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Dual Citizenship in Poland and in Israel: Selected Legal Aspects in a Comparative Perspective

Abstract: The tragic years of World War II, followed by the unfriendly communist policy in Poland towards the Jewish community, changed the country from a multicultural into the most homogeneous state in the European Union nowadays. At the same time, Israel, as a meeting place for various cultures, enjoys the influence of inhabitants from nearly all over the world. The dissimilar experiences and problems faced by the governing bodies should influence different approaches to dual citizenship in Poland and Israel. In view of the above, in the presented work the author would like to analyze the issue of the legal approach to dual citizenship both in Poland and in Israel. The main goal of the paper, beyond comparison of the effectiveness of the legislations, is finding the answer to the question: what is the state's attitude towards the issue of the dual citizenship of their citizens? The hypothesis that the article will verify states, that due to the small number of people with dual citizenship in Poland, Polish legislation devoted to this topic is not extensive and has dissimilarities to the law in Israel, which, in contrast, is more complex and better responds to the needs of society. The reason for comparing Poland and Israel is the fact that Polish citizenship has been very popular among the citizens of the Jewish state, especially since 2004 when Poland became a member of the European Union. This issue in the long run may be one of the key determinants of Polish-Israeli and Polish-Jewish relations.

Keywords: *International relations; legal analysis; dual citizenship; passport; Poland; Israel*

Introduction

The concept of citizenship was an important topic even for ancient philosophers, and yet its meaning remains debatable until nowadays. Aristotle started one of the earliest debates on citizenship when he wrote: “But in most constitutional states the citizens rule and are ruled by turns, for the idea of a constitutional state implies that the natures of the citizens are equal, and do not differ at all” (Cohen 2009 after Aristotle 1996). Followed later by e.g. Rousseau, Kant, Hume, Smith, Mill and recently Habermas; all of the thinkers noticed that

there are many kinds of citizens (Cohen, 2009) and a common element, a universal and unique definition that would exhaust this problem, is an impossible phenomenon.

However, recently together with the analysis itself of what citizenship or nationality are or what it means to be citizen, the issue of dual citizenship has emerged as a major challenge for classical forms of nation-state membership (Iordachi, 2006). It does not mean that the phenomenon of dual citizenship was not publicly discussed before, but through the nineteenth century into the twentieth, dual nationality was condemned as nothing less than a moral abomination. Even though holders of more than one citizenship never posed any particular security threat, the mere admission of being a citizen of another country raised questions about loyalty and allegiance (Spiro, 2010), and was not accepted socially and politically. As a confirmation, it is worth mentioning the Council of Europe's "Convention on the Reduction of Cases of Multiple Nationality" from 1963, which states: "Considering that cases of multiple nationality are liable to cause difficulties and that joint action to reduce as far as possible the number of cases of multiple nationality, as between member States, corresponds to the aims of the Council of Europe" (Convention on Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality, 1963). Although only twelve European states (however, among them Ireland, Spain, and the United Kingdom agreed only to the part of the Convention concerning "Military Obligations in Cases of Multiple Nationality") signed this convention, the presented policy on dual citizenship accurately represents the general consensus among states worldwide at the time, that people should not be citizens of more than one country (Howard, 2005; Spiro, 2010).

During the debate over the last 20 years, multiple citizenship has become widely accepted in democratic states and the opinion that it is in contrary to loyalty is not popular anymore. The proliferation of dual citizenship is often considered to be the result of globalization (Pogonyi, 2011). Increased globalization led to increased international migration, making people (from legal point of view) able to accept more than one citizenship. "Free" movement of people also led to increased naturalization and inter-country marriages. What is more, using the possibility of gaining a second passport as a protection for the future, has made the question of dual citizenship a very up-to-date and controversial topic, because even though several scholars have begun to focus on this issue and highlighted its growing importance (Hansen and Weil, 2002; Spiro 1997, 2016; Faist, 2007; Koslowski, 2000; Korcelli, 1994), there is still no one common country's policy regarding multiple citizenship.

While the analysis of dual citizenship in states such as the USA (Hansen and Weil 2002; Spiro 2016) or Germany (Nathans, 2004; Güllalp, 2006) has already been described many times by researchers, in scientific publications it is difficult to find numerous references to this issue especially in Poland. This does not mean that there is no information at all; in particular Jagielski deserves to be mentioned here, as he comprehensively described the Polish legislation on citizenship in his works (Jagielski, 1998, 2001, 2008, 2016). Regarding the Israeli case, a young scholar, Harpaz, deals with contemporary changes in the institution of citizenship and their impact on global inequality and national identity from the sociologi-

cal perspective, also among Israelis (Harpaz, 2013, 2016). However, there is a lack of direct comparisons of the legislation of these two states. It seems reasonable to compare the legal solutions of these two countries due to the growing popularity of the Polish passport among Israelis, who take advantage of the fact that Poland is a member of the European Union and the Schengen Area. Thanks to this, they can with little effort acquire Polish citizenship and as a consequence freely take advantage of four freedoms of the European Single Market. Such a situation could refer to the theory of “citizenship as status” and it’s quite common trend among Western states, which are liberalizing the access to their citizenships (Isin, Nyers, Turner, 2013). The idea of “citizenship as status” or what was later further described by Joppke as “citizenship without identity” (Joppke, 2005), is seen as opposition to Brubaker’s argument that “citizenship in a nation-state is inevitably bound up with nationhood and national identity, membership of the state with membership of the nation” (Brubaker, 1992).

These two countries and their nations, even though Israel was created only in 1948, in many aspects share a common history, but face different social and cultural situations nowadays. During the interwar period, Poland was an example of a multi-ethnic country where Poles, Ukrainians, Jews, Belarusians, and Germans lived side by side. It should be noted that these relations were not idyllic and there were many abuses and manifestations of hostility, especially in relation to the Jewish community, yet the fact that Poles made up 65% of the total population confirms the multiculturalism of Poland at that time (Hejwosz-Gromkowska, 2012). Currently, according to the general census from 2011, around 97% of population consider themselves Polish (*Struktura narodowo-etniczna, językowa i wyznaniowa ludności Polski*, 2011), hence during approximately 80 years Poland became almost completely a mono-ethnic state.

On the other hand, Israel, as a meeting place for many cultures, enjoys the influence of the inhabitants from almost all over the world. Various migration flows forced Israel to adjust the policy to the socio-economic situations; hence changes in the approach to Israeli citizenship should also be expected. The varying experiences and problems faced by the governing bodies should influence different attitudes to dual citizenship in Poland and Israel. Therefore, in order to better understand this issue, the main topic of presented paper is the legal approach to dual citizenship in Poland and Israel.

Methodology

The primary goal of the paper will be a comparison of the effectiveness of the legislations in Poland and Israel. The effectiveness of the law depends primarily on how the law is used by the authorities and it must simply work in some real socio-economic space. Otherwise, we will have to deal with a law which, in the formal sense, will apply, but in the actual sense it will be *lex imperfecta*. Additionally, the law should anticipate changes that may occur in the socio-economic reality. The law must first “keep up” with the progress of socio-economic changes, and then it should anticipate future changes as far as possible in advance. The ef-

fectiveness of the law is also adversely affected by too frequent changes in regulations and the law works less effectively, the more clearly it is formulated (Stelmach, online source). The paper is also aiming at finding the answer to the research question: what is the state's attitude towards the issue of dual citizenship of their citizens?

The hypothesis that the article will verify states, that due to the small number of people with dual citizenship in Poland, Polish legislation devoted to this topic is not extensive and has dissimilarities in contrast to the law in Israel, which is more complex and better responds to the needs of society. Loopholes in Polish legislation may lead to controversies, inequalities before the law and the unequal treatment of citizens of other states, which can also be a problem in international relations. Due to the fact that there are some publications in English regarding multiple citizenship in Israel, but relatively few about Poland, a little more attention will be given to Polish legal solutions.

The research techniques that were used in this article were primarily comparative (analogy), institutional-legal and systemic analysis (or rather microsystemic, referring only to legal solutions regarding dual citizenship in Poland and in Israel) (Chodubski, 2004).

In order to better understand the context of the text, a distinction should be made regarding the concepts of citizenship and nationality. As was previously mentioned, it is very difficult to formulate one universal definition of citizenship. The Polish and Israeli legislations are part of a general trend, as most countries normalize the acquisition, possession and loss of citizenship, but they avoid the definition of citizenship and determining its substantive content (Jagielski, 1998). Therefore, this concept is not clear and in the juridical doctrine there are large discrepancies around its essence. The most suitable for the needs of the work is the definition that citizenship means the principle of unity of both the governing and being governed. Citizens endowed with equal political liberty obey the laws, the creation of which they participated in, and to the validity of which they thus consent (Walzer, 1989). Dual citizenship occurs when individuals are eligible to be citizens of more than one state, a situation that can arise for various reasons. Birthrights to citizenship can be given based on *jus soli*, *jus sanguinis*, or a combination of the two (Sejersen, 2008).

If citizenship is a bond between a person and a state, and its material content is the rights and obligations of a person towards a state, the concept of nationality is thus expressed in the relationship between a person and an ethnic group with regard to the identity of an individual, inherited tradition and identification with a wider group.

Such general principles, however, have different applications in reality. In order to achieve the objectives of the work, namely the comparison of the legal systems in Poland and Israel, the distinction should be made at the beginning between the approach to citizenship and nationality in both countries.

In Poland, the distinction between citizenship and nationality leads to legal disputes. On the one hand, the introduction of the Polish Card (it will be also described in this paper) as a document confirming the membership of the foreigner to the Polish nation makes it that nationality differs from citizenship. Polish authorities do not deny the Polish nationality

of Poles living in other countries, and not having Polish citizenship. However, on the other hand, the preamble of the Constitution of the Republic of Poland uses the phrase “We, the Polish Nation - all citizens of the Republic” (Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r.). It means that the nation’s members are persons having legal ties with the state, that is, being its citizens. In this case, the sense of belonging to the Polish nation is insufficient to be recognized, in accordance with the preamble to the constitution, as a member of the Polish nation. In the definition adopted by the Central Statistical Office in Poland and the law regulating the form of the census in 2011: “Nationality (national or ethnic) is a declarative (based on subjective feeling) individual feature of each person, expressing his emotional, cultural or genealogical relationship (due to the origin of parents) with a specific nation” (Ustawa z dnia 4 marca 2010 r. o narodowym spisie powszechnym ludności i mieszkań w 2011 r.).

Regarding Israel, we should emphasize that there are two separate categories in the census conducted by the Israeli authorities: ‘citizenship’ and ‘nationality’. The citizenship of all Israelis is simply listed as ‘Israeli’ and it refers to the citizens of the State of Israel. The category of ‘nationality’ divides Israelis into various ethnic and religious groups, including Jewish, Arab or Druze. Interestingly, there is no ‘Israeli’ nationality, despite the desire to introduce such a definition by part of Israeli society. In a petition to the Israeli Supreme Court, they argued that the current categorization, which focuses on ethno-religious origin, distinguishes between Arab and Jewish citizens, and thus contributes to discrimination and violation of the rights of Arab citizens of Israel. In other words, in order to protect Arab civil rights, the petitioners want to create a new collective “Israeli” nationality that will be parallel to the collective ‘Israeli’ citizenship. The Israeli Supreme Court disagreed with such arguments because, according to the judges, this could have “serious consequences” for the State of Israel and could jeopardize the fundamental principle of Israel: be a Jewish state for the Jewish people (Goldenberg, 2013).

Polish legal approach

The history of Polish citizenship is for obvious reasons inextricably linked to the history of the Polish nation. “During the late nineteenth century the Polish lands contributed a substantial share of migrants who were bound for North America. Poland’s role as a major emigration country has continued since the Second World War. Immigration, which was traditionally associated with return migration, has increasingly become identified with repatriation” (Korcelli, 1994). However, when examining the history of Polish legislation regarding the area of citizenship, for the purposes of this article, the period of communism will be particularly important. During this period, the scale of immigration was rather small, except for the late 1950s, when around 250,000 Poles were allowed to come back to Poland from the Soviet Union. The annual numbers of immigration ranged between 1,000 and 3,000, which was several times less than the respective emigration numbers (Korcelli, 1994).

As a result of the legislation proposed by the communist system, many Jews had to leave Poland after the war, emigrating partly to Israel. This is also significant because of the principle of the continuity of Polish citizenship, which was already adopted in the Act of 1951 and repeated in Article 1 of the Act of 1962, which said that “on the day of the declaration of the following Act, Polish citizens are persons who have Polish citizenship on the basis of the hitherto regulations”. The principle of continuity of citizenship ensures that the regulations on Polish citizenship, formally non-binding, still have their effectiveness, because they are appropriate to determining the citizenship of persons who acquired or lost citizenship during the period of validity of these provisions (Jagielski, 2001). In connection with this, they refer to the act which regulated the issues of who is Polish, i.e. mainly to the Act of 1951, 1962 or in some cases also to the Act on Citizenship of the Polish State from 1920.

The above described act from 1920 introduced another important case to our topic; namely the principle of exclusivity of Polish citizenship that was also confirmed by the constitution of March 1921. Multiple citizenship is an undesirable phenomenon by lawmakers, and it may cause conflicts between states. Due to the fact that Poland was a relatively young state at that time, political leaders in 1920 were particularly concerned with the loyalty of citizens. Based on the above findings, it could be assumed that the principle of exclusivity of Polish citizenship was tantamount to the principle of inadmissibility a Polish citizen also having a different citizenship. This way of thinking is not fully legitimate when we take into account the entirety of the then legal regulations regarding citizenship. For example, the provisions of the Act of 1920 ordered the loss of Polish citizenship as a result of acquiring a foreign passport, but also contained an exception to this rule when a Polish citizen subject to military service who acquired foreign citizenship did not lose Polish citizenship.

The Act of 1951 continued the approach to the exclusion of Polish citizenship represented in the Act of 1920, but also introduced a completely new solution. A Polish citizen could acquire foreign citizenship only after obtaining the consent of the Polish authorities. The effect of this permit was that a person - a Polish citizen who acquired citizenship of another country and obtained a permit, automatically lost their Polish citizenship (Ustawa z dnia 8 stycznia 1951 r. o obywatelstwie polskim).

It should be underlined that the main document, broadly describing citizenship (including the topic of dual citizenship) was the Act about Polish citizenship from the People's Republic of Poland, established in February 15th 1962 (Ustawa z dnia 15 lutego 1962 r. o obywatelstwie polskim) and also the Aliens Law from March 29th 1963 (Ustawa z dnia 29 marca 1963 r. o cudzoziemcach), which have been in force for over 45 years and were created under completely different political and systemic conditions. Dual citizenship in these acts was not recognized, but also not strictly prohibited. According to the Article 2 of Aliens Law: “An alien who is citizen of two or more states should be considered as citizen of one of these states only” (Aliens Law 1963). A similar situation can be found in Article 2 of the Law on Polish Citizenship: “A Polish citizen, according to Polish law cannot be simultaneously considered a citizen of any other state”. According to Gorny and Pudzianowska's report

for EUDO Citizenship Observatory, Article 2 should have been interpreted as information that a dual or multiple national will always be treated as a Polish national by Polish public authorities inside the Polish territory as well as abroad. It simply means that person is treated only as a Pole and other citizenships are irrelevant (Gorny and Pudzianowska, 2013).

From the perspective of the subject of this article, it should be mentioned that in the late 1960s the link between the ethnicity of a person and his/her right to Polish citizenship was an important question, especially with reference to the Jewish community. By the communist government at this time, these people were perceived as potential traitors and were forced to leave Poland after signing a document expressing their intention to renounce their Polish citizenship upon acquisition of Israeli nationality (Gorny and Pudzianowska 2013, after Stola 2000). It should be also emphasized that despite the fact that this problem largely concerned the Jewish community, suspicions were directed towards all persons who had two nationalities. It was considered a disgrace to have two passports in the era of the Polish People's Republic, causing suspicions that its owner could harm Poland or even spy, taking advantage of being protected by a foreign state (Tumiłowicz, 2014).

The end of the communistic regime in Poland in 1989 marked as well an end of isolationist policies, which previously resulted in the lack of opportunities for citizens to go abroad. The new liberal policy was based upon the terms of *open borders* and *the total freedom of movement*, so it was a completely new approach compared to more than 40 years of communistic legislation (Korcelli, 1994).

The first legal regulations after 1989 on citizenship can be found in the Polish Constitution from 1997. Article 34 says that:

“1. Polish citizenship shall be acquired by birth to parents being Polish citizens. Other methods of acquiring Polish citizenship shall be specified by statute.

2. A Polish citizen shall not lose Polish citizenship except by renunciation thereof” (The Constitution of the Republic of Poland, 1997).

It is a confirmation that Polish nationality law is based upon the principles of *jus sanguinis*, what means that a person who was born to a Polish citizen is also eligible to obtain Polish citizenship.

In the early 1990s, several new acts and amendments were introduced in order to adjust the Polish legislation concerning migration and citizenship to the Western standards, like the new Passport Law of 1990, which gave every Polish citizen the right to receive a passport, which is to be renewed every ten years (Korcelli, 1994), however the law regarding dual citizenship remained unchanged. The issue of double citizenship was discussed broadly in the Polish parliament in the years 1999–2001. Several important legislative proposals were formed in this time, including the Bills on the Renunciation of the Conventions on Avoidance of Dual Citizenship, Bills on Polish Citizenship or the Bill on Repatriation (Weinar, 2003). An important change in Polish citizenship legislation was proposed in 1999 by Aleksander Kwasniewski – the president of the Republic of Poland, when he expressed his will (also by submitting the appropriate legal initiative) to terminate all the remaining

conventions with the former communist countries regarding prevention of dual citizenship. As the result of Kwasniewski's initiative, Poland ceased to be a part of conventions signed with the Soviet Union (1965), Czechoslovakia (1965), Bulgaria (1972), Mongolia (1975) and the German Democratic Republic (1975) (Gorny and Pudzianowska, 2013). The main goal of the president's activities, after all from the post-socialist party, was the desire for Poland to completely break from the communist system, which resulted in the creation of a new constitution in 1997, in which, for example is written, that it is impossible to deprive anybody of Polish citizenship unless he or she expressed the desire to renounce it (*Aleksander Kwaśniewski ujawnia kulisy prac nad konstytucją*, 2017).

It was also clear for politicians in the following years, that in spite of numerous amendments, the regulations regarding dual citizenship ceased to apply to contemporary standards of citizenship. Therefore, it was necessary to attempt to create new legislation relating to many new problems, such as the issue of citizenship of Polish people who have lost it regardless of their will, or the issue of the relations of Polish citizenship to the citizenship of the European Union, ensuring the compatibility of Polish regulations with international obligations and standards. In addition, even the former Interior Minister Jerzy Miller claimed that Polish legislation on dual citizenship does not fulfil its task and as an example for the necessity of changes, he mentioned John Paul II: "Since the Pole became the Pope, or the head of the Vatican City State, we cannot ignore the phenomenon of dual citizenship or fail to accept it. It all started in 1978" (Tumiłowicz, 2014).

The first breakthrough in the work on the approach to the Polish diaspora and dual citizenship was the issuance of the previously mentioned Polish Card in 2007. The Card can be granted to people who do not have Polish citizenship or permission to reside in Poland, and who are citizens of the former Soviet Union states: Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Lithuania, Latvia, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan. In other words, it is a document confirming belonging to the Polish nation, which may be granted to individuals who cannot obtain dual citizenship in their own states, while bearing Polish nationality according to conditions defined by the law; and who do not have prior Polish citizenship or permission to reside in Poland. Due to the fact that this only applies to former Soviet Union countries, the approach did not solve the problem of people with Polish and foreign citizenship, e.g. the Israeli case (Jagielski and Pudzianowska, 2008).

On April 2nd 2009, a new law on Polish citizenship was adopted (*Ustawa z dnia 2 kwietnia 2009 r. o obywatelstwie polskim*), which governed the rules and regulations regarding the acquisition and loss of Polish citizenship. It took 20 years to find a consensus and finally create legislation adapted to modern requirements resulting from the membership of Poland in various international organizations. However, the Citizenship Act of 2009 did not make any substantial changes to the concept of citizenship, which was shaped by the 1997 Constitution of the Republic of Poland, the 1962 Act, doctrine and practice. It validated the basic rules of the subject, i.e. the principle of blood (*jus sanguinis*) or the permanence and exclusivity of Polish citizenship.

The Citizenship Act of 2009 basically allows the existence of multiple citizenships (or rather – it does not prohibit them), while emphasizing the absolute primacy of Polish citizenship. The 3rd article states:

“1. The Polish citizen who is also the citizen of another country shall enjoy the same rights and shall be liable to the same duties in respect of the Republic of Poland as any other person holding Polish citizenship only.

2. In relation to the Republic of Poland, a Polish citizen shall not obtain any legal effect from relying on the citizenship of another state or on the rights and duties arising thereunder”.

The difference between the content of the repealed rule from 1962 and the new solution in the assessment of researchers is linguistic. In essence, both acts boil down to the existence of a specific legal fiction for a person with several nationalities. It consists of the obligation to perceive such a person only as a Polish citizen and the prohibition to treat the person as a foreigner. What distinguishes the Act of 2009 from the existing legal solutions is the addition of a statement regarding the equality of the position of a person possessing dual citizenship (including Polish) and a person who has only Polish citizenship. On the one hand, one can understand the purpose of this sentence to confirm that a person who has dual citizenship is not discriminated against and has the same rights as persons with only Polish documents. On the other hand, the literal content of this record is not reflected in reality. Polish law differentiates the rights and obligations of persons who are only Polish citizens, as well as those who also possess foreign citizenships. A few examples of positions which may not be taken up by holders of two or more nationalities are distinguished by Jagielski: President of the Institute of National Remembrance and a member of the College of the Institute, head of the Internal Security Agency and Foreign Intelligence Agency, as well as persons working in the Border Service and those appointed to prosecutors (Jagielski, 2016).

In opposition to Polish legislation, under international law, it is well recognized by theory and practice, the principle of “effective citizenship”, confirmed, inter alia, by the International Criminal Court in a famous case of 6 April 1955, concerning a dispute between Guatemala and Liechtenstein in the *Nottebohm* case (*Nottebohm (Liechtenstein v. Guatemala)*). Due to the fact that there are situations where third country courts have to settle legal issues according to the national law of a person with double citizenship, the problem arises of choosing which of two or more laws to apply. The judgment in the *Nottebohm* case says that in order to solve such a problem: “They have given their preference to the real and effective nationality, that which accorded with the facts, that based on stronger factual ties between the person concerned and one of the States whose nationality is involved. Different factors are taken into consideration, and their importance will vary from one case to the next: the habitual residence of the individual concerned is an important factor, but there are other factors such as the centre of his interests, his family ties, his participation in public life, attachment shown by him for a given country and inculcated in his children, etc.” (*Nottebohm (Liechtenstein v. Guatemala)*). In summary, the principle of “effective citizenship” aims to

avoid problems and conflicts related to formal membership of two or more states. Its role is to determine which of the citizenships is active (predominant), with which state the individual is most closely associated. Consequently, this allows choosing and giving priority to the citizenship which is the most real.

Applied by Polish legislation, this leads to additional problems, like the problem of leaving the country by a person holding an invalid Polish passport, no matter that at the same time the person uses a valid foreign passport. Such a possible situation mentioned by Jagielski (Jagielski, 2016) appeared in reality. In 2016, Polish mass media reported about the problem faced by a woman of Polish and Australian citizenship, wanting to leave Poland. She could not commence her journey to Thailand because of her invalid Polish passport, despite holding a valid Australian one. The Polish Border Guard, basing on the regulations in force, treated her as the Polish citizen with invalid documents which did not authorize her to cross the border (*Pułapka na posiadaczy podwójnego obywatelstwa*, 2016).

What causes a lot of controversy in Polish public opinion, is the unequal treatment of people applying for a Polish passport, dependent on the country of their origin. A difference can be seen in the approach to Israelis and people from the East. Poles from former Soviet republics must meet a number of requirements in order to obtain the Polish Card, among which there is a demonstration of their relationship with Polishness by at least a basic knowledge of the Polish language, considered by them as their mother tongue, and awareness and cultivation of Polish traditions and customs. On the other hand, simplifying, the only requirement for the Israelis is to confirm that at least one of their ancestors bore Polish citizenship. Knowledge of the Polish language or the sense of belonging to the Polish nation is not verified. It means that many Israeli people treat the acquisition of a Polish passport as a tool for specific goals, in their case the possibility to use the four freedoms of the common European Union market enjoyed by Polish citizens.

The Israeli legal approach

Dual citizenship among Israelis is a topic much more popular in the public sphere than we observe in the case of Poland. Recently, the question of dual citizenship in Israel was raised especially in the perspective of Spanish and Portuguese changes in law. In 2015 both states approved a plan of granting citizenship (and permit dual citizenship) to descendants of Jewish families who were forced to leave the Iberian Peninsula in the late fifteenth century (Moritz, 2015). In Israel there is also a large number of Israelis who are able to apply for a Polish passport. Therefore, since 2004, when Poland became a member of the EU, and later again at the turn of 2007/2008, when it entered the Schengen Area, we have observed a significant increase in the applications for passports at the Polish embassy in Tel Aviv; from 428 in 2004, through 2,397 in 2009 and ending with 3,277 in 2015 (data obtained by the author on the basis of an applications to the Ministry of Foreign Affairs of the Republic of Poland for public information).

Due to the prevalence of the phenomenon, dual citizenship in Israel is permissible, because otherwise it could lead to a large problem for several Israeli and foreign passport holders. When analyzing the example of Israel, we should keep in mind the special relations in this country between religion and state, which have an overwhelming effect on the issue of citizenship. The issue of internal conflict between the two divergent trajectories, i.e. Judaism and democracy, sets the course of debates from the beginning of the state and has become the subject of research by prominent Israeli scientists such as Ruth Gavison (Gavison, 1999), Sammy Smooha (Smooha, 1990) and Oren Yiftachel (1997). The Israelis, with the most important politicians at the forefront, boasting that their country is the only liberal and democratic state in the Middle East, are still looking for a golden mean between preserving the Jewish character of the state and the principles of respect for basic human rights, especially for minorities in Israel.

This dichotomy is visible in the citizenship and immigration law (Barak-Erez, 2007). After the establishment of the State of Israel in 1948, the Israeli parliament in 1950 adopted the Law of Return and in 1952 the Citizenship Law. These two legal solutions regulated the issue of acquiring Israeli citizenship and they serve as a basis for its revocation. It should be underlined that from the ideological and institutional perspective Israel is an immigrant state, but limited only to Jews, thus always restricting non-Jewish immigration (Herzog, 2010). The 1950 Law of Return automatically grants citizenship to Jews who wish to settle in the country, without imposing any of the requirements that are associated with immigrant naturalization (Harpaz, 2016).

Without going into details of these two legal solutions, which have been very well explained by other researchers (e.g. Navot, 2007; Sapir, Barak-Erez, and Barak, 2013; Cohn-Sherbok, 2011), it is necessary to indicate the legal situation regarding dual citizenship in Israel. Considering legal conditions regarding dual citizenship, Israel has never prohibited it, and in the Citizenship Law permits it (Herzog, 2010). The toleration of dual citizenship should be understood within a specific context. The reason why Israel allows its citizens to hold more than one citizenship is to encourage the Jewish diaspora to settle in the Jewish state, without the need to give up their original nationality (Kalekin-Fisman and Pitkanen, 2007). Forcing a choice between residence in Israel and renouncing the original nationality could lead to a reduction in the influx of Jewish immigrants that Israel would not like to occur. On the other hand, the issue of acquiring Israeli citizenship by non-Jews is much more complicated and demanding. Non-Jewish immigrants have to fulfill residence and language requirements, and renounce their original citizenships. It should also be underlined that during political debates regarding multiple nationalities in Israel, there were no serious legal proposals in the Knesset to restrict it (Harpaz, 2016).

Analyzing the issue of legal solutions with regard to dual citizenship in Israel, it should be pointed out that there are some exceptions that differentiate the holders of two citizenships from “normal citizens”. Under an additional law added to the Basic Law: The Knesset (Article 16A), according to which Knesset members fulfil the role of parliamentarians

unless their foreign citizenship has been revoked. It is quite a common situation that after almost every election some newly elected parliamentarians are subjected to this process. Dual citizenship may also be an obstacle to performing certain functions in the army. For information security purposes, soldiers serving in certain IDF units (e.g. submarines) are required to meet strict criteria. On the other hand, it can be said that holders of two passports could be desirable candidates for the security services due to their ability to legitimately enter states that normally Israelis cannot, and that they can conduct intelligence activities for Israel there.

The acquisition of a second citizenship by natural Israelis is a big problem for the traditional understanding of Zionism and the idea of the Jewish state, and can be seen as a lack of confidence in Israel's future. Journalist of "Haaretz", Gideon Levy said: "Israel is strong and established, and ostensibly its passport should be sufficient for its citizens. The fact that it is not sufficient for many of them testifies, more than a thousand passports, that something has gone deeply wrong here" (2011).

Comparison

The Polish government does not officially provide statistics on how many people living in Poland have more than one nationality; however, we are concerned that it is only a small percentage of the population. The most numerous group are Poles with German citizenship, who live mainly in Upper Silesia and the Opole region; in Upper Silesia their number oscillated between as many as 300–700 thousand people in 1994 (Gorny; Grzymala-Kazłowska; Korys; Weinar, 2003). A completely different situation is taking place in Israel. The state created in 1948 was based on Jewish immigrants who were citizens of other states. Currently, according to Pardo's research, around 42% of Israelis were eligible for EU citizenship, as they were descendants of people who had European passports or were able to easily obtain such (Pardo, 2009). However, there are no reliable figures on how many Israelis carry a second passport, but the number is certain to be considerable. According to Yossi Harpaz, about 344,000 Israelis living in Israel hold at least one European passport (Harpaz, 2013), not including citizens of Russia or USA, who are also a significant group. Moreover, based on a survey conducted in 2008 by the Menachem Begin Heritage Centre, more than 30% of Israelis said they had either applied for a second nationality or were planning to do so (Pardo, 2009).

Poland officially allowed its citizens to have dual or multiple nationality. Obtaining a foreign citizenship by a Polish citizen does not result in the loss of Polish citizenship or is in any way related to the need to obtain the consent of public authorities in Poland (as was the case in legal regulations of 1951) (Jagielski, 2016). The current law is largely based on communist solutions, but the Act from 2009 adapted Polish legislation to the needs resulting from globalization, European integration and facilitating the movement of people. However, there are some discrepancies in the issue of acquiring Polish citizenship,

depending on origin. This is particularly evident in the example of Poles from former soviet republics, who face a number of requirements, including a language test, and Israelis who do not need to directly prove their relationship with Polishness. This difference is caused by the fact that in many cases people from Post-Soviet states cannot obtain dual citizenship in their own countries, so Poland tries to, in a way, meet their needs at the same time setting a number of conditions.

Emphasizing the different social situations and waves of immigrants through the years, Israel is much more experienced regarding the dual citizenship of its citizens than is Poland. A law of return based on Israel's openness to Jews from the diaspora accepts dual citizenship of Israelis. However, we should notice a certain difference in the approach to holders of multiple nationalities, because on the one hand the Israeli government accepts and even encourages the acquisition of a second citizenship, namely the Israeli one by Jews from the diaspora, but on the other hand, there is a reluctance to acquire second passport by Israelis, as this is thought of as undermining Zionism. In the upcoming years, it is expected that the number of native Israeli citizens applying for new passports will stabilize (the only rise possibly can be observed regarding application for Portuguese and Spanish passports), but it is largely dependent on the situation in the Palestinian-Israeli conflict and the condition of the EU Member States. The increasing risk and the uncertainty of tomorrow may cause people to secure their families. On the contrary, the weakening of the EU position and the migration crisis may discourage such a move. During the interviews conducted with Israeli lawyers assisting in the acquisition of Polish citizenship, everyone clearly stated that as far as the cases of applying for a Polish passport are concerned, the peak of popularity has already passed. They explained that those who could actually regain their citizenship and were interested in it, had already done so in the last few years.

What is common to both states is the approach that assumes the supremacy of one citizenship over the other. Therefore, a person cannot choose which passport is more important, but is obliged to use only the documents of the country they arrive in, respectively Israeli or Polish. This is a clear confirmation of the policies of states that recognize the possibility of having two or more passports, but do not enter into discussions about "effectiveness" of the citizenships.

Both countries also have restrictions on holders of dual or multiple citizenships. While Polish legislation indicates the equality of all citizens (regardless of their citizenship), as was mentioned in the text, there are actually positions that cannot be taken if you also have a passport other than Polish. These are professions particularly related to the security of the country and its borders, as well as to access to secret information. There is a similar situation in Israel, where dual citizenship may also be an obstacle to performing certain functions in the Israeli army. For information security purposes, soldiers serving in certain IDF units (e.g. submarines) are required to meet strict criteria. On the other hand, sometimes holders of two passports are desirable candidates for its security services due to their ability to legitimately enter states that Israelis normally cannot, and there they can conduct intelligence

activities for Israel. In Poland, however, there are no obstacles like in Israel to become an MP with another citizenship besides the Polish one (e.g. former finance minister Jacek Vincent Rostowski, who also has British citizenship).

The Polish government, in contrast to Hungarian, Romanian, Bulgarian, Italian, Spanish or Portuguese rulers, does not support the dual citizenship of its citizens and does not conduct an active policy to encourage the acquisition of Polish passport. The only positive action is giving Polish Cards for people from Eastern Europe who speak Polish and declare their affiliation to the Polish nation, but it's not equated to granting Polish citizenship, because most of the post-soviet republics prohibit possession of multiple citizenship. On the other hand, the Israeli government represents a rather pragmatic approach to this. This is due to the fact that they openly encourage diaspora Jews to obtain the Israeli passport, without any excessive requirements, except to confirm their Jewishness. In the long run, this is to encourage them to move to Israel and also to serve in the Israeli Defense Forces. However, Israeli public opinion and its politicians have a significantly different approach to the matter of acquiring a second passport by Jews born or already living in Israel, because it can lead to the weakening of the state.

Conclusions

In conclusion, the article partly verified the thesis that the Israeli legislation on dual citizenship is much more extensive than the Polish, but this is only because Israel, as a Jewish state, has a completely different approach to the migration process and has adjusted special legislation for people with Jewish roots who would like to become a part of Israeli society.

However, it can be clearly pointed out that Polish legislation has legal inaccuracies that result from a lack of practice in this area. An example is the recognition, on the one hand, of all citizens as equal in law, and on the other, a certain type of discrimination against people with dual citizenship (nonetheless legitimate for reasons of national security) in access to certain positions. However, this is regulated by separate laws, not by law describing citizenship, which leads to a legal conflict.

In order to fulfill the assumptions of the work, a brief summary the effectiveness of legal solutions regarding dual citizenship in Poland and in Israel needs to be done. Polish legislation is definitely less frequently used than Israeli; however, apart from the cases mentioned above, it can be assumed that currently it fulfills its role in a specific socio-economic space. In addition, it can definitely not be considered that changes in the Polish legislation are too frequent, but rather the contrary. The new law introduced in Poland in 2009, which adapts legislation to contemporary international needs and obligations, primarily resulting from the membership of the European Union, has been largely based on communist regulations, thus repealing legal solutions that have been in force for over 45 years.

Israeli legislation is based on solutions that were created shortly after the declaration of independence, which over the years have been adapted several times to the changing socio-

economic situation. A clear example of such action should be the turn of the 1980s and 90s and the mass immigration of Jews from the Soviet Union and also from Ethiopia. At that time, the citizenship law regarding people with Jewish roots was liberalized, allowing immigration of their families who were not Jews. This led to the immigration of about a million people, speaking only about people from the former Soviet Union. Such behavior demonstrates the flexibility of legislators who adapt to the economic and social situation.

As far as the future is concerned, in both states the authorities do not officially speak about the change of legislation regarding dual citizenship. However, public opinion in Poland, especially the right-wing media, states that the requirements for people applying for passports should be increased, for instance by introducing at least a language exam. Usually we could consider such slogans as unfounded, but since these voices come from the media supporting the current power, no future decisions can be excluded.

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