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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].

Introduction of EU Citizenship by the Maastricht Treaty 1992 became a new step in the development of free movement of persons [3, p. 13]. It is the free movement of citizens within the EU that is one of the components of the legal status of citizenship. To implement this right, a number of acts of secondary legislation were adopted. Today, the issue of free movement of EU citizens is regulated by: a) the Treaty establishing the European Economic Community (Articles 21, 45, 49 or 56); (b) Free Movement Directive 2004/38/EC; (c) Regulation on freedom of movement for workers, approved by Regulation (EC) (492/2011). This right is also enshrined in Article 45 of the EU Charter of Fundamental Rights [2, 4-6]. In accordance with their provisions, conditions are set for the exercise of free movement of persons as part of the basis of EU citizenship, as well as the restriction of these rights on the basis of public policy, public safety and health. For instance, in respect for the right of free movement and residence of EU citizens and their families rights provided are: right to enter other EU countries without needing a visa or exit; right to live in other EU countries for up to 3 months without any conditions and formalities; right to reside in other EU countries for more than 3 months under certain conditions depending on their status in the host country; right to have right of permanent residence if they have legally resided in other EU countries a continuous period of 5 years.

Brexit. A referendum on British EU membership, which was held June 23, 2016, gave start to the complex first and long second procedure of Britain's exit from the European Union. As early as March 2020, the British government notified the European Council of its intention to withdraw from the EU, thus initiating the procedure provided for in Article 50 TEU.

From the beginning, the issue of Northern Ireland was one of the toughest on the agenda of negotiations to resolve UK exit from the EU. It's all about the problems of Britain's territorial integrity and trying to find a compromise with the people of Northern Ireland, who are strongly opposed to leaving the EU. In the 2016 referendum, the majority of the region's population (56%) voted against Brexit. Northern Ireland, or as it is also called Ulster, is one of the parts of the United Kingdom. Territorially, Ulster is located on the same island with the Republic of Ireland (Island of Ireland). From the 1950s to 1998, there was an ethno-political conflict. The end of this conflict marked the Belfast Agreement (also known as Good Friday Agreement) in 1998 between Britain and Ireland, according to which the Dublin renounced territorial claims on Northern Ireland, and the London guaranteed the wide implementation of a local government and parliamentarianism in Ulster [7]. In addition, according to the Declaration on

the Provisions of Paragraph (vi) of Article 1 In Relationship to Citizenship, was nada but the right to dual citizenship in the region [8].

1998' Belfast Agreement abolished hard border between Northern Ireland and the Irish Republic. It envisaged a number of conditions (benefits) granted to Ulster, including abolition of border control on the border between Ireland and North Ireland, including the free movement of persons. The implementation of the document was facilitated by the membership of Great Britain and Ireland in the European Union in the conditions of freedom of movement and the absence of customs control at the borders of the member states. With a time of stay of the two countries within the European Union, freedom of movement of citizens was carried out under the statutory right to free movement of persons for the citizens of the EU, which greatly and largely contributed to the realization of 1998' Belfast Agreement. Today there is a on the border of Northern Ireland and Ireland there is a regime of special economic zone.

Moreover, the issue of free movement of persons – citizens of the United Kingdom and the Republic of Ireland and settled under the regime of common tourist area (Common Travel Area). CTA – is an ancient agreement between Britain, the Crown dependencies (Bailiwick of Jersey, Bailiwick of Guernsey, Isle of Man) and Ireland preceding the membership of both countries in the European Union and was aimed in the beginning at adjusting cooperation and between the respective immigration authorities. As a result of the development of cooperation between the governments of the countries in the field of CTA, today, citizens of Great Britain and Ireland can move freely and live in any jurisdiction and enjoy the relevant rights and privileges, including the right to work, study and vote in certain elections, social assistance and medical services [9].

If the UK hard exit from the EU such conditions on citizens Northern Ireland would be eliminated, and would lead to the restoration of the border between Northern Ireland (UK Territory) and neighboring independent country of Ireland. And that would jeopardize all the achievements of the Good Friday Agreement, which, although not final, has largely eased the Irish question. Therefore, the British government proposed a soft Brexit option, which offered instead of freedom of movement between the UK and the EU to allow Britons to submit special applications in EU member states for employment and training. The same should apply to EU citizens who want to work or study in the UK. However, "Soft Brexit" would provide British parliamentarians with the right to block any rules of European legislation and providing such a right would threaten legal order of the EU and would have negative impact on further EU strengthening and expansion of integration. The basic framework to address this issue were expressed

already in Joint report of the negotiators of European Union and the Government of the United Kingdom on progress within phase one of negotiations under Article 50 of the ECT about United Kingdom exit from the European Union, dated December 8, 2017 [10]. Over the next two years basic text of the Exit Agreement and protocols to it, one of which was the Protocol on Ireland / Northern Ireland. 24 January 2020 Agreement and withdrawal of Great Britain and the EU signed (came into effect 01.02.2020) was agreed [11].

Given the unique position of Northern Ireland, in order to ensure orderly withdrawal of the United Kingdom from the European Union, following negotiations about the withdrawal agreement, Protocol about Ireland/Northern Ireland was signed on 24.1.2020 (entry into force on 01/02/2020) [11]. It reaffirmed that the termination of the United Kingdom's membership of the European Union should have the least possible impact on the daily lives of communities in both Ireland and Northern Ireland, and its provisions aimed at «reaffirming a strong commitment to ban customs and regulatory checks or controls on the border between Ireland and Northern Ireland» (Preamble to the Protocol). It was stated that the Protocol was without prejudice to the provisions of the 1998 Agreement on the Constitutional Status of Northern Ireland and the Principle of Consent, and established the measures necessary to avoid rigid borders (Article 1). Citizens of Ireland and Northern Ireland residents are guaranteed that the exit UK from the European Union will not result in any reduction of the rights or guarantees of equal opportunities, as set out in the «Rights and guarantees equality of opportunity» article of 1998 Belfast Agreement. Certain provisions guaranteed that United Kingdom is responsible for the protection from discrimination as enshrined in the provisions of the legislation of EU that should be done through special mechanisms, and in particular by promoting collaboration of institutions and bodies established under the 1998 Agreement, including the human rights Commission in Northern Ireland, the Commission Equality for Northern Ireland and the Joint Committee of Representatives of the Human Rights Commissions of Northern Ireland and Ireland, in accordance with human rights and equality standards.

With regard to the Common Tourist Area, the Protocol states that the United Kingdom and Ireland may continue to agree among themselves on the movement of persons between their territories under the CTA regime, while fully respecting the rights of individuals under EU law. It is also envisaged that the United Kingdom shall ensure that the CTA and related rights and privileges "...can continue to apply without affecting the obligations of Ireland under Union law, in particular with respect to free

movement to, from and within Ireland for Union citizens and their family members, irrespective of their nationality” (Article 3 of the Protocol). In addition, before the signing the Brexit, the governments of Britain and Ireland made a Joint statement and signed a Memorandum on CTA which stated that after the release of UK from the EU citizens will continue to enjoy the rights provided legal regime STA, regardless of the conditions of the release of UK [12-13]. The Governments of the United Kingdom and Ireland have obliged themselves to take any necessary steps to ensure the protection of agreed rights and privileges with a call to action in all outcomes.

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**STATE AND INDIVIDUAL RESPONSIBILITY
IN INTERNATIONAL PUBLIC LAW:
A CONCEPTUAL DISTINCTION**

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It is a settled principle that states incur international responsibility when they breach international obligations, and all the more so when these breaches are particularly serious. On the other hand, today it is undisputed that international law provides for the criminal responsibility of those individuals who commit international crimes. What is much more uncertain is the relationship between these two regimes of international responsibility, that is, the connections between state and individual responsibility when the same or analogous conduct, performed respectively by individuals and by states, gives rise to both individual and state crimes [1, p. 1].

Concurrence between state responsibility and individual responsibility can be relevant from a practical perspective. For instance, findings pertaining to individual responsibility may influence subsequent determinations on state responsibility. Concurrence also is relevant from a theoretical perspective. It raises the question of whether the principles of