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**CITIZENSHIP OF THE EUROPEAN UNION AS A PHENOMENON**

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There has always been scientific interest in studying the institution of citizenship in constitutional and international law. And this is not surprising as this institution reveals the peculiarity of the legal status of the state citizens compared to the rest of the population.

Citizenship is understood as a legally defined, stable, unrestricted legal relationship between a person and a particular state, which determines their rights and responsibilities. However, the development of European integration forces to reconsider the traditional views as for this institution. Citizenship of the Union has certain differences and is determined by the citizenship of one of its member countries. In other words, any citizen of an EU state is considered as a citizen of the Union.

The complexity of the interpretation of this institute in a scientific and practical sense has been stipulated by several aspects. Firstly, the concept of «citizenship» is closely related to the concept of «state». Secondly, the variety of existing approaches to determining the legal nature of the European Union does not make it possible to combine EU citizenship with nationality. Thirdly, EU citizens have special (additional) rights. Fourthly, the understanding that the introduction of EU citizenship was more of a political step to overcome the so-called «democratic deficit» in the Union and to strengthen European identity.

In the legal literature, we can even find criticism concerning the term «citizenship of the European Union». Thus, according to Yankovsky S. A., «the terms «citizen» and «citizenship» regarding the European Union are not quite well chosen. After all, their use in this context inevitably provokes

analogies with national constitutional law, although such a comparison may not always be appropriate” [9, p. 27–28].

The idea of introducing European citizenship existed before the creation of the European Community. An important contribution to the forming the European citizenship concept was made by Richard Coudenhove-Kalergi, who in 1923 founded the Pan-European Union – a socio-political movement aimed at an association of the European peoples in a confederate or federal union to preserve peace and economic stability in Western Europe. He is the one who raises the question of the formation of European identity as the basis of unification processes [7]. Modern scholars identify several stages of the formation of union citizenship. For example, Kulabukhova A. V. outlines four historical stages. The first stage is the emergence of the idea of European unity of citizens as a condition for their peaceful coexistence and historical, cultural and religious community of the European peoples (from Modern times to 1952); the second stage is the introduction of certain socio-economic and later political rights of citizens at the Community level (from 1952 to 1993); the third stage is a legal consolidation of the institution of EU citizenship and its development in EU law (from 1993 to 2009); the fourth stage is the modernization of the institution of EU citizenship by strengthening political rights and overcoming the problem of «democracy deficit” in the European Union (from 2009 to the present) [5, p. 8]. Yakovyuk I. V. identifies six main stages of the formation of the union citizenship institution: the Paris Summit (1974); the European Council summit in Fontainebleau (1984); signing the Maastricht Treaty on the EU (1992); signing the Amsterdam Treaty (1997); signing the Treaty establishing the Constitution for Europe (2004); signing the Lisbon Treaty (2007) [8, p. 318]. In our opinion, the adoption of the EU Charter of Fundamental Rights in 2000 can be considered as a significant stage in the establishment and consolidation of the institution of EU citizenship.

As stated in article 2 of the Treaty establishing the EU, a citizen of the Union is anyone who has the citizenship of any member state under the law of that state. Citizenship of the Union shall complement and not replace national citizenship (article 17). In addition to the rights and obligations set out in the Treaty establishing the European Union, citizenship of the Union includes four special rights: freedom of movement and residence anywhere in the Union; the right to vote and stand as a candidate in elections to local authorities and the European Parliament in the country of residence; diplomatic and consular protection by the authorities of any EU state in a third country where there is no representation of the EU citizen’s home country; the right to complain to the European Ombudsman.

Every citizen of the Union shall have the right to move and reside freely within the territory of the member states (article 18). Every citizen of the Union residing in a member state of which he is not a national shall have the right to participate passively and actively at municipal elections in the member state in which he resides and at elections to the European Parliament, under the same conditions as nationals of that state (article 19).

Every citizen of the Union shall, in the territory of a third country in which the member state of which he is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any member state, on the same conditions as the nationals of that state (article 20).

Every citizen of the Union may write to any of the Community institutions or bodies in any of the official languages of the Union and have an answer in the same language. The right of a citizen to petition the European Parliament on matters directly affecting him or her and the right to lodge a complaint to the Ombudsman against infringements of the activities of the institutions or bodies of the European Community is also guaranteed (article 21). The Ombudsman, appointed by the European Parliament, conducts independent inquiries upon his own initiative or based on complaints received.

Thus EU citizenship is a unique institution for international and constitutional law. Introduced by the Maastricht Treaty in 1992 as a way of protecting the rights and interests of the member states citizens, it is evolving and becoming increasingly critical. This is testified by recent developments in the European Union, certainly related to Brexit. Recent studies show that 60% of UK citizens would like to retain EU citizenship after Brexit, including the right to live, work, study and travel in the EU. It is noted that many British are even willing to pay for the opportunity to retain EU citizenship if necessary [4].

Regulations adopted by the European Union to increase the importance of EU citizenship are also remarkable. In particular, Council Regulation (EU) № 390/2014 of 14 April 2014 establishing a Europe for Citizens Program for the period 2014-2020, the main objectives of which are: to contribute to citizens' understanding of the Union, its history and diversity; to foster European citizenship and to improve conditions for civic and democratic participation at Union level; to raise awareness of remembrance, the common history and values of the Union; to encourage the democratic and civic participation of citizens at Union level and so on [2].

And, of course, the Court of Justice plays a key role in ensuring and guaranteeing the rights of EU citizens. Its decisions improve the content and significance of the institution of EU citizenship. In this context, it is worth noting the lawsuit (in connection with Brexit) of five British citizens who

have been living in the Netherlands for many years. They first appealed to the Court of Amsterdam to establish that their rights as European citizens were recognized, protected and could not be revoked because of the results of the referendum on Britain's withdrawal from the European Union. The plaintiffs' lawyer emphasized that Article 20 of the Lisbon Treaty gives British citizens the right to retain European citizenship after Brexit: «every national of a member state shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship». The Amsterdam court has ruled to refer the case to the European Court of Justice, although the Dutch authorities have objected, noting that recourse is possible at all lower courts and that any ruling by a court in Luxembourg could disrupt political negotiations between the UK and other EU member states. The judge replied that delicate political issues remained those considered by the court, and therefore the five plaintiffs defended their rights and expected the court to protect their fundamental rights. The Court of Justice of the European Union must consequently determine whether Brexit means the automatic loss of European citizenship and all its rights, including freedom of movement. If the answer to this question is «no» then the panel of judges must determine what restrictions shall be applied to protect these rights in this case and under what conditions [1].

As a result, the current state of affairs indicates the relevance of the study of the institution of EU citizenship in the future.

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## **FREE MOVEMENT OF PERSONS, IRELAND AND BREXIT**

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*Regulation of freedom of movement of persons in the EU.* The free movement of persons is one of the main components of the internal market and has been established as a goal and aspiration since the establishment of the European Coal and Steel Community. So in. 69 of the ECSC Treaty of 1951 obliged Member States to remove obstacles to the movement of workers of the coal and metallurgical industries, which gave rise to the introduction of freedom of movement for labor, albeit in a rather narrow area [1, p. 114]. The creation of the EEC was aimed at the introduction of a free internal market, one of the foundations of which was the free movement of labor. So Art. 48-51 of the Treaty establishing the European Economic Community (later articles 39-42 TEEC) contained basic principles that concern the freedom of movement of workers. Article 48 stated that «any discrimination on grounds of nationality in employment, remuneration or other working conditions is prohibited» [2, p. 16].