

**КОНСТИТУЦИЯЛЫҚ ҚҰҚЫҚ.  
ӘКІМШІЛІК ҚҰҚЫҚ ЖӘНЕ ПРОЦЕСС**

**КОНСТИТУЦИОННОЕ ПРАВО.  
АДМИНИСТРАТИВНОЕ ПРАВО И ПРОЦЕСС**

**CONSTITUTIONAL LAW.  
ADMINISTRATIVE LAW AND PROCESS**

МРНТИ 10.15.23

10.51889/2959-6181.2025.79.1.003

УДК 342.71: 342.715 (574)

**PROBLEMS OF PRACTICAL IMPLEMENTATION OF THE PROVISIONS  
OF LEGISLATION GOVERNING THE TERMINATION AND CHANGE OF  
CITIZENSHIP OF THE REPUBLIC OF KAZAKHSTAN**

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*Abstarct*

This article discusses current issues of practical implementation of the legislation of the Republic of Kazakhstan on the termination and change of citizenship. The author notes an increase in integration processes in the modern world and on the territory of the Commonwealth of Independent States, which affect the migration and legal status of citizens with a changing status. The basis for the study is the Constitution of the Republic of Kazakhstan, the Law on Citizenship and ratified international treaties. The purpose of the work is to identify legal and organizational problems in the termination and change of citizenship with the development of appropriate recommendations based on international standards. The analysis shows the need to further improve national legislation in various aspects, including clarifying procedural standards, identifying "significant obligations" and filling gaps in ensuring human rights. Possible methods of solving these problems through the coordination of actions of state bodies, strengthening international cooperation and harmonization of legal standards within the CIS are considered. The results of this study are of interest both for the theory of law and for the practice of its application. They contribute to increasing the legal protection of citizens and the optimal use of the possibilities of integration processes.

**Keywords:** citizenship, Republic of Kazakhstan, termination of citizenship, change of citizenship, international law, legal regulation, integration processes, CIS, law enforcement practice, international treaties, migration, human rights.

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## ҚАЗАҚСТАН РЕСПУБЛИКАСЫНЫҢ АЗАМАТТЫҒЫН ТОҚТАТУ МЕН ӨЗГЕРТУДІ РЕТТЕЙТІН ЗАҢНАМАНЫҢ ЕРЕЖЕЛЕРІН ІС ЖҮЗІНДЕ ЖҮЗЕГЕ АСЫРУ МӘСЕЛЕЛЕРІ

*Аңдатпа*

Бұл мақалада Қазақстан Республикасының азаматтығын тоқтату және өзгерту туралы заңнамасын іс жүзінде жүзеге асырудың өзекті мәселелері талқыланады. Автор қазіргі әлемде және Тәуелсіз Мемлекеттер Достастығы аумағында мәртебесі өзгеретін азаматтардың көші-қоны мен құқықтық мәртебесіне әсер ететін интеграциялық процестердің ұлғаюын атап өтеді. Зерттеудің негізі Қазақстан Республикасының Конституциясы, Азаматтық Туралы Заң және ратификацияланған халықаралық шарттар болып табылады. Жұмыстың мақсаты-халықаралық стандарттарға негізделген тиісті ұсыныстарды әзірлей отырып, азаматтықты тоқтату және өзгерту кезіндегі құқықтық және ұйымдастырушылық мәселелерді анықтау. Талдау ұлттық заңнаманы әртүрлі аспектілерде, соның ішінде процедуралық стандарттарды нақтылауды, «елеулі міндеттемелерді» анықтауды және адам құқықтарын қамтамасыз етудегі олқылықтардың орнын толтыруды қоса алғанда, одан әрі жетілдіру қажеттілігін көрсетеді. Мемлекеттік органдардың іс-әрекеттерін үйлестіру, халықаралық ынтымақтастықты нығайту және ТМД шеңберіндегі құқықтық стандарттарды үйлестіру арқылы осы мәселелерді шешудің мүмкін әдістері қарастырылған. Бұл зерттеудің нәтижелері құқық теориясы үшін де, оны қолдану практикасы үшін де қызығушылық тудырады. Олар азаматтардың құқықтық қорғалуын арттыруға және интеграциялық процестердің мүмкіндіктерін оңтайлы пайдалануға ықпал етеді.

**Түйін сөздер:** азаматтығы, Қазақстан Республикасы, азаматтығын тоқтату, азаматтығын өзгерту, халықаралық құқық, құқықтық реттеу, интеграциялық процестер, ТМД, құқық қолдану практикасы, халықаралық шарттар, көші-қон, адам құқықтары.

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## ПРОБЛЕМЫ ПРАКТИЧЕСКОЙ РЕАЛИЗАЦИИ ПОЛОЖЕНИЙ ЗАКОНОДАТЕЛЬСТВА, РЕГУЛИРУЮЩЕГО ПРЕКРАЩЕНИЕ И ИЗМЕНЕНИЕ ГРАЖДАНСТВА РЕСПУБЛИКИ КАЗАХСТАН

*Аннотация*

В данной статье рассматриваются актуальные вопросы практической реализации законодательства Республики Казахстан о прекращении и изменении гражданства. Автор отмечает усиление интеграционных процессов в современном мире и на территории Содружества Независимых Государств, которые влияют на миграцию и правовое положение граждан с изменяющимся статусом. Основой для исследования является Конституция Республики Казахстан, Закон о гражданстве и ратифицированные международные договоры. Целью работы является выявление правовых и организационных проблем при прекращении и смене гражданства с разработкой соответствующих рекомендаций, основанных на международных стандартах. Анализ показывает необходимость дальнейшего совершенствования национального законодательства в различных аспектах, включая уточнение процедурных стандартов, определение «существенных обязательств» и восполнение пробелов в обеспечении прав человека. Рассматриваются возможные методы

решения этих проблем путем координации действий государственных органов, укрепления международного сотрудничества и гармонизации правовых норм в рамках СНГ. Результаты данного исследования представляют интерес как для теории права, так и для практики его применения. Они способствуют повышению правовой защищенности граждан и оптимальному использованию возможностей интеграционных процессов.

**Ключевые слова:** гражданство, Республика Казахстан, прекращение гражданства, изменение гражданства, международное право, правовое регулирование, интеграционные процессы, СНГ, правоприменительная практика, международные договоры, миграция, права человека

### *General provisions*

The main provisions of the work follow from the stated goal of the scientific research and concern the following aspects: a comprehensive analysis of the problem allowed us to consider current issues of practical implementation of the legislation of the Republic of Kazakhstan on termination and change of citizenship. As well as strengthening of integration processes in the modern world and in the territory of the Commonwealth of Independent States, which affect migration and legal status of citizens with changing status.

The main directions on the need for further improvement of national legislation in various aspects of the institution of citizenship, including clarification of procedural standards on termination and change of the institution of citizenship, are analyzed and highlighted. The definition of «significant obligations» in the sphere of application of international standards in the field of regulation of the institution of citizenship allows us to fill the gaps in ensuring the right to citizenship in the Republic of Kazakhstan.

Important recommendations are formulated for the implementation and improvement of legislation in the field of normative and legal regulation of the institution of citizenship, such as termination and change of citizenship of the Republic of Kazakhstan, as well as strengthening law enforcement practice, solving real problems in the field of the institution of citizenship.

It is concluded that despite the progress achieved in the field of citizenship, there is still a need for further improvement of the legislation regulating citizenship issues in the Republic of Kazakhstan.

Thus, the development of the institution of citizenship, the mobility and instability of the legislation regulating them, as well as the multifaceted nature of the problems and issues associated with it, indicate the relevance of the study of this topic.

### *Introduction*

The urgency of studying the problems of termination and change of citizenship in the Republic of Kazakhstan is due to the constant development of national legislation and the increasing influence of international standards in the field of human rights. At present, citizenship issues are no longer exclusively internal affairs for the state - they also affect international relations.

The term “citizenship” includes fundamental provisions: a) Citizenship as a constitutional-legal category that defines the relations of an individual with a certain political and social entity - the state; b) Citizenship as a fundamental human right (all citizens have the right to citizenship) [1].

This is confirmed by a large number of treaties and agreements ratified by Kazakhstan. In this context, the Constitution of the Republic of Kazakhstan and the Law "On Citizenship" serve as the basis for regulating the status of a citizen [2, 3]. They define not only the principles of acquisition and loss of citizenship, but also ensure the protection of fundamental rights and freedoms of the individual.

However, in practice, difficulties arise in applying the norms of legislation on the procedure for changing and terminating citizenship. These difficulties may be caused by imperfect legal regulation of certain procedures and insufficient interaction of state bodies responsible for citizenship issues. Solving these problems requires serious scientific analysis as it concerns the fundamental constitutional rights of citizens and affects the exercise of political, economic and social capabilities of the individual.

Particular attention should be paid to the role of the State in modern legal society and its ability to guarantee the effective protection of human rights in the context of citizenship institutions. Strengthening the state policy of Kazakhstan aimed at preserving the interests of citizens and compliance with international obligations will improve the mechanisms of legal regulation of citizenship issues. Analysis of existing norms and examples of practice open up opportunities for the development of specific recommendations for further improvement of Kazakhstan's citizenship legislation [4].

This study is aimed at identifying problematic issues in the application of legislation on deprivation and change of citizenship of Kazakhstan with the subsequent development of proposals for improving both the legal framework and the organizational structure in this area. The analysis of the results will improve the legal basis of citizenship, increase the level of protection for those who undergo the status change procedure and contribute to the development of a new approach to understanding citizenship as a key institution in a modern rule of law [5].

#### *Materials and methods*

The Constitution of Kazakhstan, the Law "On the Citizenship of the Republic of Kazakhstan," the Law "On the Status of Foreigners in the Republic of Kazakhstan," the Law of the Republic of Kazakhstan "On Population Migration," and the Law of the Republic of Kazakhstan "On the Refugees" are the treaties, conventions, and laws that govern this study.

The study employs political and legal analysis, focusing on political and legal methods for the implementation of citizenship rights among current problems in the relevant domain of public relations. Consequently, an examination of the legal foundations of Kazakhstan's legislation has been undertaken. The primary characteristics of legal activities in this domain, along with definitions, legal considerations, and established procedures, are delineated. Additionally, apart from the legal considerations, additional facets of termination and citizenship alteration, as well as the necessity for subsequent legal and policy modifications, are recognized.

The study in this article was carried out using various general scientific methods - dialectical and systemic approaches of historical analysis. Specific scientific methods were also used: deduction and induction with elements of analysis and synthesis. Particular attention is paid to the method of comparative law. The analysis employs a structural, functional, and comparative legal approach.

#### *Results and discussion*

Citizenship is a legal concept that provides a stable legal link between a person and the state. The processes of obtaining citizenship, its change and deprivation are regulated by the Constitution of the Republic of Kazakhstan and the Law of the Republic of Kazakhstan "On Citizenship of the Republic of Kazakhstan" adopted on December 20, 1991 under the number 1017-XII (hereinafter - the Law on Citizenship), as well as international agreements. However, in practice there are significant problems in the sphere of implementation of legal norms, which require careful analysis and adjustments in the legislation.

Studies on issues of citizenship and the legal status of people changing their citizenship between Kazakhstan and Russia are conducted by both Kazakh and Russian scholars in their works on the study of this problem in the field of jurisprudence of Kazakhstan.

Authors Tlembayeva J.U, Akhmedjanov F.R. (2018) investigate the legislative basis of forced termination of citizenship (as a means of punishment for terrorism and extremism) and the first steps to implement the new norm in practice [6]. They discuss the limitations of the constitutional principle (Article 10 of the Constitution of the RK) on the inadmissibility of deprivation of citizenship and draw conclusions about the need to balance the interests of national security and international legal standards.

In this English-language article, Kazakhstani scholars (Balgimbekova, G., Botagarin R., Turlyayev, Bilyalova, M., Injigoyan A.) study the problem of stateless persons in Kazakhstan against the background of migration processes in Central Asia. The author's work emphasizes that global

migration flows lead to the emergence of a significant group of stateless people in Kazakhstan - people without citizenship and deprived of basic rights and documents.

In their subsequent work, researchers (2024) [7] consider the problems of statelessness in Kazakhstan in the context of migration processes in the Central Asian region, analyze the causes of this phenomenon and study the existing legal framework regulating this area. Special attention is paid to the fact that procedures for obtaining and deprivation of citizenship can lead to the undesirable emergence of stateless persons (stateless persons). The authors offer a number of recommendations for improving public policy and legislation, including simplifying the naturalization process and strengthening legal safeguards for stateless persons. This study is important because it points to problems in the practical implementation of citizenship legislation that result in the social vulnerability of many people.

The right to citizenship is very significant as it entitles an individual to perform certain public duties and to enjoy all the constitutional rights and freedoms that are allowed. In addition to that, it protects human rights and interests within the country and the international community through diplomacy and other forms of cooperation between governments. Becoming a citizen means that a person must be of age. Furthermore, citizenship is a legal concept that determines the legal relationship of an individual towards the state which has the sovereignty over a particular area. This status affects not only these direct relationships but also relationships between individuals and between states and these states and other international actors. It is impossible to discuss the right to citizenship without referring to other civil rights and freedoms and, of course, there are some duties that are connected with it. Entitlements related to citizenship entail the right to remain in the country, the right to participate in public administration, the right to vote, the right to stand for election, and the right to diplomatic protection.

In order to solve the mentioned problems, it is necessary for every state to define the basics of citizenship and the way to become or to lose it in the constitution of the country. Some problems of citizenship can be connected with relations with other countries. Therefore, it is possible to prevent conflicts on the international level regarding the “citizenship issue”. Therefore, having discussed the idea of nationality, the range of it, the legal framework of the concept, and the issues associated with it in relation to the International Covenant on Civil and Political Rights, it is evident that this issue affects everyone’s rights.

In accordance with Article 12 of the ICCPR, every person may enter the territory of a state and make a choice of a place to live in. Everyone has the right to leave any country, including his own. Some of the rights discussed above may only be curtailed by laws that are reasonable and necessary to protect national security, maintain public order, or protect public health or morals. No one shall be prevented from returning to his country [8].

This legal norm confirms that everyone can withdraw from citizenship. In well-defined citizenship systems there are three main ways through which one can lose citizenship; these are by deliberate abandonment, deportation, and by treaty. In most cases, the issues to do with the abandonment of citizenship are handled by the appropriate state agencies.

Generally, individuals seeking citizenship must either pass an exam or apply to the relevant government agency. However, if a person has been convicted of a crime, if criminal proceedings have been brought against them before their permission, or if they have been convicted by a court and the sentence has taken effect, renunciation of citizenship is not possible. If a person owns state secrets, this can lead to deprivation of citizenship [9].

For instance, the international community has put in place preventive measures in the Convention on the Prevention of Statelessness. Furthermore, article 15 paragraph 2 of the Universal Declaration of Human Rights adopted on December 1948 stipulates; “Nobody shall be deprived of his or her nationality arbitrarily and nobody shall be deprived of the right to acquire nationality of his or her choice.”

This clause is particularly relevant when discussing the conditions for losing citizenship. The Convention on the Elimination of Statelessness of August 30, 1961 talks about the withdrawal of citizenship from individuals. Of particular interest is paragraph 9 of Article 9 of this treaty which has clearly prohibited signatory states from using race or ethnicity, religious beliefs, or political views as a basis of restricting citizenship. In other words, stripping one's citizenship is a form of punishment that the state imposes on a particular person and, therefore, the attainment of citizenship by another country through naturalization may lead to the loss of the previous citizenship [10].

Considering the issues of loss and change of citizenship in Kazakhstan, it is worth noting that according to international law, the main factor in the termination of citizenship is traditionally a violation of the rules of emigration. However, the modern system of international law recognizes the right of citizens to leave the country and live abroad on the basis of the principles of freedom of movement and human rights. This approach shows the desire of countries to simplify migration policy and protect the rights of those people who work or engage in cultural activities abroad without prejudice to their ties with their homeland.

Each state's national law sets its own rules and restrictions regarding renunciation of citizenship. In Kazakhstan, these rules are spelled out in Article 20 of the Law "On Citizenship of the Republic of Kazakhstan" [11]. This article provides for the possible rejection of an application for renunciation of citizenship in the event of significant state or financial obligations to individuals or legal entities. Practically, this means the same thing: before allowing a person to renounce the status of a citizen of Kazakhstan. The state must make sure that this citizen will not harm the interests of other legal entities - be they state or private organizations or even other people.

"Basic state obligations" can be situations when a person is obliged to perform military service or other similar obligations. Failure to fulfill such obligations may adversely affect the interests of the company. "Significant financial liabilities" often involve large loans or court decisions to collect debts owed to banks or others. In these cases, the legislation recognized unacceptable to allow citizens to avoid responsibility for non-fulfillment of financial or other property obligations by renouncing citizenship in Kazakhstan.

In addition to economic and property issues, national legislation also pays attention to aspects of a criminal law nature. If a citizen has an outstanding conviction, a criminal case has been initiated or an arrest order has been issued, the state may refuse to withdraw from citizenship until the completion of the relevant procedures. Similarly, when a person tries to avoid responsibility for crimes committed and is wanted or under investigation, this is a sufficient reason for the Kazakh authorities not to satisfy the application for termination of citizenship. The aim is to prevent abuse of the right to withdraw from citizenship in order to evade criminal and legal responsibility.

In addition, a person who has received citizenship of another state and continues to live in Kazakhstan must inform the competent authorities about any changes in his status within the prescribed period (30 days). This rule applies both to citizens who are directly on the territory of the Republic of Kazakhstan and abroad. The law provides for certain consequences for such notification: firstly, it helps state authorities to track citizens with dual citizenship (if such cases are allowed by national law or if a citizen continues to remain in two jurisdictions without due notice); secondly, it allows you to timely resolve conflicts in the field of taxation and other obligations of a citizen [12].

National legislation establishes measures of influence on persons who do not comply with the requirements for informing about the change of their citizenship. Such behavior may entail administrative liability and, in certain cases, more severe penalties, depending on the nature of the violation of the law. The main purpose of these measures is to maintain a balance and prevent the possibility for citizens of Kazakhstan to remain in the legal field of two states without fulfilling their obligations.

It is emphasized worth noting: after a person officially ceases his citizenship in the Republic of Kazakhstan, he is deprived of all rights and exempted from all duties related to his previous civil status. In particular, such a person is not able to count on diplomatic protection from Kazakhstan and

participate in the elections of state bodies. Other privileges and rights granted exclusively to citizens are also unavailable to him. This principle underlies the international understanding of nationality: when the legal link between a person and a state is severed, it does not entail additional obligations or legal consequences.

Thus, it can be argued that in the Republic of Kazakhstan there is a rather strict and detailed regulated system of withdrawal from citizenship. It takes into account both international standards of freedom of movement and emigration, as well as national interests to protect public resources and the rule of law of the state and other entities. Legal practice shows the need to maintain a balance between allowing citizens to freely choose their civil status and protecting the legitimate interests of the country and society.

Anyone who wants to apply for the renunciation of his or her citizenship must meet certain requirements; otherwise, the process of cancelling citizenship may become challenging. In this manner, the state guarantees that citizens discharge their duties and cannot avoid incrimination in the territory of the Kazakhstan. The conditions for citizenship are provided for by legal acts and the procedure for their attainment is regulated by secondary legal acts. Therefore, these rules constitute the citizenship institution, and also include the procedures for considering citizenship applications, as well as the decision-making process and its implementation. The laws on the loss of citizenship are in conformity with the Order of the Minister of Internal Affairs No. 02 of the date January 28, 2016, “On the Procedure for Consideration of Applications for Acquisition of Citizenship of the Republic of Kazakhstan and Restoration of Citizenship under Simplified Procedure (Registry), as well as for Surrender of Citizenship, Loss of Citizenship and Deprivation of Citizenship”.

When a person goes to the migration service with the intention of relinquishing the citizenship of the Republic of Kazakhstan, an employee of the internal affairs department furnishes a legal consequence of this action in the form of a formal certificate. The relevant data is obtained from the prosecutor’s office and legal statistics to confirm whether the person is involved in any criminal proceedings or is currently serving a sentence. Moreover, the migration service requires the person to provide documentation of their current Kazakhstani citizenship.

In order to proceed with the internal affairs authorities’ evaluation of the request for citizenship withdrawal, several elements must be established: outstanding debts or property obligations that may be detrimental to the interests of the state, society or other individuals; the fact that the person may be under indictment; and any adverse effects that the deportation may have on the national security of the country [13].

Under Kazakhstan’s 20th citizenship law, a person is barred from renouncing his/her citizenship if the person is under criminal prosecution or has a court verdict, or if renunciation is likely to be detrimental to the national security of the country. The migration service collects all the paperwork and forwards it to the Citizenship Commission chaired by the President of Kazakhstan for the final decision.

Pension savings can be utilized by a person after obtaining foreign citizenship by contacting the relevant pension fund and submitting the required documents. Not necessarily losing one’s citizenship through moving out of the country; but, nonobservance of certain residence requirements in countries abroad may lead to its withdrawal.

The Law of the Republic of Kazakhstan “On Citizenship” has only one provision for cancelling citizenship and that is by a court for terrorist or other crimes described in the Special Part of the Criminal Code of Kazakhstan if such actions are likely to cause substantial harm to the essential interests of the country.

In most new democratic states, taking away someone’s citizenship is considered a severe penalty. Whenever a citizen engages in illegal activities or acts in a manner that is detrimental to the nation’s interests, the government may resort to such a measure. The violation of a certain provision that forms the basis of the law is usually linked to a person’s criminal activities, and every nation has its own set of regulations. Being a sovereign state, Kazakhstan protects the rights and freedoms of its citizens;

however, following certain events, including terrorism, individuals may have their citizenship stripped from them upon the decision of the Parliament on March 10, 2017. As provided by Article 10 of the Constitution, terrorism and activities that pose a critical risk to the fundamental national interests shall render one barred from being a citizen of the Republic of Kazakhstan [14,15,16].

The same way, the legislative changes are going on outside Kazakhstan: Many European countries also have provisions of citizenship stripping for terrorism and other activities that pose a threat to the nation's security and public order. In case of betrayal of the country, a governmental body usually makes the final decision on stripping citizenship. Therefore, there are many provisions of international law concerning the regulation of procedures on the stripping of citizenship and the examination of European legal systems regarding the issue.

### *Conclusion*

Given the problems in the field of citizenship, it is worth taking a set of measures to eliminate legislative restrictions and prevent cases of statelessness. It is proposed to amend the Law "On Citizenship" of the Republic of Kazakhstan, the Law "On Citizenship of the Republic of Kazakhstan," supplementing it with a new clause stating that "the acquisition of citizenship of the Republic of Kazakhstan is prohibited if it deprives a person of citizenship." Such a change will help comply with international standards for the protection of vulnerable persons [17].

In addition, in order to bring Kazakhstan's legislation in line with international law, it is necessary to establish a mechanism that will help avoid the emergence of statelessness when renouncing Kazakhstan's citizenship if a person does not have another citizenship or is not in the process of obtaining it. The author is currently negotiating with representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) on the possibility of Kazakhstan acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention concerning the Reduction of the Number of Stateless Persons. International agreements endorsed by the United Nations as important tools for protecting the rights of stateless people can significantly strengthen the legal basis of the state and contribute to a more effective implementation of the principles of humanism and the rule of law [18].

The Science Committee of the Ministry of Science and Higher Education of the Republic of Kazakhstan funded this research. (Grant no.AR14870745).

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