Citizenship in the European Union: trends and analysis (2010-2020) – Comparative Report,* European University Institute, 2020, 1.

naturalizations. Namely, the same author came to the conclusion that 92% of citizens of EU member states who completed the naturalization procedure in 2018 were able to legally retain their previous citizenship, thanks to the fact that it was among the mentioned 461 correlations that result in the mutual acceptance of dual citizenship between member states EU.[5]

When it comes to CPI, it is based on three simple criteria. The first criterion is the question of whether the state allows the automatic acquisition of citizenship by the fact of birth on the territory of that state (ius soli principle). If the answer to this question is affirmative, according to the CPI, this fact is indexed with 2 points, and if it is negative, with 0 (zero) points. It is important to point out that the unconditional ius soli principle is valid mainly in the countries of North and South America, while comparative law, especially on the European continent, knows different variants of the conditional ius soli principle, of which it is very common, but compared to this criterion of quite limited scope, the so-called remedial ius soli principle. It implies the acquisition of citizenship by birth on the territory of the state, provided that the parents are unknown, or of unknown citizenship, or that the child born does not acquire their citizenship based on the laws of the countries from which his parents come. The second criterion is the length of legal residence required for naturalization, whereby countries that require a minimum of 10 years are classified in the category of difficult acquisition of dual citizenship (and according to the mentioned index, are scored with 0 points), those that require from six to nine years belong to middle category (and are scored with one point), while those that require five years or less - belong to liberal states against dual citizenship and are scored according to this index with two points. Finally, the third criterion refers to allowing the possession of the citizenship of one country, without the condition of renouncing the previous citizenship, whereby the setting of this condition is marked with a restrictive 0 points, while the absence of this condition means a liberal approach to the possibility of dual citizenship and the state assigns two points according to the mentioned index.

The final classification according to the CPI predicts that countries with 0 or one point belong to the group of restrictive, from two to four - medium, and with five and six points belong to the group of liberal countries.

2. Evolution of Council of Europe standards regarding dual citizenship

An vivid illustration of the changed understanding of dual citizenship within international law, in terms of its increasing affirmation, can be seen if we compare the solutions that exist within two international documents. The first of them is the Convention of the Council of Europe on the Reduction of Cases of Multiple Citizenship and Military Obligations in the Case of Multiple Citizenship from 1963, according to which

[5] R. Bauböck, R. Bauböck, "The Toleration of Dual Citizenship: A Global Trend and its Limits", *Dual Citizenship and Naturalisation. Global, Comparative and Austrian Perspectives* (eds. Rainer Bauböck and Max Haller), Austrian Academy of Sciences Press, Vienna, 2021, 68-69.

the so-called exit naturalization (a situation in which the state does not prescribe the loss of its own citizenship if its citizen acquires the citizenship of another state). With this, the 1963 Convention still strongly affirmed the policy of one citizenship. However, with the Second Protocol, which revised the Convention, the strict regime regarding dual citizenship was somewhat liberalized by allowing multiple citizenships in the case of second-generation migrants, and spouses in mixed marriages and their children. The reason for adding the second protocol allowing dual citizenship lay in the desire to encourage the unity of citizenship within the same family.

A key shift in terms of the changed understanding in the field of enabling dual citizenship on the European continent was made in 1997 with the adoption of the European Convention of the Council of Europe on citizenship. This Convention refrains from condemning multiple citizenship as a problematic state practice, and instead notes "the desirability of finding appropriate solutions to the consequences of multiple citizenship, and in particular with regard to the rights and duties of citizens with multiple citizenships". Also, in Art. 14 of the Convention states that the contracting state should allow children who have different citizenships at birth to keep both, as well as allow its citizens to keep another citizenship if it is automatically acquired based on the fact of marriage. In art. 15 of the Convention states that the provisions of this Convention shall not limit the right of a contracting state to prescribe by law whether citizens who acquire or possess the citizenship of another state retain or lose the citizenship of the contracting state, as well as the right of the state to determine whether the acquisition or retention of its citizenship is subject to the condition of renunciation or loss of another citizenship. In the Explanatory Report of the Convention, it is stated that this provision indicates the neutral attitude that the Convention has towards the possibility of multiple citizenship.

However, the relationship of the European Convention on Citizenship to the institution of dual citizenship cannot be characterized only as neutral, but rather as favorable, as confirmed by Art. 16 of the Convention, which stipulates that the contracting state should not set the condition of renunciation or loss of another citizenship as a prerequisite for acquiring or retaining one's own citizenship, if such renunciation or loss is impossible or cannot reasonably be required. The explanation points out that this provision aims to ensure that a person is not prevented from obtaining or having citizenship because it is impossible or difficult to lose a previously acquired citizenship. The existence of unreasonable, factual or legal requirements is assessed in each specific case by the authorities of the contracting state whose citizenship the person wishes to acquire.

Although this Convention was not accepted by all member states of the Council of Europe, and some of them put reservations on certain provisions, this Convention nevertheless helped to remove one of the main international obstacles to dual citizenship in Europe.[6]

[6] M. Howard, 704. cited according V. Marković, "Pravo na dvojno državljanstvo u Crnoj Gori – sekuritizacija kao poslednji čin stare drame?", u: *Uporednopravni izazovi u savremenom pravu - In memoriam dr Stefan Andonović* (ur. J.Rajić Ćalić), Institut za uporedno pravo, Pravni fakultet Univerziteta u Kragujevcu, Beograd, 179-203.

As stated in the Explanation for the adoption of the Convention from 1997, the Council of Europe decided to consider the strict application of the principle of avoiding multiple citizenships, among other things, due to labor force migration, freedom of movement in EU countries, the increasing number of marriages between spouses of different nationalities, but And the need for integration of persons with permanent residence in the countries where they apply for citizenship.[7] In relation to that last parameter, the standards of the Council of Europe further explain that a maximum of 10 years of legal residence on the territory of the state can be set as a condition for naturalization, but also that access to citizenship should exist every time a person has sincere and effective ties to a specific state (by birth, origin or residence).[8]

3. Legal framework in chosen European countries

3.1. (Still) restrictive approach

Austria and the Netherlands are among the few European countries where the unfavorable, restrictive regime of dual citizenship is still in force.

Thus, Austria very often refers to the Convention from 1963 as an obligation arising from international law, which imposes the retention of a restrictive approach and the intolerance of dual citizenship.[9] However, after Norway's departure from the obligation of chapter 1 of the Convention, which directly relates to the reduction of cases of multiple citizenship, this chapter binds only the Netherlands in addition to Austria (in other words, only these two signatory states are still bound by chapter 1, which relates to the reduction of cases multiple citizenship). At this point, it is indicative to point out that in the period from 2001 to 2018, the following countries were released from the obligation of Chapter 1 of the Convention: France, Germany, Great Britain, Sweden, Spain, Norway, Luxembourg, Denmark, Italy and other members of the Council of Europe), and is, at least from the point of view of international law, Austria is free to tolerate dual citizenship with respect to all other states.

When it comes to the CPI criterion that refers to the so-called renunciation clause, the Austrian legislation still insists on its retention. Therefore, in cases of incoming naturalization, renunciation of previous citizenship is required with only a few very limited exceptions. These exceptions refer to situations when it is not reasonable to expect a release from the previous citizenship, which refers to applicants from countries that do not allow renunciation (mainly Arab countries), and also in the case that the renunciation

[7] Coucil of Europe, European Convention on Nationality, Explanation https://www.medijator-prn-javorac.com/Evropska-konvencija-o-drzavljanstvu.pdf., 4. July 2024.

[8] C. Vlieks, Nationality and Statelessness in Europe – European Law on Preventing and Solving Statelessness, Insersentia, Antwerpen, Gent, Kambridge 2022, 163 and 165.

[9] R. Bauböck, G. Valchars, *Non-Toleration of Dual Citizenship in Austria,* in: Dual Citizenship and Naturalisation: Global, Comparative and Austrian Perspectives (eds. R.Bauböck, M. Haller), Austrian Academy of Sciences Press, 2021, 212.

imposes extremely high costs of the procedure, as well as in the case of refugees renunciation of previous citizenship will not be required.[10]

Nevertheless, with regard to incoming naturalization, scholars propose certain modifications to the CPI index that would, preferably, further liberalize the Austrian legislative solution to dual citizenship. Those proposals refer first of all to the introduction of the conditional ius soli principle, i.e. on enabling the child to acquire Austrian citizenship if his parents are permanently settled in Austria, as well as on not completely abolishing the renunciation clause, but rather suspending it, if the applicant comes from an EU member state, as well as if he is a British citizen, in order to rehabilitate the consequences of BREXIT, that is, it enabled British citizens who are permanent residents in Austria to retain their EU citizenship.[11]

And the Netherlands insists on keeping the renunciation clause. However, such a solution was not present in the 1993 law, because the logic of the legislator was that naturalization is more of a right, and not a "service" that the administrative body assigns to the applicant on the basis of discretionary authority.[12] However, in 1997, the Dutch solution regressed with the re-introduction of the mandatory renunciation of previous citizenship, and in 2003, legal solutions instead of the previous formal interview introduced a rigorous naturalization test, which led to the fact that in the year of the adoption of that legal solution, 70% fewer applications were submitted requests for naturalization than in 2002.[13]

However, there is a certain list of exceptions to the current strict rule. Thus, the Dutch citizenship law stipulates that a child born to parents of whom one is a Dutch citizen can also retain the citizenship of the other parent. Also, in the naturalization procedure, the condition of mandatory renunciation of previous citizenship is not set if the applicant for citizenship is married or in a registered partnership with a Dutch citizen at the time of submitting the application for naturalization or at the time of making the decision, but not in the event that he marries after who acquires Dutch citizenship; then if he was born in the Netherlands and has his main residence at the time of submitting the application for naturalization; he has been accepted into the Netherlands as a refugee or cannot renounce his citizenship according to the legislation of that particular country. Additional exceptions are also set in the event that the applicant received a residence permit in 2007 or 2008, and submitted an application for naturalization after November 1, 2021 or after June 1 of that year, in the event that in 2007 and 2008 he was minor person. Finally, even in cases where renunciation of prior citizenship is mandatory (where none of the above exceptions exist), an exception will still be possible if renunciation of prior citizenship cannot reasonably be required. In terms of a more detailed definition

[10] *Ibid*. 214.

[11] *Ibid*. 221-223.

[12] R. van Oers, B. de Hart, K. Groenendijk, Country Report: The Netherlands, EUDO CITIZENSHIP OBSERVATORY 2013, 15-16.

[13] R. van Oers, From Liberal to Restrictive Citizenship Policies: the Case of the Netherlands, *International Journal on Multicultural Societies* 1/2008, 49.

of what is to be considered a reasonable request, Dutch law under this, among other things, implies a situation in which the renunciation of the previous citizenship would cause disproportionate financial losses. Disproportionate financial loss can thus occur if it is necessary to pay a very high amount for renouncing the previous citizenship or if the applicant would suffer financial loss in another way, e.g. loss of pension rights or loss of ownership of certain property.

When it comes to the *ius soli* principle in the Netherlands, it differs depending on whether a person was born before January 1, 1985 or after. In the first case, citizenship by birth on the territory of the Netherlands was only possible in two situations: if the father was a Dutch citizen at the time of birth or the mother was a Dutch citizen, and she and the child's father were not married at the time of birth. In the second case, the list is significantly expanded, so that the child acquires the citizenship of the Netherlands if the mother was a Dutch citizen at the time of birth or the father is a Dutch citizen who was married or in a registered partnership with a non-Dutch woman, or was not married but paternity was recognized before the birth. Also, citizenship by birth on the territory of the Netherlands can be acquired if one parent lives in the Netherlands at the time of birth and at the same time the grandfather or grandmother lived in the Netherlands at the time when the parent of the child in question was born.

Regarding the required length of legal residence, it is necessary that the applicant for Dutch citizenship has lived in the Netherlands for at least 5 consecutive years with a valid residence permit. A valid residence permit means a regular or permanent residence permit based on asylum, a residence permit for long-term EU residents, and a temporary residence permit with a non-temporary reason for staying. These reasons may include the work of highly educated migrants, temporary humanitarian reasons, staying as a family member or relative of a Dutch citizen, working as a self-employed person, etc. It is important to emphasize that a person who has a temporary residence permit cannot apply for Dutch citizenship, but must first apply for a permanent residence permit or a temporary residence permit with a non-temporary purpose of staying for some of the reasons listed. The required length of stay of 5 years may be shorter in certain situations. Thus, the length of stay is three years on the condition that the applicant has already lived in the Netherlands continuously for 3 years, and at the time of application he already lived or was married to the same partner who has Dutch citizenship. Also, the condition of the required length of stay has been reduced to only two provided that the applicant has a valid residence permit (permanent or temporary for non-temporary reasons to stay), and has lived in the Netherlands before, for at least 10 years.[14]

As can be seen, even in the countries that are among the most restrictive in Europe regarding the possibility of dual citizenship, there is a whole range of exceptions, as well as very clear indications of the direction of future reforms, which, partly due to the rules present in the European Union, will lead to gradual liberalization of solutions in these countries.

[14] Exceptions to the 5-year term for naturalisation in the Netherlands, https://ind.nl/en/exceptions-to-the-5-year-term-for-naturalisation-in-the-netherlands, 4 July 2024.

3.2. (Already) liberalized approach

SR Germany is the European country in which the evolution, especially the recent one, of the citizenship policy can best be observed the trend described in the previous chapters. Namely, the earlier legal solution provided for the ius soli principle in the form of automatic granting of citizenship to children born on German soil, but if at least one of their parents had a legal residence permit for eight years or an unlimited residence permit for three years, while the children were born in Germany (the third generation) if their parents were German citizens (second generation) automatically received citizenship, regardless of the status of the residence permit. However, this conditional ius soli was additionally complicated by an optional model, i.e. children who have obtained German citizenship through the aforementioned ius soli procedure may have dual citizenship during their minors, but in the period between eighteen and twenty-three years of age they must choose one or the other citizenship (decide whether they want to retain German citizenship or the citizenship of their parents), except in cases where other countries refuse or prevent the renunciation of citizenship or require unacceptable conditions. If they do not decide and comply with this request, they lose their German citizenship. The goal of the ius soli principle set in this way was, therefore, to avoid dual citizenship.[15] Also, with regard to the general length of stay required for entry naturalization, it was initially 15 years, but was reduced to 8 years by changes in the law. At the same time, a renunciation clause was set, in the sense that renunciation of the previous citizenship was required. By amending the German law, in the form of the Law on the Modernization of the Law on Citizenship, which entered into force in June 2024, Germany liberalized its legal framework of dual citizenship according to all three criteria.

Thus, the new legal solution foresees that the required length of stay for entry naturalization is not 8 but 5 years, and with special evidence of integration (volunteering, language skills at C1 level), naturalization is possible after only three years. As for the conditional ius soli principle in Germany, it has been liberalized in two directions. First of all, the legal residence of parents is now required for a period of not 8, but 5 years, and the optional model has been abolished, and now children who receive German citizenship on this basis will no longer be obliged to choose between German and parental citizenship! Finally, FR Germany no longer imposes the condition of renouncing the previous citizenship as mandatory![16]

These shown changes can also numerically show the degree of liberalization of German citizenship according to the CPI index. The previously existing rules placed SR

[15] According S. Ravlić, "Etničko shvaćanje nacije i dvojno državljanstvo: usporedba švedske, njemačke i hrvatske politike građanstva", *Hrvatska i komparativna javna uprava: časopis za teoriju i praksu javne uprave,* 17, 4/2017, 620-621.

[16] H. Tieben, The new German citizenship law – here you will find a summary of the most important changes, https://www.mth-partner.de/en/immigration-law/the-new-german-citizenship-law-here-you-find-find-a-summary-of-the-most-important-changes/#:~:text=Despite%20being%20entitled%20to%20naturalization%2C%20only%20a%20few,falls%20below%20the%20EU%20average%20of%202.0%20percent, 14 July 2024.

Germany in the middle category with a CPI index of 3, while according to the new solutions, SR Germany will be included in the range of liberal solutions with a CPI index of 5. The newly introduced rules can clearly show the evolution of the liberalization of citizenship policy - in the 1980s, Germany was classified according to this index in the group of restrictive countries, so that, after a transitional period from June of this year, it found its place in the line of very liberal legal solutions.

Among the Scandinavian countries, Sweden was the first to allow dual citizenship in 2001, followed by Iceland and Finland in 2003. This Scandinavian trend of liberalization was eventually followed by Norway in 2018 and Denmark, a little earlier in 2015.[17] Nevertheless, the Danish solution, in terms of the interrelationship between dual citizenship and sovereignty, is much more worthy of analysis. Namely, with the legal changes from 2014, the dual-citizenship act introduced access to dual citizenship for all Danes and foreigners, thus repealing all the Danish citizenship act's renunciation requirements. Also, the act introduced a five-year time-limited transitional arrangement for former Danish citizens who had lost their Danish citizenship through the acquisition of a foreign one. Former Danish citizens and their minor children (regardless of whether the children had been Danish or not) could (re)acquire Danish citizenship by declaration within five years of the date on which the dual-citizenship act entered into force.[18]

In theory, there are two justifications for these legal changes by which Denmark fully embraced the policy of dual citizenship. The first argument is that Denmark allowed dual citizenship in order to enable Danish emigrants to keep or regain their Danish citizenship; in other words, a re-ethnicisation of citizenship, and the second is a kind of reversed securitization of dual citizenship, through the attitude that accepting dual citizenship would allow for citizenship revocation of dual citizens who engage in or support acts of terror.[19] Denmark used the liberalization of dual citizenship as a convenient mechanism to protect the nation state from security threats, by enabling the perpetrator to be deprived of his Danish citizenship in the event of terrorist acts, without worrying about possible statelessness. This novelty in the concept of dual citizenship is referred to as the securitization of citizenship.[20] In the earlier period, the denounced dual citizenship was considered a threat to the sovereignty of the nation-state, and that is why it was moved from the political to the security sphere. The example of Denmark shows the opposite direction of action of securitization - national sovereignty and security reasons, although not the only ones, certainly encourage the possibility of dual citizenship. The example of Denmark therefore unequivocally shows that the concepts of dual citizenship and national security and sovereignty can no longer be perceived as single way!

[17] E. Ersbøll, "The Danish Turn Towards Dual Citizenship", in: *Dual Citizenship and Naturalisation: Global, Comparative and Austrian Perspectives* (eds. R.Bauböck, M. Haller), Austrian Academy of Sciences Press, 2021, 162-163.

[18] *Ibid.* 171.

[19] G. Brochmann, A. Midtbøen, "Philosophies of integration? Elite views on citizenship policies in Scandinavia", *Ethnicities* 1/2021, 149.

[20] A. Midtbøen, "Dual Citizenship in an era of securitisation: A case of Denmark", *Nordic Journal of Migration Research* 3/2019, 303.

4. Conclusion

Dual or multiple citizenship is an undeniable fact. Nevertheless, the minority among the states will continue with an unfavorable attitude towards the acceptance of dual citizenship, referring to the state reason and state interest. However, it is increasing phenomenon according to which is possible to talk about dual citizenship as a status right, which implies individual autonomy and self-governance values. For this reason, as well as the reason that dual citizenship no longer poses a substantial threat to state interests, acceptance of the status of dual citizenship may be universalized. [21] However, until such (a highly desired) result comes true, the intention of this article was to show the tendencies that exist in that direction on the European continent, both in terms of the development of international law, and in terms of the practice and legislation of European countries. That the European understanding of dual citizenship is rapidly moving towards general acceptance is evidenced by the fact that, of all the signatory states of the Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality, only Austria and the Netherlands have not come out of the obligations provided for in Chapter I of this Convention. Even more, a key point in the changed understanding of dual citizenship on the international level is the adoption of the European Convention on Citizenship, which caused a whole wave of liberalization of national legislation among the member states of the Council of Europe.

The comparative solutions chosen in the paper unequivocally confirm this thesis. The comparative section is divided into two parts: on those countries that still persist in the restrictive understanding of dual citizenship (exactly Austria and the Netherlands), and on those that (relatively) recently significantly liberalized their legislation and moved to the club of countries that look favorably on the possibility of dual citizenship. The selection of restrictive solutions and presentation of the range of exceptions that exist in their national legislation aimed to show that even in the countries with the most restrictive solutions in Europe, the prohibition of dual citizenship is not linear and absolute. Moreover, in both of these countries there are significant and deep political and scientific debates about the possible directions of future liberalization of these solutions.

Among them, the newly adopted changes in the German solution are the most radical, while the changes in the Danish legislation from a decade ago are the most indicative. The most indicative because they refute the completely plausible, but actually anachronistic claim that dual citizenship undermines or dilutes the concept of the nation state and sovereignty. This claim can be supported by the well-known perspective of Carl Schmitt, according to which the sovereign is the one who decides on a state of emergency, and in the context of which terrorist threats can be observed, as well as the revocation of citizenship as a consequence of such an act. Enabling dual citizenship as an instrument of (reverse) securitization, the Danish example maybe not predominantly, but definitely to a certain extent, shows that dual citizenship can be a suitable tool in preserving national security, and not only as a threat to it.

[21] P. Spiro, *Op. cit*. 130.

Finally, the entire text is imbued with a note about evolution - the evolution of the understanding and politics of dual citizenship. However, it is not the only phenomenon that is subject to the process of evolution - the understanding of state sovereignty is also evolving. One of the not-so-negligible contributions to the changed concept of sovereignty is the previously changed understanding of (dual) citizenship - no longer as a service, based on the discretionary power of the national state administration, but as a human right. In an increasingly globalized world, dual citizenship is becoming inevitable, even desirable, and its other benefits to countries have yet to be examined in detail and analyzed analytically.

References

Bauböck, R. "The Toleration of Dual Citizenship: A Global Trend and its Limits", *Dual Citizenship and Naturalisation. Global, Comparative and Austrian Perspectives* (eds. Rainer Bauböck and Max Haller), Austrian Academy of Sciences Press, Vienna, 2021, 59-79.

Bauböck, R. Valchars, G. *Non-Toleration of Dual Citizenship in Austria,* in: Dual Citizenship and Naturalisation: Global, Comparative and Austrian Perspectives (eds. R.Bauböck, M. Haller), Austrian Academy of Sciences Press, 2021, 207-227.

Brochmann, G., Midtbøen, A. "Philosophies of integration? Elite views on citizenship policies in Scandinavia", *Ethnicities* 1/2021, 146-164.

Ersbøll, E., "The Danish Turn Towards Dual Citizenship", in: *Dual Citizenship and Naturalisation: Global, Comparative and Austrian Perspectives* (eds. R.Bauböck, M. Haller), Austrian Academy of Sciences Press, 2021, 157-182.

Howard, M. "Variation in Dual Citizenships Policies in the Countries of the EU", *The International Migration Review* 39, (3)/2005, 697-720.

Marković, V. "Pravo na dvojno državljanstvo u Crnoj Gori – sekuritizacija kao poslednji čin stare drame?", u: *Uporednopravni izazovi u savremenom pravu - In memoriam dr Stefan Andonović* (ur. J.Rajić Ćalić), Institut za uporedno pravo, Pravni fakultet Univerziteta u Kragujevcu, Beograd, 179-203.

Midtbøen, A. "Dual Citizenship in an era of securitisation: A case of Denmark", *Nordic Journal of Migration Research* (3)/2019, 293-309.

Pogonyi, S. "Dual citizenship and sovereignty", *Nationalities Papers*, (5)/2011, 685-704.

Ravlić, S. "Etničko shvaćanje nacije i dvojno državljanstvo: usporedba švedske, njemačke i hrvatske politike građanstva", *Hrvatska i komparativna javna uprava: časopis za teoriju i praksu javne uprave,* 17, 4/2017, 611-638.

Spiro, P. "Dual citizenship as human right", *International Journal of Constitutional Law* 8, (1)/2010, 111-130.

Van der Baaren, L. *Dual Citizenship in the European Union: trends and analysis (2010-2020) – Comparative Report,* European University Institute, 2020, 1-35.

Van Oers, R. "From Liberal to Restrictive Citizenship Policies: the Case of the Netherlands", *International Journal on Multicultural Societies* 1/2008, 40-59.

Vlieks, C. *Nationality and Statelessness in Europe – European Law on Preventing and Solving Statelessness*, Insersentia, Antwerpen, Gent, Kambridge 2022.

Other Sources

Coucil of Europe, European Convention on Nationality, Explanation https://www.medijator-prnjavorac.com/Evropska-konvencija-o-drzavljanstvu.pdf., 4. July 2024.

H. Tieben, The new German citizenship law – here you will find a summary of the most important changes, 14 July 2024, https://www.mth-partner.de/en/immigration-law/the-new-german-citizenship-law-here-you-find-find-a-summary-of-the-most-important-changes/#:~:text=Despite%20being%20entitled%20to%20naturalization%2C%20only%20a%20few,falls%20below%20the%20EU%20average%20of%202.0%20percent.

Van Oers, R. De Hart, B., Groenendijk, K. Country Report: The Netherlands, EUDO CITIZENSHIP OBSERVATORY 2013.

CIP - Каталогизација у публикацији
Народна библиотека Србије, Београд

341(082)
341.211(082)
341.217(4-672EU)(082)
341.176(4-672EU)(082)

INTERNATIONAL scientific thematic conference From national sovereignty to negotiation sovereignty "Days of Law Rolando Quadri" (2024 ; Beograd)

International scientific thematic conference From national sovereignty to negotiation sovereignty "Days of Law Rolando Quadri", Belgrade, 14 June 2024 : thematic conference proceedings of international significance = Convegno scientifico internazionale Dalla sovranità nazionale alla sovranità negoziale "Giorni del Diritto Rolando Quadri", Belgrado, 14 giugno 2024 : atti di convegni tematici di rilevanza internazionale / [organized by] Institute of comparative law (Istituto di diritto comparato), University "Niccolò Cusano" (Università "Niccolò Cusano") ; editors, a Cura di Jelena Kostić, Valentina Ranaldi, Augusto Sinagra. - Belgrade : Institute of Comparative Law ; Rome : University "Niccolò Cusano", 2024 (Beograd : Birograf comp). - XXI, 375 str. ; 24 cm

Radovi na engl. i ital. jeziku. - Tiraž 150. - Str. IX-XVI: Preface = Preface / Jelena Kostić, Valentina Ranaldi. - Napomene i bibliografske reference uz tekst. - Bibliografija uz svaki rad. - Apstrakti.

ISBN 978-86-82582-18-2

а) Европска унија -- Наднационална надлежност -- Зборници б) Сувереност -- Зборници в) Међународно право -- Зборници

COBISS.SR-ID 151823113