A CASE STUDY OF THE DUAL CITIZENSHIP ARRANGEMENT BETWEEN RUSSIA AND TURKMENISTAN

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INTRODUCTION

On 10 April 2003, the President of Russia, Vladimir Putin, and the President of Turkmenistan, Saparmurat Niyazov, met in Moscow and reached an accord which soon led to a heated debate over the status of the ethnic Russian community in Turkmenistan and badly frayed Russian-Turkmen relations. That day, the Presidents signed a Protocol on Terminating the Agreement between Turkmenistan and the Russian Federation on Regulating the Issues of Dual Citizenship (hereinafter – the Dual Citizenship Agreement).

The Dual Citizenship Agreement that had been in effect since December 1993 provided for the right of citizens of one state party to take, without losing their citizenship, the citizenship of the other party and charged both states equally with the defence and protection of dual citizens’ rights and freedoms. For a decade, it was seen and projected by Russia as a tool to protect those Russians who had found themselves in Turkmenistan after the disintegration of the Soviet Union.

The focus of the thesis will be on the Dual Citizenship Agreement’s ‘life-cycle’, reasons for its conclusion and subsequent termination, its current status, as well as its impact on all those directly and indirectly affected by the twists and turns surrounding it. The study of the Dual Citizenship Agreement will touch upon some important theoretical questions in international law. As the title suggests, this paper is devoted to the issue of nationality in international law, generally, and dual nationality, specifically. Even more specifically, it is about the legal institute of dual citizenship established between two countries under a bilateral treaty.

Thorough research on the topic has demonstrated that institutionalized dual citizenship is a very rare case in international law. Throughout the history of humankind there have been numerous international agreements, both bilateral and multilateral, aimed at regulating the issues of dual citizenship in terms of diplomatic protection, military service, civil status, taxation, etc., avoiding dual citizenship, eliminating dual citizenship, and so forth. At the same time, there are only a few instances in modern international law when states purposefully created dual citizenship, allowing their citizens to acquire another citizenship, while retaining their original citizenship.

Being centred on the concept of institutionalized dual citizenship, especially its application to the case in question, the thesis is built around the following research

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questions: What is institutionalized dual citizenship within the broader framework of the umbrella term ‘dual citizenship’ in international law? What is special about it? Why do states conclude treaties on dual citizenship and, by doing so, recognize that aliens can acquire their citizenship en mass? How does the Russian-Turkmen case relate to earlier practice in this field and current international law framework? How might the case be legally settled?

The thesis’ consists of two major parts which are then subdivided. The first one is devoted to the discussion of the Dual Citizenship Agreement itself. In the second part, the dispute between Russia and Turkmenistan over the Dual Citizenship Agreement and the institute of dual citizenship is examined with regard to the applicable rules of international law.

PART I. THE DUAL CITIZENSHIP ARRANGEMENT BETWEEN RUSSIA AND TURKMENISTAN

1. TOWARDS RUSSIAN-TURKMEN DUAL CITIZENSHIP

1.1. Citizenship in the Wake of State Succession after the Dissolution of the USSR

Dividing peoples in cases of state succession raises some of the most difficult problems in international law. The political, legal, and technical complexities that sprang up in the aftermath of the splintering of the Soviet Union are not special in this regard. Quarrels between the former Soviet republics about how to sort out which share of the Soviet population belongs to whom still have not been resolved. Indeed, in a situation where many members of particular ethnic groups found themselves ‘abroad’ overnight, that is to say, living in the territories populated by

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1 Two different terms (‘citizenship’ and ‘nationality’, derivative from ‘citizen’ and ‘national’, respectively) are employed in legal texts to describe more or less the same concept – the legal relationship between a person and a State. The differences between these terms still exist, but are extremely rare, so they are often used interchangeably. Illustrative in this regard would be a relevant quotation from the famous Oppenheim’s treatise on international law, which fuses one term with the other into one definition: “Nationality of an individual is his quality of being a subject of a certain State and therefore its citizen”, McNair, A.D. (ed.), Oppenheim’s International Law, Vol. I ‘Peace’, 4th ed., London/ New York/ Toronto: Longmans, Green and Co., 1928, pp. 524–525 (emphasis added). For a more detailed discussion on the terminology (‘nationality’ and ‘citizenship’), see Zilbershats, Y. The Human Right to Citizenship, Ardsley, N.Y: Transnational Publishers, Inc., 2002, pp. 4–5. For the sake of uniformity and consistency of terminology, the term ‘citizenship’ is chosen and used throughout this thesis, unless sources cited herein apply the other.