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## **Modern trends in the development of citizenship**

This article discusses one of the problems of scientific development of the Institute of citizenship in the Republic of Kazakhstan and in the countries of the former Soviet Union. Analyzes the historical background of the constitutional legal institution of citizenship at different stages of formation of the state. Perspectives of constitutional legal regulation, on the basis of historical and theoretical propositions for further improvement taking into account the constitutional and legal experience of the CIS countries. The origin and historical development of citizenship allows us to consider the development of this phenomenon in the dynamics in the Republic of Kazakhstan, in the CIS countries and other foreign countries and to determine prospects for further development of citizenship. In the article the conception of citizenship associated with the emergence of the ancient state in the form of a slave Republic, developing in the framework of the Western type state, with all that define this type of state characteristics.

*Keywords:* the institution of citizenship, human rights, government, law, national independence, development, structure, situation.

Type state is defined in different sources as the most acceptable taken the common features of different States different States in different periods of time and having the characterized by symptoms. For each historical era where it appeared state had its own definition of citizen and giving the number of persons defined civil rights. It is well known that along with the changes of the concept of the citizen and, consequently, the shape of the state itself changes state [1; 60]. However, the first attempts typification of States was undertaken by Aristotle, who believed that the main criterion of differentiation of the States are the number ruling the state and implemented by the state goal. He distinguished between rule by one, rule of few, rule of the majority, a state divided on the right (ensuring the common good) and wrong (being restricted to private purposes) [2; 495].

The emergence and development of citizenship is closely connected with the government, and that government of the Republican form of government. Accordingly, the emergence of citizenship due to birth, political equality, based on a separate (slave on the first historical stage) property, assumes a certain political freedom and personal rights of the individual. These conditions arose in the ancient world that led to the emergence of citizenship, and essentially established the basic principles for the development of this institution for many centuries to come.

The study of historical patterns allows you to subdivide the history of the institution of citizenship in three stages: citizenship in the ancient Polis, citizenship feudal city-republics, citizenship of the modern type. As distinctive features of different periods, we should highlight the relation of citizens to each other in the issues of the legal status and responsibility to each other. Antique Republic can be characterized as aristocratic, privileged, unequal community, on the recognition of common interest - the exploitation of slaves. The feudal Republic can be regarded as community citizens-citizens organized on the basis of equality workshop that laid the foundations of legal equality - the basis of the bourgeois-democratic state.

G. Kelsen believed that political freedom, as the idea behind typing of the States of the modern world and as a consequence that distinguishes between two kinds of state: democracy and autocracy [3; 210].

In turn, R. Dahrendorf, dividing all States into democratic and undemocratic, says that as a result of the gradual democratization of the society, the class struggle becomes a society of citizens in which although there is no shortage of inequalities, but by their common Foundation is the will that makes it possible for a civilized social being [4; 11].

As a special type of citizenship can be considered a nationality during the Soviet period. In political and legal Sciences in that period developed the concept of «socialist human rights», where human rights were implemented by the status of the Soviet citizen. It is the existence of citizenship presupposes the possession of the totality of the rights of man and citizen. Through the legal status of a citizen was determined by the position of the individual in socialist society. During this period, the main concept of the rights of the citizen recognized the socio-economic conditionality and the class nature [5; 1259]. However, already indicated the dependence of the citizen's rights from the level of democratization and cultural development of society. In

the period of development of the socialist concept of individual rights was emphasized the class character of the fundamental rights of the citizen. Then it was noted that the basic (constitutional) law legally record the most important connection between human society and the state defined by the existing physical and socio-political conditions that reflect the position of class exercising political power. Human rights, recognized by the state in the form of a constitutional (fundamental) rights of citizens, constitute the Foundation of all other legal rights and freedoms. They set forth the most common capabilities of a citizen, to meet his social and human nature, reflecting the basic needs and interests.

It should be noted that prior to the USSR Constitution of 1936 as the Foundation of the Soviet state was considered by the workers, soldiers and peasants, which was enshrined in the Constitution of RSFSR of 1918 and in subsequent constitutional acts of the Federal value. Right to elect and to be elected, to participate in government and other rights, historically being the base for the Institute of citizenship in Soviet times had only certain categories of persons. With the formation of the idea of the Soviet national state, where he admitted the victory over the exploiting classes final fixed idea of owning the political rights of all citizens. But unlike the bourgeois-democratic theory of the legal state Soviet citizenship stemmed from the States, and were the necessary condition of the possession of civil, political, social, economic and cultural rights [6; 229].

In the same Constitution of the USSR 1977 in Chapter 6, was assigned to the basic provisions concerning citizenship of the Union and equality of citizens, a Chapter 7 establishes the basic rights, freedoms and duties of Soviet citizens. Thus, in accordance with article 33 of the Constitution of the USSR, was established a single Union citizenship, that is, every citizen of a Union Republic was a citizen of the USSR. The grounds and procedure for acquiring or forfeiting Soviet citizenship was defined by the Law on citizenship of the Union.

Chapter 5 established the citizenship of the Kazakh SSR and the equality of citizens. In this Chapter determined that in accordance with the established in the Soviet Union a single Union citizenship, every citizen of the Kazakh Soviet socialist Republic was the citizen of the USSR. At the same time citizens of other Union republics were used on the territory of Kazakh SSR to the same rights as citizens of the Kazakh SSR. The equality of citizens of the Kazakh SSR was provided in all areas of economic, political, social and cultural life - all are equal before the law regardless of origin, social and property status, racial and national belonging, sex, education, language, attitude to religion, type and nature of occupation, place of residence and other circumstances. Chapter 6 set out the main rights, freedoms and duties of citizens of the Kazakh SSR, giving the full social, economic, political and personal rights and freedoms proclaimed and guaranteed by the USSR Constitution, Constitution of the Kazakh SSR and the Soviet laws. The socialist system ensured the expansion of rights and freedoms, the continuous improvement of living conditions of citizens as the implementation of socio-economic and cultural development. However, the use of the citizens' rights and freedoms should not harm the interests of society and state, the rights of other citizens.

In addition, the Marxist-Leninist concept put forward the following principles of the relationship between the state and the individual in a socialist society: 1) mutual responsibility of the state and the individual; 2) a harmonious combination of interests of the state and the individual; 3) socialist legality, and other principles. The most interesting is the principle of «social state responsibility for the correctness of decisions», which was expressed in a scientifically accurate measure expression of freedom, indicated in the system of rights and duties of citizens.

It should be noted that the constitutional provisions reinforcing the core capabilities of the individual in the sphere of state management. Citizens of the Kazakh SSR had the right to participate in managing state and public Affairs and in the discussion and adoption of laws and decisions of national and local importance. This right was provided the opportunity to elect and be elected to Councils of people's deputies and other elective state bodies, to take part in the national deliberations and voting in national control, in the work of state bodies, public organizations and bodies of public initiative in the meetings of labor collectives and at the place of residence. Every citizen of the Kazakh SSR had the right to submit to state organs and to public organizations suggestions for the improvement of their activity, to criticise shortcomings in their work. Officials were obligated in a timely manner to consider the proposals and statements of citizens, to give on them answers and to take the necessary measures.

In the Constitution of the Kazakh SSR was adopted and the prohibition of persecution for criticism. Persons guilty of such persecution are held accountable. In accordance with the interests of the people and in order to strengthen and develop the socialist system, citizens of the Kazakh SSR are guaranteed freedom of speech, press, Assembly, meetings, street marches and demonstrations. Constitutional provisions on citizen-

ship, in line with the developed theory of the socialist state, were political in nature and implemented in legal form in the sectoral legislation.

For this reason we can draw the following conclusion that Soviet citizenship had worn ideological in nature, was based on Communist ideology. As a consequence, had the character of privilege that has been endowed with: in the first phase, workers, soldiers, sailors, peasants. In the second phase, they were treated the workers, a all others (students, Housewives) possessed voting rights. The third stage — the stage of formation of the whole people of the state with the provision of the totality of the rights of citizens and the recognition of a new community — the Soviet people. However, the state was the main source of rights and obligations, and in certain cases could deprive of the Soviet citizenship and to expel this man from the country. Accordingly, this approach greatly narrowed the set of individual rights and first put forward the responsibilities of a citizen. Internal and external conditions of development and change of statehood as ideas resulted in a change of the political and legal status of the Soviet Union, turning it into the Commonwealth of Independent States, with full national sovereignty.

In this connection it is necessary to focus on the historical development of citizenship in post-Soviet countries, which took place in stages. As the first stage of transformation of Soviet citizenship in citizenship, built on liberal democratic principles, it is possible to determine the period 1985 — the 27th Congress of the CPSU and the 19th party conference in 1987, which was taking the course of building a socialist law-governed state. At this stage it was planned to combine the principles of the socialist state and legal bourgeois state. This merger was carried out through recognition of the primacy of human rights, recognition of the possibility of introducing in the Soviet socialist state of liberal-democratic principles. These aspirations and ideas prepared to make important political and legal documents, claiming the priorities in the process of independent of the Union republics. And, first and foremost, the recognition of a single nationality that defines the relationship of the individual and the state.

The provisions of the Constitution of the USSR was detailed in the Constitution Kazakh the Soviet Union, where in the announcement of the Declaration of sovereignty of the Union republics formed a new doctrine of the sovereignty of the Federal Republic [7]. This approach to the sovereignty of the Federal Republic created a liberal democratic approach to the essence of citizenship as the basis of national statehood. It was characteristic of the period of bourgeois revolutions, but it is based on the idea of national sovereignty, the idea of legitimate state power. As noted in that period of legal scholars: «Sovereignty is indivisible, it cannot be distributed between the Union and the Union republics, as it is impossible to limit or expand [8].

However, the controversy regarding the sovereignty of the individual Union republics and the Union as a whole, became the basis of the collapse of the Soviet Union. In many declaratory acts of the Union republics proclaimed the right to sovereignty as a fundamental concept for future development.

Thus, strengthening of national statehood, revival and development of indigenous culture, traditions, language and strengthening the national dignity of the Kazakh nation and other nationalities living in Kazakhstan, was, in our opinion, based on ideas of statehood and became the ideological and theoretical basis for the formation of the Kazakh nationality. Moreover, the definition of international standards in the field of human rights as a political-theoretical foundations leads to the conclusion that this was the first stage in the formation of citizenship of the legal state based on liberal democratic values.

At the end of the twentieth century the legal system of several States and regions of the world, by virtue of the interdependence of global processes, was tested. A comprehensive assessment of this phenomenon currently, it is difficult to provide in the power of the past by humanity insufficient length of time. European jurisprudence in the late XX – early XXI century had to endure too much politicized intrusion into its sphere. It was related to all branches of legal science: from constitutional to international law. History, especially political, as it is obvious, in most cases, operates a large-scale distances. But some characteristic associated with merchandise the main subject of international law – States, institutions can already be evaluated. First of all, it concerns the institution of citizenship, which in accordance with conventional terminology, is a sustainable legal connection with the state, expressed in aggregate their mutual rights and obligations.

It should be noted that exactly one of the keywords of this concept, namely, «stability» – have been due to major geopolitical changes to the test. Proclaiming as one of the dominant market economy, freedom of movement of capital, services and labour, the founders neoliberales of the doctrine of state transition type, the «rocked» this Foundation – sustainability, on which is based the institution of citizenship.

People outside of their state of nationality offering their services labour hire worldwide, began to speak, hardly, *primus inter pares* – a model initiative of the individual at the end of XX – beginning of XXI century. The study of the political and legal system of the United States (as well as norms of EU law) due to the low

availability until the early 90-ies frequently presented for many local legislators and scientists terra incognita. As such, during the period of «perestroika» and there was a need for replication is often unverified and unacceptable инициатив. The all-consuming desire for unification of the States prevailed in a number of domestic politicians and ideologues over common sense about the unassailability of such perspectives, because for centuries the established nature of humanity, its geographical, biological and cultural diversity, as well as the impossibility of creating a more integrated global legal and political system instead already developed by mankind in 1945. It must be emphasized that the United Nations was created in 1945 after the incurred losses of the Second world war, numbering more than 30 million people.

Liberal ideas about the movement of the working masses, developed in the late 40-ies of XX century by the founders of European integration in the name of preserving peace in the European region and economic stability of the EU's population, were projected on different soil early 90-ies on the ruined and fragmented territory of the former USSR. Thus, the need to maintain stable relations with the state were theoretically subjected to doubt not just economists and political scientists who study issues of world (global) economy, but also scholars working on issues of international and European law and other legal branches. However, this «sustainable stability» inevitably remained in the terminology of the constitutional (national) law determined by the state's Basic law (Constitution).

In the state if there is security working at the appropriate level, in modern conditions, taking the States international legal obligations on information exchange, is not a big difficulty identifying individuals with foreign citizenship. In addition, the international cooperation of States includes the provision on a mutual basis on request country-specific information about people receiving their citizenship. Returning to the theory and practice of citizenship in the modern world, should be called major significant facts, which gave the world examples of legal design. One of the most popular topic to study in law fifteen years ago, not only Russia but also other countries, was the institution of «European citizenship», which is based on the right of the EEC and other international organizations. Means of legal regulation of this Institute was the 1992 law of the European Union and the legislation of individual member States of the EU. In article 8 of the Treaty on European Union of 1992 States that «every citizen of a member state is a citizen of the Union».

But, as the study shows, in fact, it is rather the ideological factor of cohesion of the EU member States, rather than legal reality. Of course, there is the national anthem of EU – Ode to Joy Beethoven, in each municipality 27 countries of the EU flag is adjacent to the flag of the national States of the EU. But EU member States remain the sovereign right to impose restrictions on freedom of movement, granting rights to foreigners from countries outside the EU. In granting the citizenship of the state, no country of the European Union is not obliged to consult with the community structures of the EU. Granting citizenship is a sovereign right of each of the member States of the EU. In this case, what kind of confederalism in the European Union can be discussed? EU citizenship provides not so many rights: the right to free movement and permanent residence in the territory of the member States (article 8); right to vote and to stand as candidates in elections to the European Parliament (article 8); the right to elect and be elected in municipal bodies on an equal footing with nationals of the country (article 8); the right to complain to the European Parliament and to the Ombudsman (article 8-d 138-d 138-е); the right of a citizen in the territory of a state not included in the European Union, the diplomatic protection of the mission of any of the member States of the European Union (article 8).

It is thanks to European law has been restated a term such as subsidiarity, in addition to the basic value (a specific country) citizenship of the EU. Of the areas related to the institution of citizenship, in EU law there are few attempts to conduct coordinated migration policy. But what happened a few years ago the so-called «color revolutions» in the Middle East, and increased in this connection, the flow of illegal migrants into the EU, showed the impossibility of maintaining even this legal initiative. Again, the security issues of the state and citizens of each EU country in this case in no way coordination with high humanistic initiatives of regional integration and human rights, which, as a rule, is the product of peace of intellectual creativity. Subsequently, the institution of «European citizenship» was not a real Institute of the Confederation, and especially the Federation of the EU member States.

However, the example of EU law is significant in the aspect of consistent implementation of the comprehensive Institute of human rights for the benefit of man and citizen, and the concept of «citizenship of the European Union», although it remains largely in the sphere of ideology than of law, will occupy a worthy place in the Arsenal of political and legal thought of mankind. Protection of the rights and freedoms of man and citizen is the norm of most modern constitutions. The implementation of this principle of international-legal means serves as a complement to national law.

In the second stage can be considered the period of official registration of state and legal fixation of citizenship in the CIS countries. This period is characterized by the adoption of constitutions and constitutional laws that reinforce the foundations of constitutional order, rights and duties of man and citizen, as well as the system of the Supreme bodies of state power. At this stage of the Constitution was adopted in 1991 in Moldova, 1992 – Turkmenistan, Uzbekistan, Estonia, Lithuania, in 1993 — Kazakhstan, Kyrgyzstan, Russia, in 1994, Belarus, Tajikistan, Latvia was restored the Constitution of 1922 [9].

In other post-Soviet countries have been major changes in the Constitution of the Soviet period, which fixed a new direction of development of the state. For example, prior to the adoption of the 1993 Constitution of the Republic of Kazakhstan acted in the constitutional law «On the state independence of the Republic of Kazakhstan» of 16 December 1991, which was secured: priority of the rights and freedoms enshrined in the universal Declaration of human rights, other universally recognized norms of international law; the right of the Kazakh nation to self-determination; determination of creation of civil society and legal state. It was also noted that citizens of all nationalities, United by common historical destiny with the Kazakh nation, constitute together with it the uniform people of Kazakhstan, which is the only bearer of sovereignty and source of state power in the Republic of Kazakhstan, exercise state power, both directly and through elected political bodies on the basis of the Constitution and laws of the Republic of Kazakhstan. Citizens of the Republic regardless of their nationality, religion, belonging to public unions, origin, social and property status, occupation, place of residence have equal rights and responsibilities. Persons on the territory of the Republic of Kazakhstan and non-citizens, enjoy the rights and freedoms as well as bear responsibilities established by the Constitution, laws and interstate agreements of the Republic of Kazakhstan, with the exceptions established by laws and interstate agreements of the Republic. Infringement of civil equality is punishable by law. The Republic of Kazakhstan has its own citizenship. For all Kazakhs who were forced to leave the territory of the Republic and reside in other States, recognizes the right to have the citizenship of the Republic of Kazakhstan together with the citizenship of other States, if not inconsistent with the laws of the States which citizens they are. It turns out that for the first time in legal form was stipulated principles that are the basis of Kazakhstan citizenship, a, essentially, constituents and the foundations of Kazakhstan's statehood.

As the third stage of development of the institution of citizenship should consider the process of improving the constitutional and legal norms regulating the institution of citizenship. At this stage the process of development and improvement through changes and additions to the laws on nationality, as well as through the development of constitutional law. Moreover, in 1995 was adopted the new Constitution in Azerbaijan, Armenia, Kazakhstan, Georgia, in 1996 — in Belarus, Ukraine. In Kyrgyzstan, Turkmenistan, Uzbekistan revision of constitutional rules [10; 95]. Thus it turns out that the stages and the dynamics of the process of formation of citizenship in the CIS were the same, due to the similarity of the conditions and causes that determine the regularities of origin and development of the legal regulations in the field of citizenship.

An important aspect of the emergence of citizenship in sovereign States was the recognition of citizenship for all permanent residents at the time of adoption of the law on citizenship or the stipulated period or date within which or in the part of the population acquired the citizenship of a particular country.

Thus, I come to the conclusion, revealing the historical development of citizenship in the Republic of Kazakhstan, we believe that in its evolution it passed the following stages:

- 1) - pre-Soviet phase includes the period of the accession of Junior, middle and senior in citizenship of the Russian Empire in the 18th and 19th centuries;
- 2) the Soviet phase includes the periods:
  - a) 1917–1924 гг. the establishment of Soviet power;
  - b) on August 26, 1920 Executive Committee and SNK of the RSFSR signed a Decree «On formation of the Kazakh Autonomous Soviet Socialist Republic» within the RSFSR, with its capital in Orenburg;
- 3) Since 20.12.1991 on 30.08.1995 the infancy of the institution of citizenship of the independent Kazakhstan;
- 4) - 30.08.1995 G. modern stage of development of the institution of citizenship of the Republic of Kazakhstan.

It is necessary to pay attention to the emergence of integration processes in the field of citizenship on the territory of the modern CIS. These questions are revealed in the Charter of the Union of Belarus and Russia, where it is noted that the presence at the citizen of the Russian Federation and citizens of the Republic of Belarus citizenship of the Union does not diminish his rights and freedoms and is not exempt from the obligations deriving from the citizenship of the state party of the Union. Agreement dated December 8, 1999 be-

tween the Russian Federation and the Republic of Belarus on establishing the Union state was introduced to its citizens. The main provisions are enshrined in Chapter II, according to which citizens of the Union state are the only citizens of States parties.

At present, the citizenship of the CIS countries determined by the constitutional and legal norms that underlie organizational-legal mechanism of regulation of citizenship, establishing of the political-ideological base of the system of state bodies, their powers in the field of citizenship, ways of improvement and international integration. The constitutional-legal system of the mechanism of legal influence on social relations is designed to provide: the use of democratic forms for the adoption and execution of decisions on citizenship issues; creation of necessary organizational and legal capacities for activities of Executive bodies in the sphere of citizenship, sustainability, basic domestic relationships, and inner consistency of certain parts of the mechanism of the state. On the basis of constitutional norms is determined by government policy, enshrining in the area of citizenship the main directions of development of citizenship, both in national legislation and in international agreements. In turn, the principles of citizenship should be considered as fundamental ideas and fundamentals that determine not only the order of implementation of state citizenship in the law enforcement practice, but also as an important safeguard to protect and ensure the rights and freedoms of man and citizen on the territory of Commonwealth of independent States.

Moreover, currently, in the European legal space is the integration into the field of law in General and, in particular, in the area of citizenship. In the framework of the Commonwealth of independent States integration laid the foundations of this Institute. In the historical aspect, these conditions can be considered as the initial stage of formation of a common Eurasian space.

The origin and historical development of citizenship allows us to consider the development of this phenomenon in the dynamics in the Republic of Kazakhstan, in the CIS countries and other foreign countries and to determine prospects for further development of citizenship.

Thus, strengthening of national statehood, revival and development of indigenous culture, traditions, language and strengthening the national dignity of the Kazakh nation and other nationalities living in Kazakhstan, was, in our opinion, based on ideas of statehood and became the ideological and theoretical basis for the formation of the Kazakh nationality. Moreover, the definition of international standards in the field of human rights as a political-theoretical foundation leads to the conclusion that this was the first stage in the formation of citizenship of the legal state based on liberal democratic values.

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## Азаматтық институты дамуының заманауи беталысы

Мақалада Қазақстан Республикасында, сол сияқты посткеңестік кеңістік елдеріндегі азаматтық институтының дамуы ғылыми мәселелердің бірі болып қарастырылды. Мемлекеттілік

калыптастырудың әртүрлі кезеңдеріндегі азаматтық институтының конституциялық-құқықтық туындауының тарихи алғышарттары сараланды. ТМД елдерінің конституциялық-құқықтық тәжірибесін ескере отырып, одан әрі жетілдіру бойынша тарихи және теориялық ережелердің негізінде, конституциялық-құқықтық реттеудің болашағы анықталды. Мемлекеттің саяси-теориялық негізі ретінде азаматтық саласындағы халықаралық стандарттарды анықтауда демократиялық құндылықтарға негізделген, құқықтық мемлекет қалыптастыруда аталған институт қазіргі кезеңде негіз болып табылады деген тұжырым жасауға мүмкіндік береді. Әлемде тұратын әр ұлттың төл мәдениетін, дәстүрін, тілін және ұлттық қадір-қасиетін сақтау және ұлттық мемлекеттілікті нығайтудағы қайта жандану және дамыту, біздің пікірімізше, мемлекеттіліктің қазіргі азаматтық институтының дамуы үшін идеологиялық және теориялық негіз болды.

*Кілт сөздер:* азаматтық институт, адам құқықтары, мемлекет, құқық, азамат, ұлт, азаматтық, демократия, заң, конституция.

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## Современные тенденции развития института гражданства

В статье анализируются исторические предпосылки появления конституционно-правового института гражданства на разных этапах формирования государственности как в Республике Казахстан, так и в странах постсоветского пространства. Определяются перспективы конституционно-правового регулирования на основе исторических и теоретических положений по дальнейшему совершенствованию с учетом конституционно-правового опыта стран СНГ. Определение международных стандартов в области гражданства в качестве политико-теоретической основы государства позволяет сделать вывод о том, что современный этап стал ключевым в формировании данного института правового государства, основанного на демократических ценностях. Укрепление национальной государственности, возрождение и развитие самобытной культуры, традиций, языка и укрепление национального достоинства каждой из наций, проживающих в мире, явилось, по нашему мнению, основой идеи государственности и стало идеологической и теоретической базой для формирования современного института гражданства.

*Ключевые слова:* институт гражданства, права человека, государство, право, гражданин, нация, гражданство, демократия, закон, конституция.

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