

Stefan Marek Grochalski¹, Paweł Jakub Szewczyk²

<https://orcid.org/0000-0003-4812-7441>

<https://orcid.org/0000-0003-2127-4003>

The European Union and the Eurasian Union in the context of citizenship. Similarities and differences

DOI: 10.5604/01.3001.0013.0360

Summary: The formulation of the topic generally includes three elements, which are: the European Union (EU), the Eurasian Economic Union (EAEU) and citizenship. Thus, we deal first with a collision, a juxtaposition, two different, albeit somewhat similar, secondary subjects of international law, which remain the organizations mentioned in the subject. Secondly, with the institution of citizenship in the context of these two organizations. The issues raised above and below might have and have a series of question marks or even controversies. Relations between citizens - citizenship in the case of these organizations are shaped differently, although, importantly, they are not only abstract. In many situations they have their, starting from a legal and ending with a practical, dimension.

Key words: European Union, Eurasian Union, citizenship, similarities, differences.

Unia Europejska i Unia Euroazjatycka w kontekście obywatelstwa. Podobieństwa i różnice

Streszczenie: Sformułowanie tematu zawiera generalnie trzy elementy, którymi są: Unia Europejska (UE), Euroazjatycka Unia Gospodarcza (EAUG) oraz obywatelstwo. Mamy zatem do czynienia po pierwsze, ze zderzeniem, zestawieniem, dwóch różnych, aczkolwiek w pewnym sensie podobnych, wtórnych podmiotów prawa międzynarodowego, jakimi pozostają wymienione w temacie organizacje. Po drugie, z instytucją obywatelstwa w kontekście tych dwóch organizacji. Tak obok siebie postawione powyżej kwestie mogą i mają prawo wywoływać szereg znaków zapytania czy nawet kontrowersji. Relacje obywatela – obywatelstwo w odniesieniu do wspomnianych organizacji kształtują się bowiem różnie, chociaż, co ważne, nie są li tylko abstrakcyjne. W wielu bowiem sytuacjach mają swój, poczynając od prawnego, a kończąc na praktycznym, wymiar.

Słowa kluczowe: Unia Europejska, Unia Azjatycka, obywatelstwo, podobieństwa, różnice.

¹ Dr hab. Stefan Marek Grochalski, prof. UO – University of Opole, Faculty of Law and Administration, European and International Law Department.

² Mgr Paweł Jakub Szewczyk – University of Opole, Faculty of Law and Administration, European and International Law Department.

1. Introduction

The formulation of the topic generally includes three elements, which are: the European Union (EU), the Eurasian Economic Union (EAEU) and citizenship. Thus, we deal first with a collision, a juxtaposition, two different, albeit somewhat similar, secondary subjects of international law, which remain the organizations mentioned in the subject. Secondly, with the institution of citizenship in the context of these two organizations. The issues raised above and below might have and have a series of question marks or even controversies. Relations between citizens - citizenship in the case of these organizations are shaped differently, although, importantly, they are not only abstract. In many situations they have their, starting from a legal and ending with a practical, dimension.

The term 'citizenship' is of central importance to the subject under consideration; and generally: what does it mean to "be a citizen"? Explanation of these issues, contrary to appearances, is not an easy task. Firstly, because citizenship is an institution subject to regulation of international law, secondly, the institution of citizenship in both its subjective and subject matter is also subject, or perhaps primarily, to internal competence of the state as a sovereign subject of international law, and thirdly in international law does not exist universally binding definition of citizenship, and fourthly also the internal legislation of states most often do not specify this concept. Thus, attempts to define citizenship remain only in the sphere of considerations, studies and analyzes carried out in the doctrine by theoreticians of law, and it is in the doctrine that citizenship often appears as a special, permanent legal link, connecting a natural person with the state. Such specified citizenship is often enriched with additional elements such as, for example, a political bond or the existence of mutual rights and obligations between the state and the citizen. It is often stressed that citizenship is a legal relationship between an individual and the state or that citizenship is a state and a legal status³.

The presentation of citizenship as, until recently only a category of only assigned to the state institution, requires a reliable, necessary presentation of the essence of mutual relations regarding the institution of citizenship in the context of international organizations. This, in turn, causes the need to present the essence of an international organization as a formalized form of cooperation between states, as well as a short presentation of the institution of citizenship.

2. European Union - Eurasian Union as regional organizations

The European Union and the Eurasian Economic Union as regional organizations integrate member states in many dimensions, although this should be emphasized above all in the economic dimension. At present, the EU guarantees

³ W. Ramus, *Pojęcie obywatelstwa (spór wokół istoty przynależności państwowej)*, „Państwo i Prawo” 1997, no. 6, p. 40.

its citizens, at the same time citizens of 28 Member States on their territory, four freedoms: freedom of movement of goods, services, capital and labour⁴. On the other hand, in the case of the Eurasian Union, the mentioned four freedoms of the common market will become the full rights of the citizens of the member states of this organization in 2025 at the earliest. Although, the term remains distant, it cannot be overlooked that the economic consolidation of 5 EAUG member countries (Belarus, Kazakhstan, Russia - founding countries, Armenia and Kyrgyzstan, joined in the order listed in October and December 2014) are still systematically progressing. The Eurasian Economic Union also has real possibilities to increase its subjective scope with the Republic of Tajikistan. In addition, the political goal of the Eurasian Union remains the will to create an organization with the rank of "the Eastern European Union", which in the future may become an equal partner or contractor of the European Union.

In each of the organizations under discussion, it is obvious that states provide for them, as is the case with other international organizations, their own sovereign powers, because as single entities of international law they are not able to effectively "fight" for their interests. In other words, states create international organizations and provide them with a part of their own sovereign competences, because they see themselves their "impotence" in solving, for example, contemporary global problems. The scope of the prerogatives of the new organization is often a result of the estimates of individual countries, according to which the organization, equipped with limited but collective rights of members, will be able to better represent the interests of each individual state and its citizens than the state manages to do it alone⁵. In this respect, in the area of both the Eurasian Economic Union and the European Union, the citizens of the Member States obtain additional rights resulting from the creation of a common customs union within these organizations or, at a later stage, the common market. Each of the mentioned organizations introduces the concept of their own internal goods as a legal term, i.e. Eurasian goods or EU goods. Each of these organizations creates for citizens of the Member States a common market not only of goods, but also services, capital and labour.

In this area, particular interest is aroused not by the institution, which has no place in the current international practice, not a citizen of an EU Member State, but a citizen of the European Union. This is, in fact, an unprecedented step that the Member States of the European Communities have decided to do, establishing a new legal category - citizenship of the European Union. In the existing legal and international regulations between the entities, and above all in the determination of the powers by the states for the appointed international organizations, there was no such precedent. It needs to be emphasized that none of the universal and regional hitherto existing

⁴ Citizens of Great Britain opted for the Brexit from the UE In the referendum on 23 June, 2016. In accordance with the procedure in force in this regard, the United Kingdom negotiates the conditions for leaving the Union upon requesting an application.

⁵ I. Hurd, *International organizations: Politics, Law, Practics*, Cambridge 2011, p. 3-4; S. M. Grochalski, *Współczesne problemy globalne - próba określenia pojęcia*, [in:] S. M. Grochalski (ed.), *Problemy globalne współczesnego świata*, Opole 2003, p. 13-27.

international organizations have ever contained in their actions even the desire to lead to something that would be a substitute for citizenship⁶.

3. Citizenship as one of the three institutions constituting the state

Citizenship (population), along with power and territory, is one of the three essential elements constituting the state. Citizenship was, is and will be a category that triggers many discussions, a series of controversies - for example, because it is not a static category, it forces us to predict whether and in what direction its scope will evolve, not only as it was, but until now, in the context of international organizations, subjective. The state, being a sovereign subject of international law, until recently was the only entity that, on the one hand, merged, and on the other hand excluded certain groups of people. On the one hand, citizenship can be a source of individual problems, for example as a result of unfavourable political situations between states or an unfavourable coincidence of legislation, it can also be perceived by the individual as something special, distinctive, binding, peculiar, briefly describing, it can be a source of pride. Finally, in certain situations, citizenship can protect us, a natural person.

Commonly, citizenship is defined as a legal bond connecting a natural person with a state institution. In practice, citizenship is expressed above all in the relationship of power to the citizen and citizen to power. This kind of truth allows to answer the question to what extent the state is for a citizen and to what extent a citizen is for the state? Another feature characterizing citizenship is its historicity, variability; because the rights and obligations assigned to him also result from a political situation, for example, and therefore they are variable⁷.

International law, as it has been noticed before, stands invariably in the position that every sovereign state has the freedom to decide who is and who is not its citizen. The creation of legal norms concerning the acquisition and loss of citizenship, as well as making executive decisions regarding the acquisition or loss of citizenship, is the undisputed own competence of the state⁸. In the legal dimension, citizenship, "Staatsbürgerschaft", "citoyenneté", "citizenship", "grażdanstwo (гражданство)" is a category which, by means of legal norms, sets the subject scope of rights and obligations. This is a citizen, as a member of a well-defined community of the nation, that remains in close connection with the issue of the sovereignty of his countries⁹.

International legal regulations confirming the right of every state to decide freely who is its citizen, issuing regulations defining the procedure and conditions

⁶ S. M. Grochalski, *Obywatelstwo Unii Europejskiej – nowa kategoria prawna*, [in:] P. Dobrowolski, M. Stolarczyk (ed.), *Proces integracji Polski z Unią Europejską*, Katowice 2001, p. 48-61.

⁷ Z. Sokolewicz, *Obywatelstwo a narodowość. Uwagi w związku z ustanowieniem obywatelstwa Unii Europejskiej*, „Studia Europejskie” 1997, no 1, p. 15.

⁸ See: C. Mik, *Obywatelstwo europejskie w świetle prawa wspólnotowego i międzynarodowego*, „Toruński Rocznik Praw Człowieka i Pokoju” 1993, no 2, p. 63 –94.

⁹ J. Habermas, *Obywatelstwo a tożsamość narodowa. Rozważania nad przyszłością Europy*, Warszawa 1993, p. 12-13.

for acquiring and loss of citizenship, are found in the Hague Convention of 12 April, 1930 and in numerous judgments, e.g. the Permanent Court of Justice¹⁰ and the International Court of Justice¹¹. In the Hague Convention mentioned above in art. 1 it is stated: "Each state has the right to decide who is and who is not its citizen, to issue regulations specifying the procedure and conditions for the acquisition and loss of citizenship". In art. 2, on the other hand, the cardinal principle is stressed that laws which the state determines who is its citizen, must be recognized by other states "if they are in accordance with international conventions, international customs and generally recognized legal principles regarding citizenship"¹². We find a similar regulation in the European Convention on Citizenship. In art. 3 par. 1 and 2 it is stated that "each state defines in its legislation who is its citizen and that this legislation will be accepted by other states to the extent that it is in accordance with relevant international conventions, customary international law and the principles of law generally recognized in the field of citizenship"¹³.

Human rights issues deserve a special attention in this regard. It should be also emphasized that the catalogue of rights falling within the institution of citizenship has its source in the Universal Declaration of Human Rights, in the statement resulting from art. 15 par. 1 that every person has the right to citizenship and that no one may be deprived of citizenship or denied the right to change it. As regards the right to citizenship, the most far-reaching act is the American Convention on Human Rights of 1969. In art. 20 par. 1 it is stated that "everyone has the right to nationality of the country, in the territory of which he/she was born if he/she has no right to any other citizenship"¹⁴. The Inter-American Court of Human Rights in 1984 also commented on this, stating that: "It is now widely accepted that citizenship is the inherent right of all people (...) is not only a basic condition for using political rights, but it also affects the legal capacity of the individual"¹⁵.

4. Citizenship of the European Union an unprecedented institution

It is worth noting at the outset that the international community treats the EU citizenship institutions more and more as a real legal category. The proof of this is, for example, the recent decision of the Cape Verde Islands, which decided to abolish the obligation to have an entry visa not for citizens of individual EU member states but, which should be emphasized, for EU citizens. These provisions will become effective

¹⁰ Decision of 1923 on decrees of the citizenship in Tunis and Morocco. PCIJ, series B, no. 4, p. 24.

¹¹ Decision of 1955 in the dispute between Lichtenstein and Guatemala in the case of Nottebohm, ICJ Reports, 1955, p. 20.

¹² Text of the Convention Journal of Laws of the Republic of Poland from 1937, no. 47, item 361.

¹³ European Convention on Citizenship, Strasburg, 6 November 1997. European Treaty Series (ETS) Série des traités européens (STE), No. 166. Also: M. Zdanowicz, *Europejska Konwencja o Obywatelstwie*, [in:] E. Popławska (ed.), *Konstytucja dla rozszerzającej się Europy*, Warsaw 2000, p. 271-276.

¹⁴ *Organization of American States*, Treaty Series, no. 36. Given for: R. Wieruszewski, *Obywatele Rzeczypospolitej Polskiej – przyszli obywatele Unii Europejskiej*, [in:] E. Popławska, (ed.), op. cit., p. 253.

¹⁵ *Ibidem*, p. 254.

from the beginning of 2018 and will cause, for example: a Polish citizen will not have to obtain an entry visa to the Cape Verde Islands in Berlin and pay PLN 160.00 for it, because a Polish citizen being an EU citizen, just like other EU citizens, will be exempted from this obligation.

The European Union has an incomparable power with other international governmental organizations. It is characteristic that, being not a state, it possesses, *inter alia*, the following capabilities in relation to citizens:

- it creates law, both for Member States and for their citizens,
- takes decisions affecting both the social and economic life of citizens in the Member States,
- by means of agreements, it engages the Union with third countries and other international organizations. This commitment has a direct impact on the lives of citizens,
- decides to spend large sums on various types of activities¹⁶.

It is interesting and puzzling that in all states - members of the European Union, democracy is realized through the fact that power rests on citizens. It is their clear majority and the will that should give legal and social direction to the development of states - members of the EU. It has long been alarmed that the European Union, demanding from member-states of democracy, itself “suffers” from its deficit. Not quite, unfortunately, the individual-citizen occupies the same place in the state and in the Union. And yet: “The Community is a new legal order (...) for which states limit their sovereign rights, albeit in limited areas and whose subjects are not only the Member States, but also their citizens”¹⁷. Thus, the individual-citizen in the Union should have the right to influence decisions and to whoever performs the function personally.

For the first time in the Treaty establishing the European Community, *expressis verbis*, in part II, in art. 8 it was decided: “Citizenship of the Union is being created. Every person holding the nationality of a Member State is a citizen of the Union”. In turn, in art. 8a-8d it is discussed the content and the subject scope of citizenship of the Union, which directly concern the right of a citizen of the European Union to move and reside freely within the territory of the Member States of the Union, active and passive right in elections to the European Parliament, active and passive right in local government elections (municipal authorities) in the territory of the country, where the given citizen resides, the right to diplomatic and consular protection in the territory of a third state if there is a representative office of any EU member state on its territory and at the same time, it does not have the representation of the state that a citizen needs, the right of every citizen of the European Union to submit petitions to the European Parliament and a complaint to the Ombudsman¹⁸ was also confirmed.

¹⁶ J.H.H. Weiler, *The Constitution of Europe “Do the new clothes have an emperor?” and other essays on european integration*, Cambridge 2002, p. 326 and other.

¹⁷ *Ibidem*.

¹⁸ A. Wyrzumska, *Jednostka w Unii Europejskiej*, [in:] J. Barcz (ed.), *Prawo Unii Europejskiej. Zagadnienia systemowe*, Warsaw 2002, p. 330 – 335. Also: S.M. Grochalski, *Zasada niedyskryminacji obywatela Unii Europejskiej w prawie do opieki konsularnej*, [in:] L. Brodowski, D. Kuźniar-Kwiatkiewicz (ed.), *Unia Europejska a prawo międzynarodowe*, Rzeszów 2015, p. 93-103.

Introduced for the first time in the Maastricht Treaty, the institution of citizenship of the European Union, among many legal regulations, aimed at the ever-greater integration of the EU member states, undoubtedly increases this integration process. Thus, the institution of European citizenship concerns both direct relations between Union citizens and EU institutions, as well as it refers to the direct possibility, resulting from citizenship of the Union, to influence decisions of local authorities. In addition, in special cases, it requires a Member State of the Union to grant diplomatic or consular assistance to a person who is not its citizen, but is a citizen of the European Union.

The subject matter of citizenship of the European Union is subject to, which proves its vitality, evolution. In the Treaty of Lisbon - a small revision treaty, among the existing primary sources of community law in the subject of citizenship of the European Union, he introduced the most changes¹⁹. The new regulations on citizenship of the European Union are included both in the Treaty on European Union, by adding a new title II "Provisions on democratic principles" and in the Treaty on the functioning of the European Union, in which the current title in part II "Citizenship of the Union" has been changed to "Non-discrimination and citizenship of the Union". Definitely in the TEU, in art. 9 and 10, it is emphasized that the European Union in its activities respects the principle of equality of citizens, as well as the fact that the basis for the functioning of the Union is representative democracy. In the Treaty of Lisbon it was stated that the rights, freedoms and principles set out in the Charter of Fundamental Rights are legally binding. The content of par. 4 art. 9 of the TEU deserves a special mention, which gives the right to a citizens' initiative (eng. The European Citizens Initiative, ECI) to initiate a law-making process for citizens of the European Union in number not less than one million. In practice, the institution of a citizens' initiative is an opportunity to submit a petition signed by one million citizens to the European Commission in order to initiate a new legislative proposal. For the first time, this right gives citizens the opportunity to influence directly Union affairs. Also, increasing the role of the European Parliament as the only EU institution chosen by means of direct elections by EU citizens gives them a greater opportunity to influence EU legislation and the EU budget²⁰.

Despite the reference in the presented material of the Union citizenship institutions to the original sources of Community-Union law, it is worth referring to the European Parliament and Council Regulation 211/2011/EU of 16 February 2011 on the citizens' initiative in the context of the citizens' initiative to initiate the law-making process²¹. It should be emphasized that under art. 23, the provisions of this Regulation will apply from 1 April 2012. With regard to the necessary number of countries, in art. 2 of the Regulation, it is specified that this applies to at least one

¹⁹ Dz. U RP z 2009 r., Nr 203, poz. 1569.

²⁰ S. M. Grochalski, *Inicjatywa obywatelska jako kolejne poszerzenie zakresu przedmiotowego obywatelstwa Unii Europejskiej*, [in:] E. Kozerska, T. Scheffler, *Wokół Traktatu Lizbońskiego. Propozycje i postulaty prawa i ekonomii w Unii Europejskiej*, Cracow 2013, p. 31-43. Also: G. Grabowska, *Europejska inicjatywa obywatelska drogą ku demokracji unijnych procedur legislacyjnych*, [in:] L. Brodowski, D. Kuźniar-Kwiatk, op. cit., p. 83-93.

²¹ Dz. Urz. UE z 2011 r., L 65, p. 1.

quarter of all Member States. In Annex I of the Regulation, a minimum number of people supporting the initiative per a Member State is given, e.g. for Poland, it is 37 500). The period for collecting the appropriate number of votes is 12 months since the date of registration. Declarations of support are made only on special forms in paper or electronic form.

The new art. 12 of the TEU is of particular significance for the extension of the subject matter of citizenship of the European Union. Under this article, national parliaments participate in the proper functioning of the Union. This strengthening of the role of national parliaments of the Member States also proves that individual citizens of the Member States, and thus also the Union citizens, have an influence on the European Union²².

It should also be stated that pursuant to art. 25 of the TFEU, the catalogue of citizens' rights may be extended. The article states that: "every three years, the Commission shall report to the European Parliament, the Council and the Economic and Social Committee (...) This report shall take account of the development of the Union (...) The Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the Parliament, may adopt provisions to supplement the rights mentioned in art. 20, par. 2. These provisions shall enter into force upon their approval by the Member States"²³.

When analyzing the citizenship of the European Union, it is worth emphasizing that it is an important symbol, a far-reaching potential, it is a kind of added value. The history of the European Union is full of ideas and laws that at the beginning seemed to be trivial and empty. They seemed to be a collection of so-called "wishful thinking". With time, however, it turned out that they took on a real dimension, they influenced and created a specific reality. Perhaps, this will also happen in the case of citizenship of the European Union.

The abovementioned subject range of Union citizenship may seem modest as, according to some people, it does not give the citizen too many valuable rights, but apart from the dispute, it is the beginning of the way. Citizenship of the European Union should go in two directions. The first is to make the citizen an aware unit, proud of belonging to the Union, the second is to impose on the citizen such rights that would connect him with the Union. It can therefore be concluded that at present citizenship of the European Union is not a complete identification of a citizen of a Member State with the EU, but if we take into account the ongoing negotiations between EU Member States and EU institutions in relation to Brexit, they are treated very seriously and responsibly, because in to a large extent, they concern the protection of the rights of citizens of the Union²⁴.

²² O roli parlamentów narodowych sprzed Traktatu Lizbońskiego see: R. Grzeszczak, *Parlamenty państw członkowskich w Unii Europejskiej*, Wrocław 2004.

²³ J. Barcz (ed.), *Przewodnik po traktacie z Lizbony. Traktaty stanowiące Unię Europejską. Stan obecny oraz teksty skonsolidowane w brzmieniu Traktatu z Lizbony*, Warszawa 2008.

²⁴ S. M. Grochalski, „Brexit” – konsekwencje dla obywateli jako eksobywateli Unii Europejskiej, „Opolskie Studia Administracyjno – Prawne” 2016, XIV/4(1), p. 9-23.

5. Powers of a citizen of a member state of the EAUG

Bearing in mind the above considerations, it should be emphasized that the creators of the Eurasian Economic Union did not decide to introduce the citizenship institution of the EAUG and remained only with the legal term: “a citizen of a member state of the EAUG”. It does not mean, however, that for the member states of the Eurasian Union the institution of common citizenship remains a new concept. All EAUG member states as former Soviet republics have experience resulting from the common legal system of the Soviet Union. According to art. 33, first and second sentence of the Constitution of the USSR of 7 October, 1977, citizenship of the USSR was established in the Soviet Union and every citizen of the Soviet republic was a citizen of the Union. A citizen of the USSR had a passive and active electoral right to the authorities of the USSR - pursuant to art. 96 of the mentioned Constitution. Citizen of the USSR, according to art. 33, fourth sentence, of the basic act of the USSR of 7 October, 1977, used care and protection of the Soviet Union in the territory of a third state. These phrases, in part, seem to be similar to the content of art. 20 of the TFEU in the Lisbon edition, because every citizen of an EU Member State is a citizen of the European Union, and furthermore, EU citizens are guaranteed, among other things, passive and active electoral rights to the authorities of the European Union and protection in the territory of third countries in the absence of their own state representation on this territory. However, on the other hand, according to art. 20 par. 1, third sentence of the TFEU, EU citizenship is additional to the citizenship of a Member State. On the other hand, citizenship of the USSR was of a basic and state nature and not subsidiary to the citizenship of a given Soviet republic²⁵.

The member states of the Eurasian Economic Union have decided to guarantee their citizens additional prerogatives, such as the freedom to move freely outside their own borders, without, however, creating a citizenship institution similar to the Soviet Union or the European Union. It is difficult to discuss here whether the institution of citizenship of the Eurasian Union was really taken into account during the creation and negotiation of the EAUG Treaty. Clearly, however, it can be assumed that the possible citizenship of the EAUG would be very similar to EU citizenship, i.e. it would not introduce restrictions on the rights of citizens of the Member States, but only additional powers. This hypothetical vision of the citizenship of the Eurasian Union justifies, inter alia, art. 79 of the Constitution of the Russian Federation of 12 December, 1993, pursuant to which the Russian state may delegate some of its competences to inter-state organizations by way of an international agreement if, however, in this way, the rights and freedoms of a citizen will not be restricted²⁶.

When considering the subject matter of the rights of citizens of the member

²⁵ Конституция (Основной закон) Союза Советских Социалистических Республик, принята на внеочередной седьмой сессии Верховного Совета СССР девятого созыва 7 октября 1977 г., с изменениями и дополнениями в редакции от 26 декабря 1990 г., Москва 1990.

²⁶ Конституция Российской Федерации от 12 декабря 1993 г., <http://constitution.kremlin.ru/>, [06.06.2016]; A. Kubik, *Konstytucja Federacji Rosyjskiej*, Warszawa 2000.

states of the Eurasian Economic Union, reference should be made to art. 1 of the EAUG Treaty stating that member states of this organization create a common market within which they ensure the free movement of goods, services, capital and labour. In the interpretation of art. 1 of the EAUG Treaty, the content of the preamble to this act is helpful, according to which the member states of the analyzed organization set it up to, inter alia, guarantee stable development of economic activity, sustainable trade and fair competition, ensure economic progress, modernize and increase the competitiveness of national economies interests in the global economy, as well as to supremacy of citizens' rights and freedoms²⁷. There is no doubt that the subject matter of the rights of citizens of the EAUG member states is primarily economic in nature.

According to art. 25 par. 1 of the Treaty on EAUG in the territories of the member states of the Eurasian Union, there is a free flow of goods without customs barriers and state control in the sanitary, phyto-sanitary or veterinary-sanitary field, subject to the exceptions provided for in that Treaty. The above-mentioned provision also provides for a common tariff for goods imported into the Eurasian Union and tariff preferences for goods from countries remaining in the common commercial zone with the EAUG. However, art. 41 of the EAUG Treaty introduces an additional term, namely: "the goods of the Eurasian Economic Union". According to this provision, the Eurasian Union is making efforts to promote the concept of "EAUG goods" and also introduces the labeling of this type of goods. Unfortunately, the Treaty on the Eurasian Union in no way defines the term "goods" or the term "goods of the EAUG"²⁸.

According to art. 65 of the EAUG Treaty, the purpose of the Eurasian Union is to ensure the freedom of trade in services and the freedom to take action in this area²⁹. This provision, like art. 2 of the Act of the Russian Federation of 13 October, 1995 on the state regulation of foreign trade activities, treats the service as a commodity that may be subject to export and import³⁰. The definition of trade in services is included in annex 16 to the EAUG Treaty, i.e. in the Protocol on trade in services, entrepreneurship, activity and investment. According to the referenced protocol, trade in services should be understood as providing services that include: production, distribution, marketing, sale and supply of these services either from the territory of one Member State to the territory of another Member State or to the territory of one of the Member States by an entity from another Member State³¹. The Protocol also defines the concept of a recipient and a service provider. The service recipient is a natural or legal person from a member state of the Eurasian Union, to whom the service is provided or who intends to use the service. On the other hand, the status of a service provider under Eurasian law

²⁷ Договор о Евразийском экономическом союзе от 29 мая 2014 г., подписан в г. Астане, с изм. и доп., вступ. в силу с 12 февраля 2017 г., https://www.consultant.ru/document/cons_doc_LAW_163855, [06.10.2017].

²⁸ Ibidem.

²⁹ Ibidem.

³⁰ Федеральный закон от 13.10.1995 № 157-ФЗ «О государственном регулировании внешнеторговой деятельности», http://www.consultant.ru/document/cons_doc_LAW_8043/, [2.10.2017].

³¹ Приложение № 16 к Договору о Евразийском экономическом союзе - Протокол о торговле услугами, учреждении, деятельности и осуществлении инвестиций, <http://www.eaeunion.org/#info>, [15.10.2017].

has a natural or legal person from a member state of the Eurasian Union that provides the service. It should be noted, however, that the Eurasian common market of services is not only about the cooperation of member states of the Eurasian Union, because, as stipulated in art. 38 of the EAUG Treaty, these countries are also obliged to coordinate trade in services in relations with third countries³².

Article 70 of the EAUG Treaty, among the tasks facing the Eurasian Union, mentions the creation of a common financial market, and within its framework, guarantees the free movement of capital³³. The definition of the common financial market has been included in annex 16 to the EAUG Treaty, i.e. in the Protocol on Financial Services. Through the common financial market, under Eurasian law, we must understand the financial markets of the Member States, harmonized in terms of regulation and supervision, for which mutual recognition of banking, insurance or securities certificate is accepted - issued by the competent authorities of each Member State. This protocol also specifies what should be understood by non-discrimination in accessing the common financial market, namely, these are guarantees given to financial service recipients from other EAUG member states that they will not meet conditions less favourable than those, which the Member State provides to its own entities and citizens.

Unfortunately, the free movement of services and capital on the territory of the five Member States of the Eurasian Union will be fully achievable at the earliest in 2025. Member States want to introduce all four freedoms of movement in stages³⁴. For this reason, art. 103 of the EAUG Treaty states that the member states of the Eurasian Union will, by 2025, harmonize their legislation in the field of the common financial market³⁵. The same date of postponement regarding the Republic of Kazakhstan was also introduced by the decision of the Supreme Eurasian Economic Council of 23 December 2014, issued in the scope of sectors, in which the single market for services within the Eurasian Economic Union³⁶ will function.

Pointing to the above, it should be emphasized that the real extension of the rights of citizens of the EAUG member states occurred primarily in the field of free movement of employees³⁷. Art. 96 of the EAUG Treaty clearly defines the most important terms in this respect: “employee”, “family member of an employee”, “employer” and the notion of “professional activity.” Under Eurasian law, an employee is a person, who possesses the nationality of one of the Member States and also legally resides and legally remains employed in another Member State, whose nationality does not have to hold in. The status of an employee’s family member is obtained by the spouse and children of the employee and other dependents according to the legis-

³² *Договор о Евразийском экономическом союзе...*

³³ *Ibidem.*

³⁴ A. Jarosiewicz, E. Fischer, T. Bakunowicz, *Eurazjatycka Unia Gospodarcza – więcej polityki, mniej gospodarki*, “Komentarze OSW”, no 157, p. 1-3.

³⁵ *Договор о Евразийском экономическом союзе...*

³⁶ *Решение Высшего Евразийского экономического совета от 23.12.2014 № 16 110 «Об утверждении перечня секторов (подсекторов) услуг, в которых функционирует единый рынок услуг в рамках Евразийского экономического союза»*, http://www.consultant.ru/document/cons_doc_LAW_129813/, [18.04.2016].

³⁷ A. Jarosiewicz, E. Fischer, T. Bakunowicz, *op. cit.*, p. 4.

lation of the country of employment. The employer, according to art. 96 par. 5 of the EAUG Treaty, is a legal or natural person that provides the employee of a Member State with employment under the legislation of the state of employment. Finally, professional activity is defined by the EAUG Treaty as an activity under a contract of employment or under a civil law contract, carried out in the territory of the state of employment in accordance with the law of that State³⁸.

It should be noted that pursuant to art. 97 of the EAUG Treaty, both an employee, a family member of an employee and an employer have the right to use freedom of movement on the territory of all five member states of the Eurasian Economic Union for the purpose of pursuing professional activity without taking into account the restrictions on the protection of the domestic labour market. Furthermore, this provision prohibits Member States from requiring an employee from another Member State to be authorized to work in the state of employment. The employee and a member of his family also receive the right of temporary stay and residence. The period of temporary stay and residence in such a case is justified by the duration of the employment contract or civil law contract, concluded by the employee in the Member State of employment. If, however, an employment contract or a civil law contract is terminated earlier after 90 days since the date of entry into the territory of another Member State, that employee together with family members shall have the right to stay and reside no longer than 15 days to conclude a new employment contract or a civil law contract³⁹.

6. Conclusion

Undoubtedly, the rights of a citizen of a Member State, either the European Union or the Eurasian Economic Union, increase as a result of European or Eurasian integration. Integration in both structures does not bring any additional responsibilities to the citizens of the Member States of these two organizations. However, the Eurasian Economic Union, which, unlike the European Union, has existed and has been functioning for only two years, integrates Member States only in the economic sphere, and this dimension of integration is not full. Nevertheless, as part of the Eurasian Economic Union, the most integrated common market is being created at the interface between Europe and Asia. This common market now guarantees all citizens of the EAUG member states a free access to the labour market of these countries. The Eurasian Economic Union, as part of its goals, shows many similarities to the European Union. First of all, both organizations have a regional character and not a universal one. Secondly, the primary goal of both organizations is the economic integration of the member states. Thirdly, both organizations form their own customs union and a common market with four freedoms of movement. Fourthly, the countries from one and the other integration group have united and continue to unite in mutual, as a rule, non-overlapping regional international organizations. Finally,

³⁸ *Договор о Евразийском экономическом союзе...*, op. cit.

³⁹ *Ibidem*.

fifthly, both organizations have international legal capacity – therefore, they can be participants in international legal relations, and in particular, they remain entitled to conclude international agreements.

The genesis of the creation of both mentioned organizations was, however, different. In the case of the Eurasian Economic Union, we are dealing with the continuation of integration activities, first undertaken within the Commonwealth of Independent States and then, within the Eurasian Economic Community, which no longer exists after the collapse of the USSR. On the other hand, the European Union serves the integration of the Member States, which was initiated by the European Coal and Steel Community and then continued by the European Communities, as the reasons for this were the tragic events of World War II. This is probably why the member states of the Eurasian Economic Union have not decided on the idea of common citizenship that is innovative for the European Union countries. Undoubtedly, this was due to various legal and political experiences of two groups of countries undertaking the integration effort, as a rule, in impenetrable legal and political systems. Thus, the structures of these two groups of countries have constituted and still constitute, to a large extent, the border for the freedom of movement of not only goods, services, capital or labour, but also the freedom of movement of citizens of the European Union member states to the Eurasian Union and vice versa. The border of the Eurasian Union with the European Union sets the limit of four freedoms of movement, constituting emanations of additional rights of citizens of the member states of both organizations.

Bibliography

- Barcz J. (Ed.), *Przewodnik po traktacie z Lizbony. Traktaty stanowiące Unię Europejską. Stan obecny oraz teksty skonsolidowane w brzmieniu Traktatu z Lizbony*, Warszawa 2008.
- Citizens of Great Britain opted for the Brexit from the UE In the referendum on 23 June, 2016. In accordance with the procedure in force in this regard, the United Kingdom negotiates the conditions for leaving the Union upon requesting an application.
- Decision of 1923 on decrees of the citizenship in Tunis and Morocco. PCIJ, series B, no. 4.
- Decision of 1955 in the dispute between Lichtenstein and Guatemala in the case of Nottebohm, ICJ Reports, 1955.
- Dz. U RP z 2009 r., Nr 203, poz. 1569.
- Dz. Urz. UE z 2011 r., L 65.
- European Convention on Citizenship, Strasburg, 6 November 1997. European Treaty Series (ETS) Série des traités européens (STE), No. 166.
- Grochalski S. M., „Brexit” – konsekwencje dla obywateli jako eksobywateli Unii Europejskiej, „Opolskie Studia Administracyjno – Prawne” 2016, XIV/4(1).
- Grochalski S. M., *Inicjatywa obywatelska jako kolejne poszerzenie zakresu przedmiotowego obywatelstwa Unii Europejskiej*, [in:] Kozerska E., Scheffler T.,

Wokół Traktatu Lizbońskiego. Propozycje i postulaty prawa i ekonomii w Unii Europejskiej, Cracow 2013.

- Grochalski S. M., *Obywatelstwo Unii Europejskiej – nowa kategoria prawna*, [in:] Dobrowolski P., Stolarczyk M. (ed.), *Proces integracji Polski z Unią Europejską*, Katowice 2001.
- Grochalski S. M., *Współczesne problemy globalne - próba określenia pojęcia*, [in:] Grochalski S.M. (ed.), *Problemy globalne współczesnego świata*, Opole 2003.
- Grochalski S.M., *Zasada niedyskryminacji obywatela Unii Europejskiej w prawie do opieki konsularnej*, [in:] Brodowski L., Kuźniar-Kwiątek D. (ed.), *Unia Europejska a prawo międzynarodowe*, Rzeszów 2015.
- Grzeszczak R., *Parlamenty państw członkowskich w Unii Europejskiej*, Wrocław 2004.
- Habermas J., *Obywatelstwo a tożsamość narodowa. Rozważania nad przyszłością Europy*, Warszawa 1993.
- Hurd I., *International organizations: Politics, Law, Practics*, Cambridge 2011.
- Jarosiewicz A., Fischer E., Bakunowicz T., *Eurazjatycka Unia Gospodarcza – więcej polityki, mniej gospodarki*, „Komentarze OSW”, no 157, 20.01.2015.
- Kubik A., *Konstytucja Federacji Rosyjskiej*, Warszawa 2000.
- Mik C., *Obywatelstwo europejskie w świetle prawa wspólnotowego i międzynarodowego*, „Toruński Rocznik Praw Człowieka i Pokoju” 1993, no 2.
- *Organization of American States*, Treaty Series, no. 36.
- Ramus W., *Pojęcie obywatelstwa (spór wokół istoty przynależności państwowej)*, „Państwo i Prawo” 1997, no. 6.
- Sokolewicz Z., *Obywatelstwo a narodowość. Uwagi w związku z ustanowieniem obywatelstwa Unii Europejskiej*, „Studia Europejskie” 1997, no 1.
- Text of the Convention Journal of Laws of the Republic of Poland from 1937, no. 47, item 361.
- Weiler J.H.H., *The Constitution of Europe “Do the new clothes have an emperor?” and other essays on european integration*, Cambridge 2002.
- Wyzomska A., *Jednostka w Unii Europejskiej*, [in:] Barcz J. (ed.), *Prawo Unii Europejskiej. Zagadnienia systemowe*, Warsaw 2002.
- Zdanowicz M., *Europejska Konwencja o Obywatelstwie*, [in:] Popławska E. (ed.), *Konstytucja dla rozszerzającej się Europy*, Warsaw 2000.
- *Договор о Евразийском экономическом союзе от 29 мая 2014 г., подписан в г. Астане, с изм. и доп., вступ. в силу с 12 февраля 2017 г.*, https://www.consultant.ru/document/cons_doc_LAW_163855, [06.10.2017].
- *Конституция (Основной закон) Союза Советских Социалистических Республик, принята навнеочередной седьмой сессии Верховного Совета СССР девятого созыва 7 октября 1977 г., с изменениями и дополнениями в редакции от 26 декабря 1990 г.*, Москва 1990.
- *Конституция Российской Федерации от 12 декабря 1993 г.*, <http://constitution.kremlin.ru/>, [06.06.2016].
- *Приложение № 16 к Договору о Евразийском экономическом союзе - Про-*

токол о торговле услугами, учреждении, деятельности и осуществлении инвестиций, [http://www.eaeunion.org/# info](http://www.eaeunion.org/#info), [15.10.2017].

- *Решение Высшего Евразийского экономического совета от 23.12.2014 № 16 П10 «Об утверждении перечня секторов (подсекторов) услуг, в которых функционирует единый рынок услуг в рамках Евразийского экономического союза»*, http://www.consultant.ru/document/cons_doc_LAW_129813/, [18.04.2016].
- *Федеральный закон от 13.10.1995 № 157-ФЗ «О государственном регулировании внешнеторговой деятельности»*, http://www.consultant.ru/document/cons_doc_LAW_8043/, [2.10.2017].