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LEGAL STATUS OF AN INDIVIDUAL IN INTERNATIONAL PRIVATE LAW

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Abstract: In private international law, the legal status, legal capacity, and legal capacity of an individual, as well as individuals themselves, are divided into several types, such as a citizen of a state, a stateless person, foreign nationals and, in some sense, we can add the fourth type to this, this fugitive. International private law deals with how disputes related to natural persons are resolved and based on which legal norms or international agreements, conventions and international customary norms are considered.

Key words: A natural person, a citizen of one country, a stateless person, a foreign citizen, a refugee, international agreements, international conventions, norms of national legislation, norms of international custom.

An individual (in civil law)is a concept that represents a separate citizen (foreign citizens or stateless persons) who is a participant in legal relations.1

Stateless persons, apatrids-persons who are not considered citizens of a particular country and have no evidence to prove belonging to the citizenship of any foreign state.2

A foreign citizen is a person who does not have the citizenship of the Republic of Uzbekistan, has the proof of citizenship of another state and his belonging to the citizenship of another state.3

Introduction. The decline of an individual in international private law. In private international law, the concept of an individual is widely considered, the Personal Law of an individual (lex personalis) reinforces the generalized legal concept. At the same time, the Personal Law of the person itself is determined by the right of the country to which the citizenship of the person belongs – the lege nationalis, or by the law of residence lege domicili. The merger of two different collisional connectives gave the legislator the opportunity to fully regulate the fundamental issues of determining the individual's personal law.

1 https://uz.m.wikipedia.org/wiki/Jismoniy_shaxs

2 https://uz.m.wikipedia.org/wiki/Fuqaroligi_bo%CA%BBlmagan_shaxslar

3 https://advice.uz/oz/document/1608

In the world legal system, two main approaches have been developed in the collisional legal regulation of issues related to the personal status of an individual.

According to the first approach, issues of personal status are determined on the basis of the right of the country to which the citizenship of an individual belongs. Such an approach can be found in most continental Europe, CIS countries and a number of other countries (Vietnam, Egypt, Cuba, Mongolia, Thailand, Tunisia, South Korea, Japan, etc.k.) is specific to .

As long as the reference to the right of the country to which the citizenship of an individual belongs does not allow the choice of the right to apply to a stateless person (apatrid) as the main collisional binder, in states where the personal status of such a person is indicated, as a rule, it is determined by the laws of the country.

The main emphasis in this approach is that it is said that whatever state a natural person is a citizen of is determined by that state's law, and that disputes arise are resolved through that state's laws. There are good and bad sides to this, the good side of which is resolved by the legislation of a state of dispute, the bad side of which is not in a Made position in the legislation of the member states of the shatrtnama on the general continental or territorial settlement can cause difficulties for individuals who see it by the legislation of a state. Because suppose territorial unification in European itttifoq states where conflict arises a dispute between citizens of the two states is seen by the European itttifoq Council, a dispute between the two states does not arise. It prevents disputes over which legislation to choose the European Union, as in the countries of the Union, in this respect, only if it is resolved with the citizenship of an individual in which a certain restriction of rights may occur.

According to the second approach, common law States (Australia, the United Kingdom, the United States, and b.), the personal status of a person adopted in some states of continental Europe, most states of Latin America and a number of other states is determined by the law of his place of residence (domicilius) or residence (in the absence of a permanent or ordinary residence, as a rule).

It should be noted that the Bustamante code of 1928, taking into account the lack of a unified approach to the question of choosing the right to be applied in the regulation of the issues of Personal Law of an individual in Latin American countries, provides for the right of participating states, when deciding the application of civil law or residence law for this purpose.

The second approach presupposes that the good thing about the Bustamante code of 1928 is that it is considered a good aspect if disputes regarding citizens of member states arise based on the norms of the same code, and that it improves and facilitates the solution of disputes.

It is a traditional collisional norm in the Civil Law of the Republic of Uzbekistan that applies the law of the country to which the citizenship of an individual belongs (lex patriae) to determine the recognition of its recognition as a personal law of foreigners. The Civil Code of the Republic of Uzbekistan sees citizenship as a sign that reflects the most continuous and strong connection of an individual with a specific country.

the link to the concepts “in which the person is most inextricably linked” and “the person is living permanently”. The concepts mentioned have the same meaning as the concept of” place of residence “provided for in Article 21 of the FK, which is defined as” the place where a citizen lives permanently or mainly is his place of residence". The binding formula Lex domicilii is used

not only in Article 1168, but also in the fifth part of Article 1190 of the Civil Code, Article 1181, article 1182, part two of Article 1194, paragraph 2 and 3 of Article 1195, and in Article 1197.

The importance of accurately determining the place of residence lies in the correct application of the norms of law in relation to a relationship not complicated by a foreign element, in particular, the finding of a citizen as missing (FK 33-m.) or declaring him dead (FK 36-m.) while resolving issues, the place of fulfillment of obligations (FK 246-m.) and Heritage opening site (FK 1117-m.) is also of great importance in markup. In all these cases, it is necessary to understand the place of residence of an individual in accordance with Article 21 of the FK as a “place where a citizen always or mainly lives.”4

Looking at the above norm, in which the main emphasis is on the situation in disputes arising with citizens, the solution is given to a dispute in which a citizen is permanently living or , mainly, with the law of place, where it is said that if we pay attention, the issue of finding deceased, finding missing or opening a heritage place can be seen The refugee can also be considered to have such rights if we enter.

The provision that a refugee's personal law be considered a public law that granted him asylum is defined in civil law. This reflects the loss of their connection with that country as a result of the important situations in which refugees are forced to leave the country where their citizenship belongs or where they have permanent residence, and the right of the country that receives them remains a determinant of the legal status of refugees. It is the legislation of the state that has adopted that defines the concept of Refugee, the conditions under which a person can obtain refugee status and the legal status of persons who have received such status.5

Usually refugee it is not a good situation for citizens who have received or are trying to obtain the status of any refugee uchu6n because there may be an increase in disputes regarding them. But still we can see that any state that has granted asylum to a refugee protects its rights unless some state has other laws regarding a refugee.

Rights and treatment capabilities of an individual in international private law. The legislation of individual states is based on the law of civil law, i.e. the capacity to have civil rights and obligations (FK 17-m.) does not uniformly define the occurrence and termination of . For example, in the Republic of Uzbekistan and Germany, a citizen's legal capacity arises with his birth and is terminated upon his death. In Italy, the capacity to have civil rights and obligations begins 24 hours after the separation of the child from the mother's body.6

According to the Constitution of the Republic of Uzbekistan, the rights and freedoms of foreign citizens and stateless persons who are on the territory of the Republic of Uzbekistan are ensured in accordance with the norms of international law (23-m.). This traditional norm provides foreign citizens and stateless persons with a national legal procedure on the territory of the Republic of Uzbekistan. For example, the collisional norm in Article 23 of the contract for legal assistance and

4 XXX – darslik Toshkent 2019 – yil 73 – 75 betlar

5 XXX – darslik Toshkent 2019 – yil 78 – bet.

6 XXX – darslik Toshkent 2019 – yil 81- bet

legal relations between the Republic of Uzbekistan and the Czech Republic of January 18, 2002 states that the right and treatment capacity of an individual is established by the legislation of Uzbekistan if this person is a citizen of the Republic of Uzbekistan, and by the legislation of the Czech Republic. At the same time, the right and treatment capacity of a person living on the territory of Uzbekistan or the Czech Republic (a citizen of Uzbekistan, the Czech Republic or a third country) is determined by the right of a state (Uzbekistan or the Czech Republic) with a residence permit on the territory of this person.

The civil legal capacity of foreign citizens and stateless persons on the territory of the Republic of Uzbekistan can be limited if it is necessary for the purposes of the foundations of the constitutional system, etiquette, health, protection of the rights and interests of other persons, defense of the country and ensuring the security of the state. At the same time, we note again that any exceptions to the general principles of the national legal procedure for foreign citizens and stateless persons can be established only by the laws and international treaties of the Republic of Uzbekistan.

From the example of Uzbekistan and the Czech Republic above, we can see that bilateral agreements in the middle are also considered very significant. Because if the dispute arises it is through this bilateral agreement that they resolve the dispute quickly and easily resolved. At the same time, we note again that any exceptions to the general principles of the national legal procedure for foreign citizens and stateless persons can be established only by the laws and international treaties of the Republic of Uzbekistan.

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As established in the Consular Charter of the Republic of uzbekistan1, the role of the consul must take action in order for The Citizen of Uzbekistan to fully enjoy all the rights granted by the laws of the same state, the international treaties of which the state and the Republic of Uzbekistan are members. The violation of the rights of a citizen of the Republic of Uzbekistan must take action to restore these rights, as determined by the consul.7

In this regard, the legal status of a citizen of the Republic of Uzbekistan is determined not only by the legislation of the state in which he is present, but also by bilateral and multilateral international treaties concluded between this state and the Republic of Uzbekistan.
In this case, in addition to the emphasis on bilateral and multilateral treaties, the rights of a citizen of Uzbekistan abroad and who and which organizations can protect them. In addition, we can see how the laws of that foreign state protect the rights of our citizen as well as the same mukin.

Article 1169 of the Civil Code of the Republic of Uzbekistan. Rights and treatment abilities of an individual.

The rights and treatment capabilities of an individual are determined by his personal law.

Foreign citizens and stateless persons enjoy civil law in the Republic of Uzbekistan on an equal basis with citizens of the Republic of Uzbekistan, except when established by the laws or international treaties of the Republic of Uzbekistan.

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The Civil treatment capacity of an individual in relation to the obligations arising from transactions and damage is determined by the law of the country in which the obligations arising from the conclusion of transactions or damage occur.

The capacity of an individual to be a private entrepreneur and to have the rights and obligations associated with it is determined by the law of the country in which an individual is registered as a private entrepreneur. In the absence of a registration country, the right of the country is applied, which is the main place where private entrepreneurial activity is carried out.

Finding that an individual is incapacitated or has limited treatment capacity is subject to the right of the same country, whichever country the court is in.

In fact, we can say that this state of affairs, in which this article of the Civil Code is very well applied, maximizes the origin of the disputed state. 8

There are many reasons for the identification of a person as an international person, which are mainly based on such as the superiority of international law over domestic/domestic laws, the direct regulation of the rights and duties of a person by international law, the progressive evolution of international legal order, nature. increasing the integration of international law, humanitarian principles and concepts.

The French scientist Georges Scelle, in his opinion, considered the state to be fiction, and the individual man the only real subject of international law. There were several criticisms of this view, including Wolfgang Friedman who commented that it could be understood in a moral and figurative sense rather than in a practical and legal sense. Humphrey Waldock also criticized this view by saying that it renounces the law for philosophy.

Individual opinions on international law have been divided. Hersh Lauterpacht linked international law to the need and recognition of an individual legal entity in human rights and humanitarian aspects. He argues that the traditional position of the individual has changed due to certain changes, which leads to an increased imposition of direct obligations by individuals before international courts to protect their rights and within the framework of international law.

Taking into account the absence of rules that allow the implementation of an individual's international personality and the decisive role of the state movement in the formation of the rights and duties of individuals, like other rules, individuals recognize that they are the object of peoples ' rights. and he makes such claims that the fact that individuals are objects of international law does not mean that they are not direct subjects. In addition, he speaks of exceptions that confirm the general rule.

Hans Kelsen is also a benefactor to an individual in international law. While it recognizes the general rule that a state is a subject of international law, it speaks of general exceptions limited by the fact that individuals may be held accountable under international law for violating the code of conduct established by international law itself.

8 https://lex.uz/docs/-180552

Regarding the adoption of the personality position in international law, Wolfgang Friedman evaluates the opinions of scientists and helps to understand the true nature of the issue, he said, one of the biggest promoters of Lauterpacht and Jesup. the active position of a person in international law is well understood by strict legal meaning, individual boundaries cannot be a subject of peoples ' law, except only with extremely clear and clear boundaries and special purposes. Thus, they distinguished the difference between the individual as the subject of binding claims on an international scale and the individual as the beneficiary of the international law system, in which the states are the subjects and sole participants, and they are directed. acting on behalf of the individual.

These authors believe in the monistic doctrine of international law, but scholars who do not believe in the monism of international law are more skeptical about the individual as a subject of international law. Oppenheim rejects this proposal because the laws of nations are only the laws of states, so in this regard only states are the only subjects of international law. Valdock and Friedman both rejected the proposal, recognizing the progressive development of international law in favor of individuals and their rights. Brownlee rejects individuals as subjects of international law, saying that this means recognition of nonexistent rights.

Non-Monist Schwarzenberger says that personal identity is not a matter of principle, but of facts. It considers the creation of rules of any nature between states permitted by agreement, so that states will have no unlimited discretion and neither public policy nor jus cogens. Mayres MacDougal argues that the main force comes from nation-states, so that other participants must act through state or public policy, while Rosaline Higgins proposes to completely abandon the concept of a subject of international law.9

We can finish with the opinions of scientists, and proceed to the conclusion part.

Conclusion

As a result of further research in the writing of this article, Something became clear that in private international law we can see that an individual is very important and cannot be replaced. Taking into account these aspects, we can see what important cases the status of an individual should take into account in the resolution of disputes about his place and the issue of huqqu applied to hi

FOYDALANILGAN ADABIYOTLAR :

1. Vıkıpedıya ma’lumotlari.
2. Fuqarolik kodeksi.

9 https://sciencebox.uz/index.php/siyosatshunoslik/article/view/8373/7667

3. XXX – darslik Toshkent 2019 – yil.

4. Maqola.