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## NEW YUGOSLAV CITIZENSHIP

*The topic of Yugoslav citizenship, on the occasion of the enactment of the new Law. Impact of disintegration of the SFR of Yugoslavia on the regime of citizenship. Ways of acquiring Yugoslav citizenship; double citizenship; relationship between the federal and republic citizenships.*

The problems of citizenship have to be solved in the territory of Yugoslavia within the same century for the third time – as a consequence of the change of territorial sovereignty. Disintegration of states and creation of new states have required the personal sovereignty to be coordinated with the new state of affairs. In two instances – in 1920 and 1947, namely after the First and the Second World Wars, and in different actual situations (disintegration of the Austria-Hungary, territories given up to Yugoslavia by Italy) these questions have been settled through international treaties as well and more particularly, through the right of option. The disintegration of the SFR of Yugoslavia and taking place in its areas of new internationally recognized states, has actualized again the issue of citizenship. And more than that, for

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many citizen of former Yugoslavia, already since 1991 that issue has caused also the problems of existential nature.

The following laws have been in force at the time of disintegration of the SFR of Yugoslavia: the Law on Citizenship of the SFR of Yugoslavia (1976)<sup>1</sup> and the republic laws on citizenship. For the majority of citizens of Yugoslavia the problem of citizenship was non-existent until the breakdown of the country. In the period between 1945 and 1976 it was common to speak of the »unity« between the federal and the republic citizenships, since every citizen of Yugoslavia has been at the same time a citizen of one of the six constituent republics. And when in the eighties the republic citizenship became somewhat »more accentuated« as compared to the federal one, such change did not provoke any considerable concern. In course of decades, in terms of republic and national identities, there came to be many mixed marriages, the partners frequently having different republic citizenship; after changing their residence from a republic to a republic due to changing jobs or marrying, people did not care much about changing formally their republic citizenship. The citizenship of the SFR of Yugoslavia, namely, provided the status serving as a ground for the realisation of political, civil and all other human rights – in any part of the SFR of Yugoslavia.

Immediately after the disintegration of the SFR of Yugoslavia, a »new« law of citizenship began to be created in its territory. Former republics have enacted, simultaneously with the act of their becoming independent, their own laws on citizenship.<sup>2</sup> In the territory of the Federal Republic of Yugoslavia, however, in its two republics – Serbia and Montenegro – the laws concerning the matter valid prior to disintegration

<sup>1</sup> In the period between 1945 and 1976, namely after the Second World War, four federal laws on citizenship have been enacted in the territory of Yugoslavia. These are: the Law on Citizenship of the Democratic Federal People's Republic of Yugoslavia (1945); the Law on Citizenship of the Federal People's Republic of Yugoslavia (1946); the Law on Yugoslav Citizenship (1964); and the Law on Citizenship of the Socialist Federal Republic of Yugoslavia (1976). At present the statutory act in force is the Law on Yugoslav Citizenship, of 16 July 1996 (published in the »Official Gazette of the FR of Yugoslavia« no. 33/1996).

<sup>2</sup> The Republic of Slovenia, 5 June 1991; the Republic of Croatia, 28 June 1991; the Republic of Macedonia, 27 October 1992; Bosnia and Herzegovina has a regime of citizenship according to the Dayton – Paris Agreement, November – December 1995, Appendix IV, Constitution of Bosnia and Herzegovina.

tegration of the SFR of Yugoslavia have remained in force.<sup>3</sup> A new law on citizenship has not been enacted at the federal level either – until 1996, since the mentioned Law on Citizenship of the SFR of Yugoslavia, of 1976, has remained in force. After the enactment of the Constitution of the FR of Yugoslavia (in 1992), it was realistic to expect also the enactment of a new law on citizenship, or at least the bringing into accord of the existing one with the Constitution. The Constitution of the FR of Yugoslavia has introduced »Yugoslav citizenship«, with a corresponding provision that Yugoslav citizenship has to be regulated by a federal law.<sup>4</sup> In such a situation the federal citizenship law of 1976 has all the time been partially contrary to the provisions of the 1992 Constitution of the FR of Yugoslavia, while the time limits for bringing it into accord with the federal Constitution have been extended several times. Since the issue of citizenship was at the same time rather significant for many citizens of former Yugoslavia and, more particularly, since warfare events in the territories of Croatia and Bosnia and Herzegovina have caused influx of quite a number of people into the territory of the FR of Yugoslavia, the enactment of new law on citizenship has become one of the most actual issues of the legal system of the FR of Yugoslavia. The experience has shown that the very implementation of the Law on Citizenship of the SFR of Yugoslavia, of 1976, all the time until the enactment of the new law, has been restricted, while for many citizens of former SFR of Yugoslavia and of its republics – now already new and sovereign states, the acquiring of Yugoslav citizenship became a serious problem.

The Law on Yugoslav Citizenship was proclaimed as law on 16 July 1996,<sup>5</sup> while coming into force on 1 January 1997. The duty is provided for by the Law, of enacting regulations intended for its im-

<sup>3</sup> In Montenegro this is the Law on Citizenship of the SR of Montenegro, of 27 May 1975, while in Serbia – the Law on Citizenship of the SR of Serbia, of 15 October 1979, as amended on 31 March 1983.

<sup>4</sup> The Constitution of the FR of Yugoslavia, of 27 April 1992 (\*Official Gazette of the FR of Yugoslavia«, no. 1/1992, article 17, paragraphs 1 and 5).

<sup>5</sup> The Law on Yugoslav Citizenship (see note 1). The Law contains 55 articles and is divided into nine parts, namely: basic provisions; acquiring Yugoslav citizenship; termination of Yugoslav citizenship; renewed acquiring of Yugoslav citizenship; settling the conflicts between the republic laws on citizenship; procedure for acquiring or termination of Yugoslav citizenship and determining of Yugoslav citizenship; records on citizenship; transitional and concluding provisions.

plementation within a ninety day time limit since its coming into force, namely until 30 March 1997. Requests for being admitted to Yugoslav citizenship not yet attended to, and those relating to release from citizenship of Yugoslavia submitted since 27 April 1992 (namely, the date of proclaiming the Constitution of the FR of Yugoslavia) until the entering into force of the Law on Yugoslav Citizenship, were taken over by the competent interior affairs agencies at the federal level from the republic agencies. The Law was also retroactively applicable to applications for citizenship and termination of Yugoslav citizenship already in process prior to entering into force of the Law.

#### ACQUIRING YUGOSLAV CITIZENSHIP

Four grounds are specified for acquiring Yugoslav citizenship by the Law on Yugoslav Citizenship. These are the following: *origin* (descent), *place of birth in the territory of Yugoslavia*, *acceptance*, and in terms of *international treaties*. It is possible to conclude that the acquiring of citizenship on the ground of origin (*ius sanguinis*) is a primary ground of acquiring Yugoslav citizenship; that birth in the territory of Yugoslavia (*ius soli*) is one of additional grounds serving as a means for preventing or decreasing the number (and phenomenon) of stateless persons; that acquiring Yugoslav citizenship by being accepted is, in fact, an additional way of acquiring the citizenship, which may be identified with »naturalization« (as provided for by the 1976 Law in a somewhat different term in Yugoslav legal terminology);<sup>6</sup> and that acquiring on the ground of international treaties is also an additional way of acquiring Yugoslav citizenship, otherwise customary as a way of settling specific issues of citizenship, most frequently through entering into bilateral treaties. Although the lawmaker has classified the »renewed acquiring of Yugoslav citizenship« into the particular – IVth Part of the Law, we do consider that such reintegration, too, may be treated as one of the additional ways of acquiring Yugoslav citizenship.

<sup>6</sup> The term »naturalization« is used in the continuing text.

#### 1. Acquiring citizenship through origin (descent)

Yugoslav citizenship is acquired by a child on the very ground of law (*ex lege*) in the following cases: (i) if both its parents are Yugoslav citizens (regardless of its place of birth); (ii) if born in Yugoslavia, provided one of the parents is a Yugoslav citizen (regardless of the citizenship of the other parent); and (iii) if born abroad, provided one of the parents is a Yugoslav citizen, while the other is unknown or of an unknown citizenship, or a stateless person (i.e. the one without citizenship).

In all the above three cases the fact of citizenship is connected to the moment of childbirth. As far as the child is concerned who was born abroad, and whose one parent is a Yugoslav citizen, the following alternative requirements are provided for as well: the child should be, until becoming eighteen, filed as a Yugoslav citizen with a competent representation office of Yugoslavia, coupled with the application for being entered into the register of Yugoslav citizens (if the child is older than fourteen, its consent thereof is necessary); a child born abroad acquires Yugoslav citizenship although not being filed as a Yugoslav citizen and/or entered into the register of Yugoslav citizens, if one of its parents who has been at the moment of its birth a Yugoslav citizen becomes stateless person; finally, a person of age born abroad may acquire Yugoslav citizenship also after applying to be entered into the register of Yugoslav citizens, if one of his parents is a Yugoslav citizen, provided such application be filed between his being between eighteen and twenty-three. The Law provides for a possibility that Yugoslav citizenship be acquired under the same – mentioned – conditions also by an adopted person who is a foreigner, but in case of total adoption. Such solution is based on the fact that total adoption makes a full parental relationship (identified with the biological one) between the person adopted and the one adopting.

#### 2. Acquiring the citizenship through being born in the territory of Yugoslavia

The fact that a child is born in the territory of Yugoslavia is a ground to avoid or prevent, through the application of the *ius soli* prin-

ple, a situation in which a child would remain a stateless person because of the impossibility of applying the *ius sanguinis* principle. This way of acquiring Yugoslav citizenship is applied in cases of a child being born or found in the territory of Yugoslavia, while both of its parents are not known, or are stateless persons. In such cases, obviously, the application of the *ius sanguinis* principle is not possible, meaning that the child can not become a Yugoslav citizen on the ground of descent, but that it would acquire such status by applying the *ius soli* solution.

Yugoslav citizenship which is acquired in such a way by a child may be terminated after its becoming eighteen, should it be found that both its parents are foreign citizens. In other words, in such a situation the basic reason for applying the *ius soli* principle ceases to exist in the specific case of acquiring Yugoslav citizenship, since, as mentioned before, such reason is the prevention of the increase in number of stateless persons. The application for the termination of Yugoslav citizenship has to be filed by the parents, while if the child is older than fourteen, his consent is also a requirement.

### 3. Acquiring citizenship by naturalization

Naturalization, as mentioned, is one of the supplementary ways of acquiring Yugoslav citizenship. It is regulated in quite a detail in the text of the Law. Depending on prescribed requirements, the lawmaker introduces three kinds of naturalization, namely: (i) *regular* (common) naturalization, (ii) the one *under special conditions*, and (iii) *exceptional* one.

Ad (i) *Regular naturalization* is open to every foreign person otherwise being admitted officially »in concordance with regulations covering movement and sojourn of foreign persons, to permanent residence in Yugoslavia«, provided such foreign person applies formally to be admitted to Yugoslav citizenship, after meeting the requirements provided for by the Law. According to the Law, the requirements are the following: (1) being of age (full eighteen) or marrying a Yugoslav citizen, regardless of age; (2) release from foreign citizenship or a proof that such release shall be completed after acquiring Yugoslav citizenship

(such condition is not required if the person involved under the regulations of his country citizenship, automatically is acquitted of such citizenship after acquiring the new one); furthermore, it is considered that this condition has been met if (i) a foreign state does not know of the institution of release from citizenship, or if conditions for release are of such a nature that the existence of the person and his (her) family members would be jeopardized, and if (ii) the applicant states formally that he renounces foreign citizenship if he acquires Yugoslav one; (3) employment in his permanent place of residence or other source of maintenance - for him and for the members of his family; (4) the proof that the applicant is not sentenced by imprisonment for a criminal offence making him unfit to be admitted to Yugoslav citizenship; (5) such behaviour of the foreign person which makes possible the conclusion »that he is going to be a loyal citizen of Yugoslavia«. This last requirement is essentially different from the previous ones, since it may not be proved by certificates, instead entering in the sphere of discretionary assessment of the competent agencies.

Ad (ii) *Naturalization under special conditions* is provided for Yugoslav emigrants and their families. It is distinguished from the regular naturalization by considerably more liberal conditions, since for acquiring Yugoslav citizenship it is sufficient to meet only the requirements concerning the fact of not being sentenced criminally and of having a loyal behaviour.

Ad (iii) Yugoslav citizenship may be acquired by a foreign person through *exceptional naturalization* even without being released from foreign citizenship, without submitting proof of permanent employment, without the approval for permanent residence in Yugoslavia, including the lack of proof of having other sources of maintenance. Instead, the following conditions have to be present, namely: international and other interests of Yugoslavia; special merits on the part of the foreign person for Yugoslavia; »indispensability« that the foreign person acquire Yugoslav citizenship because of scientific, economic, cultural, national, or other similar reasons.

The Law also provides for the possibilities of acquiring Yugoslav citizenship through naturalization by parentless minors, whose parents

themselves have acquired Yugoslav citizenship (both parents, or only one, but under different conditions), as well as such acquiring in the case of incomplete adoption when the person adopted is a foreign citizen younger than eighteen, while the person adopting is a Yugoslav citizen.

#### 4. *Acquiring the citizenship under international treaties*

Acquiring the citizenship on the ground of a »ratified (confirmed) international treaty« is provided for as one of the additional ways of acquiring Yugoslav citizenship. In relation to that legal ground, the Law additionally provides, in an express way, for the possibility of establishing, by an international treaty, the double citizenship – under the condition of reciprocity.

#### 5. *Renewed acquiring of Yugoslav citizenship*

Renewed acquiring of the citizenship is, in fact, a well-known institute of the law of citizenship, also named reintegration, and, in essence, one of the ways of acquiring citizenship. This is clear also from the requirements necessary to make possible a renewed acquiring of Yugoslav citizenship by those persons who have already been Yugoslav citizens, but subsequently lost that status. These are situations of a person who was released from Yugoslav citizenship and had acquired foreign citizenship, as well as of the one (most frequently a minor) whose Yugoslav citizenship has been terminated on the ground of parents' request or by his renouncing the citizenship. In order to acquire a renewed Yugoslav citizenship, the person interested has to apply for reintegration, and has to have, prior to that, an uninterrupted stay in Yugoslavia for at least a year. The fact that the lawmaker expressly specifies as hindrances for granting the reintegration non-fulfilment of some of the requirements otherwise provided for by the Law in the case of acquiring citizenship by naturalization (namely, being of age, not being sentenced for criminal offence, and loyalty), only confirms that in such cases, too, such way of acquiring Yugoslav citizenship is but an additional way of acquiring.

#### 6. *Acquiring Yugoslav citizenship according to the transitional provisions of the Law on Yugoslav Citizenship*

The transitional provisions of the Law on Yugoslav citizenship include rather significant norms dealing with Yugoslav citizenship, since they are relating to situations taking place as a consequence of disintegration of the SFR of Yugoslavia and of the creation of new sovereign states in its former territory. Involved are thousands and thousands of people who, in course of almost half a century, have had Yugoslav federal citizenship and the citizenship of some of the six constituent republics of Yugoslavia, while in the newly risen circumstances many of them have become stateless persons, persons who may prove their citizenship status only with great difficulties (first of all, these are refugees), or become Yugoslav citizens only after much red tape procedure.

Legal nature of the transitional provisions of the Law on Yugoslav Citizenship is dissimilar. They apply to various kinds of situation, contain differing requirements for acquiring citizenship status of individuals, their application in time differs depending on circumstances, and they have various legal effect. However, it is possible to classify them into three groups of norms, whose legal solutions should contribute to resolving the difficulties in the problems of citizenship of many inhabitants of the Federal Republic of Yugoslavia.

6.1 *Recognizing the citizenship status.* – Every person who, on the day of 27 April 1992 (i.e. the day of the proclaiming of the Constitution of the FR of Yugoslavia), has had the citizenship of the SFR of Yugoslavia (namely, federal one) and the republic citizenship of either Serbia or Montenegro, including his (her) children, shall be considered *ex lege* (on the ground of the Law itself) to be a Yugoslav citizen. For such persons it is irrelevant where they have lived on the above date, nor where they have been living at the time of coming into force of the Law. By such solution, the possibility of »recognizing« the status of a Yugoslav citizen is restricted to persons who have had, at the time of proclaiming the Constitution of the FR of Yugoslavia, Serbian or Montenegrin republic citizenship. Having in mind the transitory solutions provided for in the legislation concerning citizenship of other

states in the area of former SFR of Yugoslavia, such norm may create conditions for unequal treatment of former citizens of the SFR of Yugoslavia, as well as a situation of statelessness and of double citizenship.

6.2. *Acquiring Yugoslav citizenship by being entered into the register of Yugoslav citizens while having the citizenship of the SFR of Yugoslavia and of some other republic of the SFR of Yugoslavia, except Serbia and Montenegro.* – The above formulation is partially corrected by the possibility offered to persons who are not citizens of Serbia and Montenegro to acquire Yugoslav citizenship in a way which is simpler than the naturalization procedure, provided they had the citizenship of some other republic of the former SFR of Yugoslavia. That possibility is offered to two categories of persons, namely: (i) citizens who have had the citizenship of the SFR of Yugoslavia and of some other republic of the SFR of Yugoslavia, on condition that on 27 April 1992 (i.e. the day of proclaiming the Constitution of the FR of Yugoslavia) they have been residents in the territory of Yugoslavia (FR), and that they have no other citizenship at the moment of applying for citizenship; (ii) the same possibility exists also for the citizens of another republic who have accepted transferring to the Yugoslav Army as a professional officer and professional non-commissioned officer, or, as the case may be, as a civilian servant in the Yugoslav Army. Two significant differences do exist between the solutions provided for in cases (i) and (ii). In the first case, the same ruling includes also the children of such citizens born after 27 April 1992, while in the second case, the same provision encompasses the spouse and children as well. The other difference is also more favourable for the category of persons serving in the Army, since for them the residence is not made a requirement – which is otherwise done in the case of the first category of persons. In the case of both of these categories, Yugoslav citizenship is not acquired *ex lege*, but the person interested has to apply to be entered into the register of Yugoslav citizens. The application should be accompanied by a statement as to the fact that the applicant had no other citizenship, or that he has renounced other citizenship, if any. Regular time limit for filing such requests is one year, while in legitimate cases – three years after the coming into force of the Law.

6.3. *Acceptation into Yugoslav citizenship.* – In essence, this is a new institute of acquiring Yugoslav citizenship, differing from the others because it should serve to settle citizenship issues of two specific categories of citizens of the former SFR of Yugoslavia, regardless of their previous republic citizenship. These are *refugees* (»a citizen of the SFR of Yugoslavia who, because of his national, religious or political identity, or engaging in respecting human rights and freedoms, flee to the territory of Yugoslavia«) and *stateless persons* (»a citizen of the SFR of Yugoslavia who resides abroad, while not having another citizenship«). The person interested has to file a request to be accepted to Yugoslav citizenship, accompanying his application by a statement as to not having another citizenship, or as to his renouncing another citizenship. In the case of refugees, the request should include the indicating »of special circumstances and facts« relating to the reasons of becoming a refugee.

Both of these supplementary conditions provoke generally controversial interpretations; in the first case many refugees may not be in a position to acquire necessary documents concerning their (previous) citizenship status, while in the other, the requested statement affects the motives in the sphere of human rights and freedoms; their legitimacy in the application namely, is to be assessed and decided upon in a discretionary power procedure of the competent interior affairs agency. Otherwise, the lawmaker has not limited, in terms of time, the application of the institute of acceptation into Yugoslav citizenship, although he has set it in the transitional provisions section. This is also a reason for a question as to whether the acceptation into Yugoslav citizenship, too, should be treated as one of the additional ways of acquiring Yugoslav citizenship.

#### TERMINATION OF YUGOSLAV CITIZENSHIP

Three basic grounds for termination of Yugoslav citizenship are specified by the Law, namely: *release, renouncement*, and the one on the of *international treaties*.

### 1. Release

In order for a Yugoslav citizen to be able to obtain release from Yugoslav citizenship, it is necessary for him to submit such a request and to meet legally prescribed conditions, namely: to be of age (full eighteen); that there are no hinderances in terms of military service; that he has settled his tax obligations and other legal duties; that he has settled property-law obligations relating to his spouse and children that he is not subjected to criminal prosecution at the time and, if he is sentenced in Yugoslavia to imprisonment - that he has served such a sentence; and that he already has a foreign citizenship or is able to prove that he is going to be accepted into foreign citizenship (namely, that he is not going to become a stateless person). The release from Yugoslav citizenship shall not be granted, in accordance with reasons provided for by the Law (thes include reasons of security, those relating to defence of the country, to reciprocity, and to interests of Yugoslavia), while if the person who has been granted release from Yugoslav citizenship fails to acquire foreign citizenship within a year thereof, the ruling on release may be annulled at the request of the person whose Yugoslav citizenship has been terminated. In such a case, too, the lawmaker did take into account the need for preventing the increase in number of stateless persons.

### 2. Renouncement

The termination of Yugoslav citizenship by renouncement may take place under the following conditions: that the applicant is a Yugoslav citizen of age (full eighteen); that he was born and living abroad; that he has a foreign citizenship; and that he renounces his Yugoslav citizenship until his being twenty-three.

### 3. Termination of citizenship on the basis of international treaties

Such way of termination of Yugoslav citizenship is listed in the Law only as one of the grounds of termination of citizenship. It is

possible therefore to conclude that more detailed regulation of conditions of such way of termination of citizenship is left to the specific international treaty.

Considering the grounds of termination of Yugoslav citizenship, one should recognize two more matters. Firstly, the Law does not provide for *depriving* of Yugoslav citizenship, which, as one of the grounds for termination of citizenship, may be found in some foreign legislations concerning citizenship. Secondly, although on formal ground it may not be classified as a legal institute of *depriving* of citizenship, the Law, however, opens the possibility of *annulment* of the ruling on acquiring Yugoslav citizenship. A general provision, namely, specifies that such annulment may take place if a federal interior affairs agency finds in the corresponding procedure that Yugoslav citizenship has been acquired »contrary to the regulations on citizenship which were in force at the time of acquiring the citizenship«, and, more particularly, on the ground of a false or a forged certificate or statement, untrue facts, or because of other misuses and irregularities in the relevant procedure. Mentioned grounds are, thus, imputed only to a person whose citizenship is involved (forgery, false statement), which is otherwise a usual practice in legal procedure of annulment of rulings. However, the grounds are also listed in the Law of which such a person had not to be aware (e.g., on the ground of which regulations he has acquired Yugoslav citizenship). The second case may provoke legal uncertainty relating to an already acquired citizenship.

The possibility of annulment of a ruling on Yugoslav citizenship is expressly provided for in relation to the acceptance (naturalization) or release from Yugoslav citizenship, then also in relation to entering into the register of Yugoslav citizens, and acceptance into Yugoslav citizenship. In all these case, too, the ground of annulment of relevant rulings and enterings are false statement, wilful concealing of essential facts or circumstances, namely actions which are initiated by the very person whose citizenship is put in question. The annulment of a ruling on acquiring Yugoslav citizenship by naturalization does not have to include a minor child, too, if this is in its interest. Moreover, rulings (on naturalization, release, acceptance) and enterings (into the files



of Yugoslav citizenship) may not be annulled should this mean that the person involved in these acts would become a stateless person.

#### DOUBLE CITIZENSHIP

The Law on Yugoslav Citizenship does not expressly recognize double citizenship as one of the general rules in the legal regime of citizenship.<sup>7</sup> However, in an analysis of its provisions, it is possible to find that double citizenship is mentioned two times in its text. It is mentioned first time in the basic provisions of the Law, where its existence is indicated in an indirect way, namely: »A Yugoslav citizen having also the citizenship of a foreign state shall be considered a Yugoslav citizen if being in the territory of the FR of Yugoslavia«. For the second time, it is mentioned in the provision dealing with acquiring the citizenship on the basis of international treaties; according to such provision: »It is possible to institute double citizenship... by an international treaty«. However, there exist in the Law other possibilities, too, for taking place of double citizenship, and still be in accordance with the legal regime of citizenship in the FR of Yugoslavia. For the sake of an example, these could be the following situations: if Yugoslav citizenship is acquired by a foreign person due to his particular merits (and due to other reasons as provided for by the law) for Yugoslavia, without being released from foreign citizenship; if Yugoslav citizenship is acquired by an emigrant, again without being released from foreign citizenship; in case of complete adoption, i.e. when parental relationship is instituted between the person adopted and the one adopting, and if the person adopted is a foreigner; if a Yugoslav citizen becomes a

<sup>7</sup> It is interesting that, out of six former republics of the SFR of Yugoslavia, only Macedonia has provided, by its Law, for the possibility of a citizen of the Republic of Macedonia to have the citizenship of another state, too (the Law on Citizenship of the Republic of Macedonia, of 27 October 1992, »Official Herald of the Republic of Macedonia« no. 67/1992, article 2). According to Appendix 4, item 7/d of the Constitution of Bosnia and Herzegovina, »the citizens of the Bosnia and Herzegovina may have the citizenship of another state, under the condition that there exists a bilateral agreement, ratified by the Assembly...« (see Dayton Agreement, note 2).

citizen of a foreign state which does not require the termination of Yugoslav citizenship.

There is no contemporary legal order in the world which would absolutely exclude the possibility of existence of double citizenship. The explanation of such a situation is that not only is this an intention of the lawmakers relating the accepting or failing to accept the institute of double citizenship, but also that here the so-called conflict of laws on citizens is involved. In other words, the regulation of the matter of citizenship is within the jurisdiction of states, while solutions adopted in the sphere of acquiring, change and termination of citizenship are rather dissimilar. However, even if the solutions were identical, their implementation to a specific person could create conditions giving rise to double or multiple citizenship. As far as Yugoslav citizenship is concerned, it is quite necessary to take into account not only the real possibility that the double citizenship represents a part of its legal regime, but the appropriateness of recognizing in terms of statutory provisions in an express way the right to double citizenship. Such path of development of the law of citizenship together with realization of the provided way of international treaties by means of which double citizenship could be established too, between the states - partners to such treaties - would only contribute to the advancement of legal status of inhabitants in the areas of former SFR of Yugoslavia. The settling of many of their problems, namely, does depend directly from their citizenship status.

#### THE RELATIONSHIP BETWEEN THE FEDERAL AND REPUBLIC CITIZENSHIPS

The Law on Yugoslav Citizenship is significant also because it had to be an instrument of clear expression of the relationship in this matter within the federal state, as Yugoslavia today. The Federal Republic of Yugoslavia consists of two member-republics: Serbia and Montenegro.

Citizens of federal states in general have both the federal and the republic citizenships (country-wide, cantonal, provincial). It is called in theory a »composite citizenship«. The essential issue in case of such a citizenship is: which citizenship of the two has a primacy? Whether the federal citizenship is a basis for stemming out of citizenship of its component parts, or the situation is reverse? The answer to such questions is decisive for the primacy of one or the other citizenship. The examples found in the sphere of comparative law indicate, however, that there is a reluctance in grading, in relation to composite citizenship, between citizenships as being »primary« or »secondary«. Such question is frequently solved in precise terms in constitutional provisions. As a matter of fact, citizenship as one of the essential elements of sovereignty of states is but an important instrument in the internal order and organization of composite states.

According to the Law on Yugoslav Citizenship one could conclude that the lawmaker has given »priority« to the federal citizenship. This, to be true, is not expressly stated, but it does stem out of the constitutional provision according to which »the republic citizenship of a Yugoslav citizen shall be terminated with the termination of the Yugoslav citizenship, while a foreign person shall acquire the citizenship of a member-republic by acquiring Yugoslav citizenship«. One should add to this also the solution regarding the jurisdiction of federal and republic interior affairs agencies in the matters of citizenship, as well as the fact that standpoints in this matter of the republics and the federation are frequently opposed.

The federal law regulates also the settling of conflicts between republic laws covering the citizenship.

\* \* \*

A long awaited Law on Yugoslav Citizenship represents at present a significant source of law in the FR of Yugoslavia, and a part of its legal system. It may be described as a law classified in contemporary

comparative law as the advanced piece of legislation. However, the real assessment of its values may be done only after reviewing its implementation, which only may disclose positive and negative sides of the Law. That assessment should also include the answer to the questions of how much the implementation of the Law has contributed to the settlement of issues of the status of inhabitants of the FR of Yugoslavia and to the advancement of rights of its citizens, as well as of what is the real relationship between the citizenship as an instrument of politics and the rights of man.

Dr Vida ČOK

#### NOVO JUGOSLOVENSKO DRŽAVLJANSTVO

– R e z i m e –

Povodom donošenja Zakona o jugoslovenskom državljanstvu (1996, stupio na snagu 1. januara 1997), ukazano je na uticaj raspada SFR Jugoslavije na pravni režim državljanstva, a detaljnije su razmatrani načini sticanja jugoslovenskog državljanstva i njegovog prestanka, zatim materija dvojnog državljanstva i odnos saveznog i republičkog državljanstva.

Prvo, Zakonom su utvrđeni ovi osnovi za sticanje jugoslovenskog državljanstva: primenom pravila *ius sanguinis* i *ius soli*, naturalizacijom i po međunarodnim ugovorima. Mnogi državljani nekadašnje SFR Jugoslavije našli su se u specifičnoj situaciji. To pokazuju prelazne odredbe Zakona – o uvođenju instituta priznavanja državljanstvom sticajem, o sticanju jugoslovenskog državljanstva upisom u matičnu knjigu državljanstva, o prihvatanju u jugoslovensko državljanstvo. Svaki od navedenih načina sticanja jugoslovenskog državljanstva se razlikuje po uslovima od čijeg ispunjenja zavisi ostvarenje prava na državljanstvo. Drugo, Zakonom su utvrđena tri načina prestanka jugoslovenskog državljanstva: otpust, oduzicanje i po međunarodnim ugovorima.

Posebno značaj ima dvojno državljanstvo. Naročito za nekadašnje državljane SFR Jugoslavije, koji su sticajem pomenutih okolnosti postali stranci u odnosu na SR Jugoslaviju. Prihvatanjem dvojnog državljanstva omogućilo bi se tim licima rešavanje mnogih njihovih porodičnih i materijalnih problema, dok prema Zakonu, za postojanje dvojnog državljanstva pravni osnov mogu biti međunarodni ugovor ili izuzetni uslovi za sticanje jugoslovenskog državljanstva prijemom. Odnos saveznog i republičkog državljanstva je regulisan kao jedno od pitanja koje se rešava u složenim državama.