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International Legal Sources of Hungarian Citizenship Law in the 19th Century

The bourgeois transformation created the conditions subsequent to which the demand for statutory regulation of citizenship could emerge in the 19th century. The goal of my paper is to provide an overview of the international treaties of citizenship law in the 19th century. I would like to demonstrate the theoretical, public law and political background of the international treaties, as well as the problems emerging in the course of the execution which shed light on these significant areas of the public law of the dualistic era (in the constitutional law of the Austrian-Hungarian Monarchy). In my study, I would like to analyse how it was possible to lose and acquire the Hungarian citizenship on the basis of the international treaties (between USA, Switzerland, Serbia, Rumania and Hungary).

Introduction

The first legislative acts to regulate citizenship law in Hungary appeared in the 19th century. International treaties were an important source of citizenship law. In the period examined, the Austro-Hungarian Monarchy concluded treaties with the USA, Switzerland Rumania and Serbia, the significance of which was proved in practice. The only states with respect to which exceptions could be made from under the rules of the citizenship act were those with which the monarchy had concluded international treaties. On the basis of reciprocity, the scope of benefits was clearly defined, which fundamentally concerned the rights and obligations constituting the essence of the citizenship status. The importance of international treaties was manifested in the fact that disputes arising out of citizenship status could be resolved quicker and without conflicts.

The examination of the legal practice, often carelessly ignored in the course of research in the field of constitutional history, can supply evidence in support of some theoretical theses. In my paper, I intend to illustrate the system of citizenship law that was enforced in the second half of the 19th century with the use of specific legal cases. It is possible only with the joint examination of the practice and the theory that we can obtain a comprehensive image of the implementation of the act and the process of its enforcement in practice.

In the Minister of the Internal Affairs section of the Hungarian National Archives, there is a significant amount of documents concerning citizenship law the detailed

analysis of which no-one has undertaken to date. These documents include some that concern American citizens; however, these have never been described and analyzed in detail so far.

In the Hungarian constitutional situation of the period (following 1867), the evaluation of the state treaties was somewhat problematic.[1] The monarch had the right to conclude state treaties on the basis of the royal prerogative in the field of foreign affairs; however, in practice it was not the king who signed these but a person authorized for this purpose. By concluding a state treaty, the monarch did not create law, only incurred an obligation with respect to the given state, with Parliament to pass new legislation in certain cases. A state treaty only became enforceable in this form.[2] State treaties the provicsions of wich would otherwise have been subject to legislation had to be enacted. This was the only way to establish obligations binding the citizens. In case of such state treaties, the parties could stipulate that the ratified treaty would only enter into effect once accepted by the Parliament[3]. In case the state treaty only established obligations only for the authorities of the given country, and it did not affect the constitution, laws or territory of the given state, or the relationship of its members to the state, implementation by way of a government decree was sufficient. State treaties, however, also had to be promulgated in these cases. Ferdinándy correctly stated that "international treaties only become a source of law by the legislative act of the state, i.e. when enacted or promulgated by way of a decree."[4] State treaties could only function as sources of law in this case. Eöttevényi was also of a similar opinion when he stated that "enactment renders the state treaty, which is an international agreement concluded between two or several states and regulating a specific area, binding upon every citizen."[5] In this respect the positions of Kmety and Ferdinándy were the same.[6] State treaties had no separate

[1] Molnár uses the terms "state treaties" and "international treaties" as synonymous. At the same time, the majority of economists differentiated between state treaties and internal, or constitutional treaties (e.g. Acts 1, 2 and 3 of 1723, Act XXX of 1868). Further, mention must be made of the so-called "secret treaties" as well. MOLNÁR, KÁLMÁN: *Magyar Közjog. [Hungarian Public Law.]* Danubia, Budapest, 1929. pp. 36–37. According to Eöttevényi, we can only talk about state treaties in case of an agreement between sovereign states. EÖTTEVÉNYI NAGY, OLIVÉR: *A magyar közjog tankönyve. [Textbook of Hungarian Public Law.]* Vitéz A. Könyvkereskedése kiadása, Kassa, 1911. p. 21. Faluhelyi differentiated from treaties creating "objective interstate law" those whose subject is "the application of an already existing general type interstate legal principle to a given situation." FERENC, FALUHELYI: *Magyarország közjoga. [Hungarian Public Law.]* Vol. 2. A Karl Könyvesbolt kiadása, Pécs, 1926. 11. Csarada claims that international treaties are of "as many types as there are interests." CSARADA, JÁNOS: *A tételes nemzetközi jog rendszere. [The system of statutory international law.]* Franklin Társulat, Budapest, 1910. p. 24.

[2] FERDINÁNDY, GEJZA: *Magyar Közjog (Alkotmányjog). [Hungarian Public Law (Constitutional law).]* Politzer és fia, Budapest, 1902. p. 85.

[3] In case of international treaties that were, in accordance with Act XII of 1867, concluded by Austria and Hungary, the consent of the Hungarian Parliament and the Austrian legislative body had to be obtained. Ibid. p. 85.

[4] FERDINÁNDY 1902, p. 86.

[5] EÖTTEVÉNYI 1911, p. 22. In case of international treaties of legislative subject, ratification by Parliament was unconditionally required also according to Károly Csemegi. EDVI ILLÉS, KÁROLY – GYOMAI, ZSIGMOND: *Csemegi Károly művei. (I. Közjogi és publiczisztikai dolgozatok. II. Jogászegyleti beszédek.) [The Works of Károly Csemegi, III. Material Criminal Law. IV. (The Law of Criminal Procedure.)]* Vol. 2. Franklin Társulat, Budapest, 1904. p. 242.

[6] FERDINÁNDY 1902, p. 87.

official collection. The consequence of enactment was that the rules applicable to the promulgation of acts of Parliament also had to be used for international treaties.[7]

The conclusion of state treaties consisted of several important steps. Signing by the authorized representatives of the given state was preceded by negotiations. State treaties are usually referred to on the basis of their dates of signing. The next step is that the treaty was ratified by the given state, which usually took place by way of passing a bill for the enactment of the treaty. In the course of the parliamentary debate, delegates were able to express their opinions; however, they had no power to unilaterally change the phrasing of the treaty. This can also be observed in the course of the parliamentary debate of treaties concerning citizenship law. The last step was the exchange or deposition of the instruments of ratification, of which a protocol was drawn up.[8] Szászy discusses the system of Károly Csemegi, whereby state treaties can be divided into three groups from the point of view of parliamentary consent. In the first group are treaties whose subject is of legislative nature, and prior to ratification, for the purpose of enactment, have to be communicated to the Parliament. In the second group we find treaties that are of administrative nature, and in the third those which are only communicated to the legislature for acknowledgement after approval.[9]

Under a state treaty concluded, the subject of international law was not the monarch but the state represented by him. From this perspective, it is an important fact that the Austro-Hungarian Monarchy is the constitutional construction of two sovereign states. In accordance with Act 12 of 1867, however, there were common issues with respect to which state treaties could only be concluded jointly with respect to Austria and Hungary. In this case, the legal subject was the Austro-Hungarian Monarchy. In cases of mutual interest, the situation was different as the international legal relationship was concluded between the Austrian, the Hungarian and a third state, by way of what was practically a trilateral international treaty in which Austria and Hungary were represented, pursuant to Act 12 of 1867, by the common minister of foreign affairs. The rules discussed in connection with common issues had to be followed also in case of state treaties the subject of which did not qualify as shared or common interest. Citizenship law also fell in this latter category.[10]

Article 8 of Act XII of 1867 authorized the common minister of foreign affairs to conduct the negotiations, with the consent of the governments of both parties. The law provided that these treaties had to be communicated to Parliament. According to Károly Csemegi, the above mentioned provision of the Act on the Compromise did not apply to issues of minor significance which "belong to the lowest administrative order, and neither country wishes the treaties concerning them to be submitted to the legislature."[11] On the basis of the above we can conclude that the Act on the Compromise did not pro-

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[7] EÖTTEVÉNYI 1911, p. 23.

[8] MOLNÁR 1929, p. 37.

[9] SZÁSZY, ISTVÁN: *Az országgyűlés szerepe a nemzetközi szerződések kötésénél a magyar közjog szerint. [The Role of Parliament under Hungarian Public Law in the Course of Concluding International Treaties.]* Magyar Jogászegyleti Értekezések, 1932. New series., Vol. 24., issue 128., 52.

[10] POLNER, ÖDÖN: *Államszerződés. [State Treaty.]* In: Dezső, Márkus (ed.): Magyar Jogi Lexikon. Vol. 1. Pallas Irodalmi és Nyomdai Részvénytársaság, Budapest, 1898. 491–492.

[11] EDVI ILLÉS – GYOMAI 1904, p. 240.

vide detailed formal rules to be followed in the course of the conclusion of international treaties, the system of which was therefore established by practice.

After the Compromise, jointly even if the subject of the treaty was an autonomous and not a common issue. This practice was suitable for weakening Hungary's status in the international evaluation, and also to reinforce the notion of the *Gesammstaat* on the part of Austria.[12]

United States of America

One of the most important antecedents of our citizenship law was the state treaty concluded on 20 September 1870 between the United States of America and the Austro-Hungarian Monarchy on settling the citizenship status of immigrating individuals.[13]

In most states of Europe, the question arose whether persons naturalized in the USA have to fulfil their defence obligations upon return to their original country. The Union adopted a new policy in this respect from 1859, which is usually associated with the name of Lewis Cass, secretary of state. The position of the United States was that in case a foreign national was naturalized, then all ties with that person's mother country were severed, and if that person (*he experiences a new political birth*) returned to his home country as an American citizen. The US government did not differentiate between native-born and naturalized American citizens, and protected the rights of the latter similarly to the those of native-born Americans. What they wanted to achieve is that by way of naturalization the earlier citizenship and all related obligations should cease. The USA accepted *expatriation* as a basic principle, which meant that persons concerned gave up their earlier citizenship.[14]

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[12] EÖTTEVÉNYI 1911, p. 23.

[13] PRENTISS WEBSTER: *Law of Naturalization in the United States of America and of Other Countries*. Fred B. Rothman & Co., Littleton, 1981. pp. 341–344., FREDERICK VAN DYNE: *Citizenship of the United States*. Vm. S. Hein Publishing, Rochester, 1904. pp. 327–330. JÁNOS, MARSCHALKÓ: *Északamerikai Egyesült-Államok. [United States of North America.]* In: Dezső, Márkus (ed.): Magyar Jogi Lexikon. Vol. 3. Budapest, 1900. 445. Act XLIII of 1871 (on the state treaty concluded on 20 September 1870 with the United States of America for the purpose of regulating the citizenship of immigrating individuals.) KIRÁLYFI, ÁRPÁD: *Az 1871:XLIII. t.-cz.-be iktatott államszerződés.* (Különlenyomat a Jogállam, XII. évf. 7–10. füzetéből.) *[The State Treaty Enacted by Way of Act XLIII of 1871. (Reprint from Vol. XII., Issue 7–10 of Jogállam.)]* Franklin, Budapest, 1913. pp. 1–80.

[14] In the opinion of Királyfi, the most fierce opposition arose between the USA and Prussia, due to the fulfilment of the military obligations of returning persons. This situation was further deteriorated by the fact that they were called German–Americans (*Deutsch–Amerikaner*). The fulfilment of military obligations sometimes was demanded in case of persons whose parents immigrated to the United States as children and acquired American citizenship there. Upon their return to their home country, however, military service was required of them, and if they failed to fulfil this obligation, they were subjected to criminal procedure. Due to the strict enforcement of the rules, often innocent people also suffered. Other European countries also concluded treaties in this subject, e.g. France, Spain and England. *Ibid.* 1–9. For the study of American citizenship law: JUDITH N. SHKLAR: *American Citizenship.* Harvard University Press, Cambridge (USA)–London, 1991. pp. 1–23., RICHARD C. SINOPOLI. *The Foundations of American Citizenship, Liberalism, the Constitution, and Civic Virtue.* Oxford University Press, New York–Oxford, 1992. pp. 157–71., COLIN C. BONWICK, *American Nationalism, American Citizenship and the Limits of Authority, 1776–1800.* In: Cornelis A. Von Minnen, Sylvia L. Hilton (ed.): Federalism, Citizenship, and Collective Identities in U.S. History. VU University Press, Amsterdam, 2000. pp. 29–42.

The need for settling this issue did also arise with respect to Hungary and Austria, and for this purpose, the two parties concluded an international treaty. Due to the deficiencies of Hungarian statutory citizenship law, the opportunity for the conclusion of the treaty was welcomed, "because in those days when in the field of citizenship law [...] there was much confusion, and it was practically the wish of the public that the methods of the acquisition and loss of citizenship be set forth, this treaty represented the first step with which we were able to entangle ourselves from the web of legal uncertainties."[15]

It was Vilmos Tóth, minister of internal affairs, who submitted the bill in the subject of the citizenship of immigrants to the United States.[16] In the course of the debate on the treaty of 1870, the central committee emphasized that in the drafting of international treaties in the future, the requirements of the Hungarian language should be taken into consideration, because the text of the treaty did not satisfy the requirement of public law. It was also underlined that the Austrian-Hungarian citizenship mentioned in the treaty did not exist.[17]

The referee of the central committee, Ágost Pulszky, requested that the text of the treaty be divided into parts.[18] Subsequently, the debate on the details of the treaty could be commenced. Pulszky justified the need for the treaty by way of reference to the fact that all European states have already concluded such a treaty with the USA. He emphasized the fact that the word "subject," inherited from the old "feudal" period, was replaced by the "concept of citizenship, in line with more recent theories of the state and the right of free movement."[19]

The phrasing of the treaty was criticized by József Vidliczkay for the following reasons. In his opinion, the treaty did not comply with the requirements of public law. In the Monarchy, the principle of parity was enforced. It was correctly stated that the two states of the Monarchy did not constitute a unified state under public law. For this reason, he disapproved the use of the reference to Austrian-Hungarian citizenship, which

[15] The Swiss Federal Council rejected the treaty for the reason that Article 44 of the federal constitution did not recognize naturalization as a case for the termination of Swiss citizenship. On the part of the US, the acceptance of liberal citizenship law and the support of immigration were justified by economic motivations. KIRÁLYFI 1913, pp. 11–12.

[16] The prime minister urged the discussion of the matter, as we can find out from the speech of the minister of internal affairs. The envoy of the United States also pushed the processes, due to the fact that in case it had not been discussed by September 1871, then the treaty would have to be resubmitted to Congress in the US. IVÁN, NAGY (ed.): *Az 1869-ik évi ápril. 20-dikára hirdetett országgyűlés Képviselőházának naplója. [The Journal of the National Assembly Summoned for 20 April 1869.]* Vol. 16. Printed by the Légrády Brothers, Pest, 1871. (hereinafter: KN. 1871. XVI.) p. 340.

[17] This can be found in Article 1, Section 44 of the treaty. *Az 1869-dik évi ápril. hó 20-dikára hirdetett országgyűlés Képviselőházának irományai. [The Documents of the National Assembly Summoned for 20 April 1869.]* Vol. 10. Printed in Deutsch's Printing Press and Publishing Company, Pest, 1871. (hereinafter: KI. 1869. X.), no. 1034., p. 102.

[18] NAGY, IVÁN (ed.): *Az 1869-ik évi ápril. 20-dikára hirdetett országgyűlés Képviselőházának naplója. [The Journal of the National Assembly Summoned for 20 April 1869.]* Vol. 17. Printed by the Légrády Brothers, Pest, 1871. (hereinafter: KN. 1871. XVII.) p. 22.

[19] This was important not only from the point of view of the treaty but also because of the interpretation of the concept of citizenship. KN. 1871. XVII. p. 26.

could be found in the treaty.[20] He found it unacceptable that the treaty refers to citizens of the Austro-Hungarian Monarchy. In his opinion, it would be more correct to use the expression "citizens of the two states of the Austro-Hungarian Monarchy." This would better express the relationship between the two countries under public law. He proposed that the phrase "became citizens of the Austro-Hungarian Monarchy" in the first article be replaced with the following: "became citizens of one of the two states of the Austro-Hungarian Monarchy."[21] According to the minister of internal affairs, the expression "citizens of the Austro-Hungarian Monarchy" did not oblige the government to act according to what appeared in practice, since "citizens of the provinces beyond the Lajta River, if they wished to become Hungarian citizens: they have to abide by the same rules as the citizens of any foreign state."[22]

In connection with joint citizenship, Kálmán Tisza declared that they would avoid this phrase in the bill to be drafted. Those terms had to be used that are in compliance with the requirements of Hungarian public law. He thought it particularly harmful from the point of view of international relations, since the idea of a unified monarchy could be gathered from it. He did not vote against it, but made the following remark: "I will consider it my duty never again to accept the treaty that proclaims to the world in the phrases it uses the subordinated position of Hungary."[23]

According to Ignácz Helffy, one could talk about a unified monarchy because of the common issues. He considered the passing of the law important because many people circumvented the laws by way of immigration. In his opinion, one could not turn a blind eye to the issue that citizens are immigrating because they committed crimes or for political reasons. In his opinion, political crimes could also be understood as being covered by the second part of the treaty. "The naturalized citizen of one part, having returned to the other part, shall remain subject to investigation and penalty for the acts committed in and under the laws of his former home country."[24] In his opinion, it was sufficient penalty if one had to leave his country. Nobody can be deprived of the possibility of returning one day. The referee of the committee argued that extradition must be touched upon only so far as it concerned citizenship. According to Pulszky, no state could allow not to punish a person who, after obtaining citizenship in another country, returns to his former home country where he committed a crime. This would be the "abdication" of sovereignty.[25]

Sándor Csiky also commented on the proposed law. In his opinion, it was not acceptable that someone should not be punished for committing an act against the laws, even if that person subsequently acquired citizenship in another country, and then returned or travelled through his original home country. In his interpretation of the treaty, this would only be the case if the returning citizen settled down. In this case, calling to

[20] This was in line with the opinion of the committee, discussed earlier. KN. 1871. XVII. 27. The phrase "Austrian–Hungarian citizen" can also be found in Articles I, II and IV of the treaty.
[21] KN. 1871. XVII. p. 27.
[22] KN. 1871. XVII. p. 28.
[23] KN. 1871. XVII. p. 28.
[24] KN. 1871. XVII. p. 29.
[25] KN. 1871. XVII. p. 29.

account could not be dispensed with.[26] According to Pulszky, it cannot be the aim of any state to exempt someone from under a penalty, except in case it was for political acts. This was clearly set forth in the text of the treaty.[27]

An important issue was raised by Ede Horn. Under the treaty, if a person naturalized in the USA returned to Hungary, he would become a Hungarian citizen. This raises the question as to whether the foreign citizenship could be kept in this case. Would the American citizenship of such persons remain in effect for the period preceding the acquisition of Hungarian citizenship. He illustrated this with the example of the person concerned getting married in the United States, which marriage is not recognized by the Hungarian authorities. The problem arises if the individual subsequently becomes a Hungarian citizen and keeps his American citizenship, because in this case the marriage would qualify as valid. Otherwise, the same would not be the case for marriages concluded in the USA. The minister of the internal affairs answered this question, who stated that no person can be the citizen of two states at the same time.[28] Pulszky added to this that the person concerned could only re-acquire his Hungarian citizenship after giving up his American citizenship.[29]

The treaty desired to settle the citizenship of individuals leaving the territory of the Monarchy, as well as of persons arriving from the United States. Naturally, even before the first citizenship law was passed, there had been conditions under which citizenship could be acquired and lost. With the state treaty, they wished to exclude the possible negative consequences that may have arised from dual citizenship. In order to obtain the citizenship of the states that signed the treaty, the stipulated conditions had to be satisfied, according to which the person concerned had to reside, without interruption, for five years on the territory of the other country.[30] During this time, the applicant could be the naturalized citizen of the given state. Of course, the principle of reciprocity was also enforced in this case, but a peculiar situation emerged when a person of American citizenship resided on the territory of either of the countries in the Austro-Hungarian Monarchy. The monarchy had no dual citizenship, and consequently, the individual received either Austrian or Hungarian citizenship.[31] At the acquisition of citizenship, no

[26] KN. 1871. XVII. p. 30.

[27] KN. 1871. XVII. p. 30.

[28] This means that the new citizenship entered into effect at the moment of acquisition. KN. 1871. XVII. p. 31.

[29] The person concerned would acquire the Hungarian citizenship at the moment of renouncing the American one. KN. 1871. XVII. p. 31. The Hungarian Upper House accepted the draft version of the law in the form it was forwarded by the House of Representatives. KN. 1871. XVII. 70. In connection with the 14th Amendment, Burdick discussed the Dred Scott v. Standford case. FRANCIS M. BURDICK: *The Law of the American Constitution, Its Origin and Development.* G. P. Putnam's Sons, New York–London, 1922. p. 327., RICHARD B. BERNSTEIN: *Amending America. If We Love the Constitution So Much, Why Do We Keep Trying to Change It?* Times Books, New York, 1993. 111–112., EARL M. MALTZ: *Rethinking Constitutional Law. Originalism, Interventionalism, and the Politics of Judicial Review.* University Press of Kansas, s. l. 1994. pp. 55–57.

[30] ERNŐ, NAGY: *Magyar Közjog (Alkotmányjog). [Hungarian Public Law (Constitutional law).]* Athenaeum, Budapest, 1907. p. 112.

[31] There could be no dual citizenship either under Act L of 1879.

special significance was attributed to the mere declaration of the intention of naturalization, and consequently, it did not create the possibility of automatic naturalization.[32]

In the case for the declaration of the Hungarian citizenship of Rosenfeld Izrael Mayer, the minister of the internal affairs examined from what point in time the person concerned lived in the United States. The five years of residence required by the law had to be proved.[33] In another citizenship case, the authenticity of the passport issued had to be verified, in the interest of which a protocol was drawn up. The personal identity of Fábián (Frigyes?) Klein also had to be clarified. In this case, Menyhért Némethy, the registrar of the Israelite religious community testified that he had known the person concerned, who moved to America with his father. He issued the birth certificate, which was necessary for the travel. The name Fábián was acquired as a Christian name, while Ferenc was his name at school, which is the equivalent of the Hebrew version for Fábián. He considered it likely that the name Fred was adopted in the USA. The chief municipal clerk, József Debreczenyi, also made a statement in this case to the effect that he had not issued any documents to the person concerned. János Jesztrebszky, municipal counsellor, also said the same. The certificate of naturalization was obtained in Pennsylvania.[34]

The other reason for obtaining a different citizenship was often for the person concerned to avoid criminal liability or the fulfilment of obligations toward the state. A situation could occur when the naturalized person returned to his earlier home country where he had committed a crime before immigrating for which he had to face punishment. Upon his return, the person concerned was subject to the laws of his earlier citizenship, except when the given crime had been subject to statutory limitation or any circumstance precluding punishability emerged. A special problem was represented by the situation when someone left the territory of the Austro-Hungarian Monarchy in the hope of avoiding his defence obligations.[35] The state treaty lists three cases when investigations had to be launched for calling into account. The first among these was if the Austrian or Hungarian citizen left the territory of the country while in conscription service. The second case was when someone immigrated during his time of service or a fixed-term leave. Finally, if someone as an officer or private soldier on reserve duty left the country, but only if that person had previous received his mobilization order or a public call to duty had been announced, or war was declared. A former citizen of the Austro-Hungarian Monarchy could not otherwise be forced to military service subsequently, and no procedure could be launched against him on the grounds of failure to meet defence obligations.[36]

[32] DYNE 1904, 285, 327., WEBSTER, 1981. pp. 341–342.

[33] Hungarian National Archives (hereinafter: MOL) K 150. 1880. I. 10. 25104. protocol no. (hereinafter: p.n.) 25104. basic number (hereinafter: b.n.) Documents related to citizenship are located in the MOL. In connection with the above case: MOL K 150. 1879. I. 10. 28722. p.n. 5760. b.n. The deed of naturalization shows the name Rosenfeld Charles, who is identical with the applicant.

[34] MOL K 150. 1880. M. IX. 25238. p.n. 1335. b.n. Tivadar Pio had to furnish proof of his American citizenship. MOL K 150. 1890.I. 10. 7859. p.n. The basic number is missing.

[35] ARTHUR, BALOGH: *Political notes.* Politzer Publishing Company, Budapest, 1905. p. 92.

[36] WEBSTER 1980, 155., DYNE 1904, p. 285., pp. 327–328.

In most cases, it was the problem related to the failure to meet defence obligations that emerged. In the cases of Józsué Zsupnyik, Gyula Teplanszky and Salamon Szobel, the consul wrote the following in his letter. Zsupnyik acquired American citizenship, but after returning to Hungary his documents were seized and he was called into account for failure to meet defence obligations. It turned out that he had left the country at the age of 17, after which he obtained American citizenship in 1888.[37] He requested the return of his naturalization documents and also desired to have diplomatic protection. The name of Gyula Teplanszky was also included in the list of absentees.[38] He had not been drafted before his immigration; nevertheless he was declared to have escaped military service and the minister of defence extended his term of military service by two years. In the case of Salamon Szobel, it was also failure to perform defence obligations that caused the problem, the term of which was extended by the minister by one year.[39] Subsequently, he was deprived of his documents.[40] Measures also had to be taken in a forth problematic case. After had immigrated, Mihály Szenyák was naturalized in Pittsburgh in 1887. He wanted to visit his parents in Hungary, when his documents were confiscated. With reference to the treaty of 1871, the consul requested the minister of internal affairs to order the magistrate to return his documents. Could it be proved that the persons concerned were American citizens? The issuance of the American documents of naturalization evidenced that the 5 years required in the treaty have elapsed since these individuals left the country, since that was a condition of obtaining American citizenship.[41]

The same problem arose in connection with another case. In the case of Dávid Reich and Viktor Keller, the minister of internal affairs evoked Articles 1 and 2 of the treaty. In this case there was suspicion that the American documents of naturalization were forged, which were obtained by the above persons in order to be exempted from military obligations. The two individuals immigrated to the United States in 1877. It turned out from the letter received from the Department of State in Washington, D.C., that the naturalization documents of 1888 were enclosed. The consul in office during the procedure did not know them; however, his predecessor examined the documents issued. The Hungarian authorities withheld the documents, thus preventing them from returning

[37] MOL K 150. 1889. I. 10. 12431. p.n. 234. b.n. The basic number could not be exactly ascertained. Zsupnyik's name is also uncertain. MOL K 150. 1889. I. 10. 32087. p.n. 234. The basic number is missing.

[38] MOL K 150. 1885. I. 10. 63200. p.n. 234. 63200. b.n.

[39] MOL K 150. 1884. I. 10. 2311. p.n. 234. The basic number is missing. MOL K 150. 1889. I. 10. 20031. p.n. 2311. b.n., MOL K 150. 1889. I. 10. 21997. p.n. 2311. b.n., MOL K 150. 1888. I. 10. 84272. p.n. 81587. b.n.

[40] MOL K 150. 1888. I. 10. 81587. p.n. 234. 81587. b.n..

[41] The cases of Salamon Salamon: MOL K 150. 1888. I. 10. 83059. p.n. 83059. b.n., MOL K 150. 1889. I. 10. 6099. p.n. 2311. b.n., MOL K 150. 1889. I. 10. 8154. p.n. 2311. b.n., MOL K 150. 1889. I. 10. 22946. p.n. 2311. b.n., MOL K 150. 1889. I. 10. 25794. p.n. 2311. b.n., MOL K 150. 1889. I. 10. 32087. p.n., The basic number is missing. The name of Mihály Szenyák (Kazenyák) was also raised in connection with this case. He was called upon to fulfil his military obligation. MOL K 150. 1888. I. 10. 72551. p.n. 234. 72551. b.n. In the case of Gyula Templánszky, the decision can be found in the materials of the minister of internal affairs that condemns him for failure to fulfil his military obligations. MOL K 150. 1888. I. 10. 39701. p.n. 234. 33028. b.n. The same is the problem in the case of Zsigmond Kohn. MOL K 150. 1880. I. 10. 11553. p.n. 234. 11553. b.n. The issue of discharging military obligations also had to be clarified in the case of Vilmos Cesshofer. MOL K 150. 1880. I. 10. 15793. p.n. 234. 1111. b.n.

home. The documents would have to be returned for them to be able to prove their authenticity.[42] The consul verified the authenticity of the documents, as a consequence of which it was not regarded as important to supply proof of the five years' residence, since the deeds of naturalization were only issued by the American authorities if the applicant fully satisfied the conditions. The consul notified Baron Béla Orczy, minister of internal affairs. In the letter he declared that the "the above named Reich and Keller are recognized by this consulate as citizens of the United States."[43] The minister of internal affairs also examined in the case of Rudolf Goldberger why he had not fulfilled his military obligations. They tried to find out whether the American deed of naturalization was original.[44] They referred to Articles 1 and 2 of the treaty in consequence of which the question was raised whether the applicant had resided for five years on the territory of the United States of America.[45] The minister of defence declared the individual had attempted to escape military service, but his American citizenship was subsequently proved.[46]

The problem was caused by the fact that an individual who had acquired American citizenship could be called to account for failure to fulfil his military obligations if the individual immigrated when already drafted, was in military service or on leave from, or when his mobilization order was issued, or a public call to duty had been announced, or war was declared.[47]

In accordance with the treaty, the extradition treaty concluded on 3 July 1856 on escaped criminals, as well as the codicil signed on 8 May 1848 on deserters from military and commercial ships, remained in effect.[48]

It was also regulated what was to happen with former citizens who returned to their home countries and applied for citizenship. In case such persons renounced the citizenship they had acquired by way of naturalization, the residency requirement for a certain fixed term was no longer necessary. Upon returning, they could not be forced to re-enter the bonds of the state.[49]

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[42] MOL K 150. 1890. I. 10. 1751. p.n. The basic number is missing. MOL K 150. 1889. I. 10. 36322. p.n. 22784. b.n., MOL K 150. 1889. I. 10. 41445. p.n. 22784. b.n., MOL K 150. 1888. I. 10. 25627. p.n. 4688. b.n., MOL K 150. 1888. I. 10. 17789. p.n. 6688. b.n.

[43] The minister of defence also extended the term for military service in this case. MOL K 150. 1888. I. 10. 4688. p.n. 4688. b.n. They requested that the documents be returned. In connection with this case: MOL K 150. 1887. I. 10. 18500. p.n. 18500. b.n., MOL K 150. 1887. I. 10. 15490. p.n. 81587. The basic number is missing. MOL K 150. 1886. I. 10. 53174. p.n. 37134. b.n., MOL K 150. 1886. I. 10. 3713. p.n. The basic number is missing. The minister of internal affairs came to the same conclusion in the case of Mór Heimann. MOL K 150. 1889. I. 10. 2388. p.n. 2388. b.n. In connection with this case: MOL K 150. 1888. I. 10. 77404. p.n. 77404. b.n.

[44] MOL K 150. 1887. I. 10. 33188. p.n. 28779. b.n., MOL K 150. 1887. I. 10. 28779. p.n. 28779. b.n.

[45] MOL K 150. 1886. I. 10. 25221. p.n. 7087. b.n., MOL K 150. 1886. I. 10. 7087. p.n. 7087. b.n., MOL K 150. 1885. I. 10. 65264. p.n. 65264. b.n.

[46] MOL K 150. 1887. I. 10. 33188. p.n. 28779. b.n.

[47] KISS 1886, p. 157.

[48] MARSCHALKÓ 1900, p. 445., DYNE 1904, pp. 328–329.

[49] DYNE 1904, p. 329., WEBSTER 1981, p. 343.

The state treaty was not repealed after Act L of 1879 had entered into effect either.[50] For naturalization, the conditions set forth in the act had to be satisfied, from among which the most important was the requirement to reside for five years without interruption on the territory of the Hungarian state, which provision can also be found in the treaty of 1870.[51]

The significance of the state treaty is shown by the fact that even certain provisions of our third citizenship law (Act V of 1957) reached back to it. Hungarian citizens who lost their citizenship as a result of absence or obtaining a foreign citizenship by way of naturalization were able to regain their Hungarian citizenship in accordance with the rules for repatriation, but with somewhat easier conditions. In case of such repatriation, the requirement was to reside in Hungary or to desire to settle in the country. It was not necessary to prove that one of the ancestors of the applicant was Hungarian.

Only those states were exempted from under the rules of citizenship with which the country concluded treaties; consequently, the state treaty of 1870 played a very important role in terms of American and Hungarian citizenship law, as well as the development of the foreign relations between the two countries.

Switzerland

The treaty between Switzerland and the Austro-Hungarian Monarchy, conducted on the 7th of December 1875, also affected the citizenship rights. This state contract was signed in Bern, and both parliaments accepted and ratified it (Act XVII of 1876).[52]

The report of the home secretary was attached to the bill, and it marked out that they wanted to moderate the situation of Hungarian citizens living in Switzerland, and also the settling of Swiss people in the Monarchy. The treaty also affected the relations of the settlers, their exemption from compulsory military service and taxes, the medical treatment of injured or ill citizens with no financial background, and also the free rendition of birth, death, and marriage certifications. The common international method was used, when the treaty was made. In the past, only a few Cantons were obliged to provide free service. Kálmán Tisza justified this treaty by saying this: "Since with the signing of

[50] The text of the bill can be found: KI. 1869. X. no. 1008., 25–29. In the structure passed by the house of representatives: KI. 1869. X. no. 1041., 116–119. The final text of the act: KI. 1869. X. no. 1077., pp. 363–366.

[51] DYNE, 1904, p. 327., WEBSTER, 1981. 341–342. On further conditions of naturalization: KORBULY, IMRE: *Magyarország közjoga illetőleg a magyar államjog rendszere. [The public law of Hungary and the System of Hungarian Constitutional Law.]* Eggenberger Booksellers, Budapest, 1884. p. 139., FERENCZY, FERENC: *Magyar Állampolgársági jog. [Hungarian Citizenship Law.]* Kner Izidor Printers, Gyoma, 1930. p. 163. On the practical operation of the American system of naturalization: GÖNCZI, KATALIN: *A magyarok az amerikai Legfelsőbb Bíróság előtt. [Hungarians Before the Supreme Court of the United States.]* Osiris, Budapest, 2000. pp. 46–51.

[52] The original, unabridged contract can be found in: *Az 1875-dik évi augusztus 28-ára hirdetett országgyűlés Képviselőházának irományai. [The Papers of the National Assembly Summoned for 28 August 1875.]* Vol. 4. Printed by Schlesinger and Wohlaner, Budapest, 1976, (hereinafter: KI. 1875. IV.) no. 153., pp. 233–237. The version ratified by the Parliament: KI. 1875. IV. no. 201., pp. 1–8. The final text: KI. 1875. IV. no. 202., p. 8. and no. 29., pp. 27–32.

this treaty such measures will be accepted by the law which are not only justified by reasons of humanitarianism and public relations, but also reasons of this nation's economy, and because of this, the treaty would significantly help to improve the relations between the citizens of these two countries."[53]

The president of the chamber sent the bill to the classes with the aim of detailed discussion.[54] The Central Committee filed in its report on the 7th of February 1876, and basically, they accepted the treaty. Yet Gábor Baross mentioned that the writers of the treaty should have taken into account the grammatical rules of the Hungarian language while drafting the treaty.[55] He also suggested further discussion of the treaty.[56] He thought it was necessary to form a similar agreement with other countries.[57]

The local citizens – or, as the treaty calls them, the domestic people – and the citizens of the other country were judged on the same basis.[58] The immigrants had the same rights and duties in case of dealing with estates. This refers to the payment of various bills and fees.

In case one of the privies gave other allowances apart from the ones established in this treaty to a third country, then this allowance will be provided to the citizens of the second country. This meant that in a case like this, it was not necessary for the two sides to write a new contract.

In connection to the diplomatic protection of the citizens, the treaty did take into account the possibility of expulsion. The native country of the citizen is obliged to readmit its citizen in case he or she must leave the other state due to court order, police order, or „poverty-police" order.

According to the treaty, a citizen is only under by the military laws of his native country. He does not have to participate in the work of the National Guard, the army (even in a case of uprising), or the neighbourhood watch.[59] The citizen of another nation should pay the same amount of taxes as the fees of a local citizen's estates.[60]

The treaty also covered the topic of treating the ill and the poor – which is given by the Hungarian law, according to a person's hometown. Both parties mutually agree that

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[53] An appendix to paper no. 153. KI. 1875. IV. no. 153., 238. The same reasons were listed by Gábor Baross. NAGY, IVÁN (ed.): *Az 1875-dik évi augusztus 28-ára hirdetett országgyűlés Képviselőházának naplója. [The Journal of National Assembly Summoned for 28 August 1875.]* Vol. 5. Printed by Schlesinger and Wohlaner, Budapest, 1976. (hereinafter: KN. 1876. V.) 134.

[54] KN. 1876. V. 29.

[55] According to Gábor Baross, these changes were not made because any alteration of the treaty had to be ratified by the other participant. KN. 1876. V. 134.

[56] The proposition of Gábor Baross. KN. 1876. V. 294.

[57] No substantive comment was made during the detailed discussion of the treaty. KN. 1876. V. 134.

[58] Article 1 of Act XVII of 1876. These rules did not apply to pharmacists and "travelling craftsmen".

[59] They have tax-exemption for taxes in relation to military service. The only exception was housing, for it was a charge for the "land", not the owner. Article 5 of Act XVII of 1876. János Arnerzin had to pay the military exemption fee. He wanted to migrate to Switzerland. MOL K 150. 1882. I. 10. 38885. p.n. 34011. b.n., MOL K 150. 1882. I. 10. 209. p.n. 209. b.n., MOL K 150. 1883. I. 10. 5967. p.n. 209. b.n.

[60] The customs duty payments, port and sea fees were exemptions from the obligatory taxes and fees. Article 6 of Act XVII of 1876.

if a citizen of the other country becomes ill, or unable to sustain himself on their land, the state will take care of the needy.[61]

The birth, death, and marriage certifications of both nations must be given to the diplomatic agencies in each other's country, and an official translation must be provided. The distribution and acceptance of birth certificates did not affect a person's nationality.[62]

The treaty remains valid for ten years, which period started four weeks after the exchange of the official paperwork. The annulment period was assessed in six months.[63]

Serbia

Serbia and the Monarchy did not make a separate treaty on the matters of citizenship, but choose to regulate these matters via the Trade Contract of 1881. The article 30 of the treaty of 1882 brought up the matter of the subjects of the two participants, who had the same rights and duties, plus the same allowances and exemptions as the participating countries' own citizens.

The report of the committee, which was an appendix to the bill, pointed out the political and economical reasons of this treaty. The most important regulations of the treaty were based on the principle of equality. Its aim is "the trade and, in general, the international commerce between the two participants should be regularized, and would help to establish mutual and peaceful improvement and peaceful cohabitation, with the hope that the government could solve the occasional adversities not only by equity, but, with vigour, if needed".[64] The parliament started to discuss the treaty in its details. Presenter Gábor Baross pointed out the mutual coverage of free settling, as established in the treaty.[65]

In his speech, Ödön Steinacker pointed out that the contract contains the French word "sujet" to refer to the subjects, and he found this improper, for according to him, all countries have citizens. "The French word "*sujet*" means much more than subject, for in the proper context, it can be translated as "*citizen*"."[66]

[61] This group not only contained the people with no monetary funds, but also those who became ill, or suffered from other misfortunes. In this case, the treaty contained a separate list for mental illnesses. In this case, the state was responsible for paying the burial fee. The participants mutually agreed that they provided aid for each other, with the principal of equity taken into account. Article 7 of Act XVII of 1876.

[62] The Act mentioned Austria-Hungary, where the papers were to be handed in at the embassy in Vienna. In Switzerland, the imperial and royal embassy of Austria-Hungary was the proper authority in this matter. The authorities had to validate the translation, if it was required. Article 8 of Act XVII of 1876.

[63] Article 9 of Act XVII of 1876.

[64] The antecedents of this contract was the Trade Treaty of Passarivicz from 1718, the Trade Treaty of Belgrade from 1739, the Russian-Turkish Trade Treaty from 1873, and the Peace Treaty of Szitoyo from 1791. The treaties of 1838, made with England and France, also discussed the customs duties. Turkey issued an official paper from their Great Leader, which ensured that Serbia could use its trading rights. The trade contracts were sanctioned in 1862. In 1864, Serbia issued its own autonomous duty rates.

[65] P. SZATMÁRY, KÁROLY (ed.): *Az 1881. évi szeptember 24-ére hirdetett országgyűlés Képviselőházának naplója. [The Journal of the National Assemdly Summoned for 24 September 1881.]* Vol. 1. Printed by Pest Book Press PLC., 1882. (hereinafter: KN. 1881. I.) p. 242.

[66] KN. 1881. I. p. 278.

He did not approve the phrase "subject of the nation", either. He considered this a severe crime against Hungarian grammar, or, as he put it, "barbarism". So he suggested that instead of the first clause, the representatives should accept the following: "The citizens of both countries will have the same rights, allowances and exemptions, which, on the territory of the other participating nation, its citizens have or will have in the matters of commerce and sailing".[67] On the other hand, Gábor Baross deemed the usage of the word "subject" proper. According to him, the expression "*sujet*" fits the Hungarian word for subject (which is "alattvaló), and "*sujet de la nation*" means the subject of a nation (or, in Hungarian, "a nemzet alattvalója"). He deemed the French language as the language of diplomacy, which used these words. The representatives did not accept these changes.[68] Steinacker also had a suggestion for the third clause; he thought that instead of the expression "the subjects of all participants", they should be using "all participants' subjects". Gábor Baross thought that this was unnecessary.[69]

The rights to settling and temporary residency were also determined. Citizens of both participating countries are free to travel on railroad, public roads and water. They can buy real estates, and they have it at their disposal. They are free to trade and work without any form of limitations. They are allowed to defend and validate their rights in front of the authorities and judicial authorities of the given country. They did not have to pay higher taxes or fees as the countries' own citizens. This, of course, meant that the citizens had to obey the laws of the country they are currently living in.[70]

The conditions of getting citizenship were the following: "The subjects of one of the participants cannot get citizenship on the territory of the other participant, not until they got permission to discard their citizenship of their native country".[71] In most cases, the home secretary examined the existence of this permission. In his case, Ábrahám Jargics referred to the contract of 1882, that it says that no one can get a citizenship without discarding the old one.[72] Jargics claimed that he and his four children got the Serbian citizenship. The paperwork showed that the state of Hungary did not discard his Hungarian citizenship.[73] The home secretary found that Sándor Todovszky's case was the same. The petitioner claimed that he was enrolled in the Serbian army in 1873. But this

[67] KN. 1881. I. p. 278.

[68] According to Baross, they also used the word „subject" in the treaty of similar topic with Romania. KN. 1881. I. p. 278.

[69] The representatives did not support Steinacker's proposition. KN. 1881. I. p. 279.

[70] Having real estates at their disposal meant that they had the right to sell and inherit the estate. They could practice their trading rights themselves or by a chosen mediator, and they could transport passengers and goods without limitations. They could report their returns at the customs' offices. Foundations, associations and other organizations (except trade and insurance companies) were excluded from this treaty. Article 2 of Act XXX of 1882. The home secretary dismissed high school teacher János Nonity to Serbia, with the reason of sending him as a delegation. MOL K 150. 1885. I. 10. 20488. p.n. 2964. b.n. One of the most significant case of migration from the Highlands was lead by Arsza Kuzmanovics. MOL K 150. 1890. I. 10. 26744. p.n. 2434 b.n., MOL K 150. 1890. I. 10. 59288. p.n. 43596. b.n.

[71] Article 2 of Act XXX of 1882.

[72] MOL K 150. 1883. I. 10. 14487. p.n. 1823. b.n.

[73] MOL K 150. 1883. I. 10. 1823. p.n. 1823. b.n.

fact did not nullify his Hungarian citizenship, for he did not ask himself to be discarded from the state.[74]

Among the citizenship rights, the military duties were regulated by this treaty. A person does not have to enrol in the military, which included both the regular standing army and the National Guard. The citizens of the participating countries did not have to take part in military lodgings.[75]

Rumania

The home secretary issued a circular to regulate the relations between the citizens of Hungary and Rumania.[76] Also, the annulations of the legal relationship of Austro-Hungarian subjects living in Rumania (the so-called "defacto subjects") towards the Monarchy.[77] The problem was caused by the Monarchy's duty to provide protection for them. In that matter, the ratified treaty considered this protection to be annulled from the 1st of January 1888. However, therein lies the dilemma of what this meant in the matter of citizenship.

From this point on, the Austro-Hungarian protégés living in Rumania fell under the jurisdiction of the Romanian state, in case they had not acquired a different citizenship yet. Their list of rights and duties were determined by Romanian laws. In the year when this treaty was issued, these Austro-Hungarian protégés could acquire either an Austrian or a Hungarian citizenship – which meant that they could petition for that until the 31st of December 1887. It became the duty of the Austro-Hungarian imperial and royal offices of Rumania to inform them on the conditions of getting either of these citizenships.

The home secretary specifically informed these offices that in case a person gets Hungarian citizenship, the hometown of the person in question must be noted in "the protégé's parish register".[78]

In the citizenship records of the home secretary, one can find several examples on the fulfilment of this protection. In the case of Ferdinánd Sándor Nagy, the question of military duties arose. This was caused by the fact that at the time he filed in his citizenship request, he was only 19 years old, which means that the request was filed by his father, as his legal guardian.[79] According to the transcript of the department of homeland security, there was no obstruction in the dismissal of Nagy, who was born in 1863, and

[74] During this case, the treaty of 1882 was referred, and the article 20 of Act L of 1879, as well. MOL K 150. 1883. I. 10. 46009. p.n. 29191. b.n.

[75] They did not have to pay military taxes, or provide enforced services to the military, except it was in connection with owning or renting real estate. Article 3 of Act XXX of 1882.

[76] 35.714/1887. Ministry for Home Affairs decree.

[77] The Austro–Hungarian Monarchy and Rumania made an international agreement on the 14th of May, 1887 on this matter.

[78] The article 12–14 of Act XXII of 1886 had to be taken into account in this matter, for it discussed the rules of acquisition of being registered into one's hometown.

[79] MOL K 150. I. 10. 1882. 20295. p.n. 507. b.n. The record of dismissal can be found here, containing evidence to this.

living in Segesvár. Ferdinánd Sándor Nagy has not yet reached the age of compulsory military service, and he had been living in Bucharest for years, studying to become a pharmacist. He got a job as an intern in Bucharest, too, and this proved to the secretary of defence that he was not escaping from military service.[80] Yet it must not be forgotten that in just one year, the petitioner would have been enrolled.

The question of military service also rose in the migration case of Antal Zibrzid.[81] The petitioner was already 32 when he filed in his request, and the dismissal records proved this.[82] This person, living in Bukarest, and Medgyes marked as his hometown, had to pay 20 Forints of military exemption fee, which should be written down into his "book of military exemption charges".[83] In his request, Bainlesku Romolus declared that he fulfilled his military duties, which was vouched by the transcript of the secretary of defence. The petitioner was declared to be unfit for military services, and his name was deleted from the catalogue after he showed up for the drafting committee later on, in 1883. The Military Review Committee recorded that he is suffering from flatfoot, which was an illness which caused him "to be unfit for military duties even in the proper age".[84]

Conclusion

The importance of international treaties was that, with these, the participants could manage the disputable matters of citizenship laws. These treaties determined the list of assured allowances, which made citizens easier to even acquire citizenship. They also secured the list of rights and duties which came with citizenship rights. Exceptions from under the effect of the provisions of the citizenship law (Act L of 1879) were only available in case of states with which the Monarchy had an international treaty in effect.

[80] MOL K 150. I. 10. 1882. 20295. p.n. 507. b.n.

[81] MOL K 150. I. 10. 1882. 50955. p.n. 56. b.n.

[82] MOL K 150. I. 10. 1882. 50955. p.n. 56. b.n.

[83] Further information on the case: MOL K 150. I. 10. 1882. 56. p.n. 56. b.n., MOL K 150. I. 10. 1882. 56674. p.n. 31287. b.n. The presentation of this plea can be found: MOL K 150. I. 10. 1881. 31287. p.n. 31287. b.n. The Vice Comes of Szeben found everything in order in the case of the migration of Serbanescu Iuon. MOL K 150. I. 10. 1882. 4494. p.n. 204. b.n The record of dismissal can be found here: MOL K 150. I. 10. 1881. 48916. p.n. 48916. b.n. His passport is with the rest of the papers. It can be deduced from the migration papers of Ginatzu Hariton of Bukarest, that he paid the previously imposed, and later reduced fee for military exemption. MOL K 150. I. 10. 1887. 49674. p.n. 5526. b.n. The record of dismissal: MOL K 150. I. 10. 1887. 30263. p.n. 5526. b.n.

[84] MOL K 150. I. 10. 1883. 73957. p.n. 73957. b.n. See: MOL K 150. I. 10. 1890. 57356. p.n. 4453. b.n. In the case of János Porubszki, the secretary stated that since the petitioner was older than 45 and did not owe with protection duties, his petition was accepted. MOL K 150. I. 10. 1885. 15728. p.n. 2747. b.n. The migration of Ede Fabini was supported by the secretary of defence, for he was relieved of all military duties in 1876. MOL K 150. I. 10. 1884. 37325. p.n. 2937. b.n. The case of Sándor Pragalina: MOL K 150. I. 10. 1889. 20944. p.n. 1409. b.n. There were cases where certain papers were missing – for example, Károly Meissner had to hand in papers subsequently to confirm his family status. This is referred to in the letter No. 1739/1887 of the Mayor of Budapest. MOL K 150. I. 10. 1887. 23879. p.n. 1751. b.n. But it also happened, that certain pleas were rejected because the petitioner did not fulfil certain legal conditions. For example, the case of Mór Pinkus: MOL K 150. I. 10. 1880. 31901. p.n. 25995. b.n.

On the basis of reciprocity, they clearly defined the scope of such exemptions, which fundamentally referred to the rights and obligations involving the content of citizenship as a legal relationship. The significance of international treaties was inherent in the fact that the debates arising from the legal relationship of citizenship could be settled faster and with fewer conflicts.

VARGA NORBERT

A MAGYAR ÁLLAMPOLGÁRSÁGI JOG NEMZETKÖZI JOGI FORRÁSAI A 19. SZÁZADBAN

(Összefoglaló)

A nemzetközi szerződések jelentősége abban mutatkozott meg a 19. századi magyar állampolgársági jogban, hogy a ratifikáló államok hatékonyan rendezni tudták a felmerülő vitás kérdéseket. Pontosan meghatározták a szerződésekben – legyen szó az amerikai, a svájci, a szerb vagy a román szerződésről – a honpolgárokat megillető kedvezmények körét, az állampolgárság megszerzésének és elvesztésének szabályait is.

A 19. századi nemzetközi vagy korabeli szóhasználattal élve „államszerződések" általános jellemzését követően kerül sor az elemzett dokumentumoknak a joggyakorlat oldaláról történő vizsgálatára. Jelen tanulmány keretében bemutatásra kerülnek a Magyar Országos Levéltárban megtalálható fontosabb jogesetek, amelyeken keresztül szemléltetni lehet, hogy az érintett országokkal kapcsolatban milyen vitás honossági kérdések merültek fel a vizsgált időszakban.

A szerződések rögzítették az állampolgársági jogviszony tartalmát jelentő jogok és kötelezettségek rendszerét, melyek kapcsán általában a viszonosság elvét követték az érintett országok. Meg kell azonban jegyeznünk, hogy ezek a szerződések tartalmaztak a közjogi jellegű szabályok mellett magánjogi, leginkább kereskedelmi jogi rendelkezéseket is.

Az állampolgársági szabályok alól csak azokkal az államokkal szemben volt helye kivételnek, amelyekkel hazánk megállapodást kötött, amelynek következtében ezek a szerződések jelentősen befolyásolták érintett országok közötti külkapcsolati viszonyok alakulását.