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REASONS FOR ACQUIRING AND EFFECTS OF LOSING VATICAN CITY STATE CITIZENSHIP

Abstract. Vatican City State citizenship is a unique legal solution on a global scale, and its granting and nature differ from similar institutions in other countries. The article discusses the solutions and legal conditions for acquiring Vatican citizenship, as well as its duration and the consequences of possibly losing it based on the Act of February 22, 2011, *N. CXXXI Legge sulla cittadinanza, la residenza e l'accesso*, promulgated by Pope Benedict XVI, and on the practices of international law. An analysis was made of cases of acquiring Papal State citizenship and losing it, with a focus on the Apostolic Nunciatures staff. A view on the theoretical possibility of the primary acquisition of Vatican City State citizenship was also presented.

Keywords: Vatican citizenship; Vatican City State; The Holy See; papal diplomacy.

INTRODUCTION

The Vatican City State is undoubtedly one of the more recognized entities of international law. Its origins are believed to lie in the existence of the Papal States, and its current functioning, despite its temporary disappearance due to occupation by Italy, is a continuation of the centuries-old tradition of an independent Papal state, as well as the continuous fulfilment of the Catholic Church's mission. This current status has been accepted by other entities of public international law. Recognition of the Vatican's existence has been expressed clearly and directly in international treaties and agreements, by establishing diplomatic relations, or implicitly, without clearly indicating recognition, as shown by the very conduct of a given entity (concluding an agreement with the Vatican) in an act proving recognition as a full-fledged subject

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of international law.¹ This behaviour of other states and international organizations is the result of the existence of an international legal status of *La Stato della Città del Vaticano*. It expresses the Vatican's possessing the attributes that determine its recognition as an international state-entity. This means that the Vatican State has fulfilled the conditions set out in the Montevideo Convention on the Rights and Duties of States of 1933. Article 1 of this act emphasizes that *the State as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with other states.*²

The Vatican is a sovereign territory retaining all the attributes of a state. Its territory is a small enclave surrounded by Italy, but none of the norms of international law require a state to meet any requirements regarding the size of its territory.³ Moreover, in relation to the Vatican's area, all definitions of a territory apply, and it extends in a similar way to the territory of other countries. The Vatican City State also has an independent and sovereign authority personified by the Holy Father. He is an absolute monarchy, a ruler chosen in an electoral conclave process, who also has the honour of assuming the prerogatives specified in Article 1 of the Fundamental Law of the Vatican City State of November 26, 2000, promulgated by Pope St. John Paul II (*Legge fondamentale dello Stato della Città del Vaticano*). It states that "the Supreme Pontiff is the sovereign of the Vatican City State and has full legislative, executive and *judicial* power."⁴ The power of the Pope extends within the borders of the Vatican City State, it is complete (full), total, sovereign (exclusive) and supreme.⁵ We must note that papal authority possesses a dual nature, as it includes managing the Holy See which, next to the Vatican City State, is a separate entity

¹ Jan Czaja, *Prawnomiędzynarodowy status Watykanu* (Warszawa: Państwowe Wydawnictwo Naukowe, 1982), 105.

² Jacek Barcik and Tomasz Srogosz, *Prawo międzynarodowe publiczne* (Warszawa: C.H. Beck, 2014), 144-145.

³ Piotr Łaski and Karolina Słotwińska, „Stolica Apostolska a Państwo-Miasto Watykan. Kilka uwag o wspólnej podmiotowości prawnomiędzynarodowej”, *Kościół i Prawo* 10(1) (2021): 62-63, accessed November 11, 2023. <https://doi.org/10.18290/kip21101-4>.

⁴ Ustawa Zasadnicza Państwa Miasto Watykan z dnia 26 listopada 2000 r., promulgowana przez papieża Jana Pawła II, Article 1, in: Franciszek Longchamps de Bérier and Marek Zubik, *Ustawa Zasadnicza Państwa Miasto Watykan oraz inne akty ustrojowe* (Warszawa: Wydawnictwo Sejmowe, 2008), 35. It should be mentioned that in the Motu Proprio of May 13, 2023, Pope Francis promulgated the new Fundamental Law of the Vatican City State, but article 1 of both these laws are similar in their contents. (*Legge Fondamentale dello stato della Città del Vaticano* (13 maggio 2023) https://www.vatican.va/content/francesco/it/motu_proprio/documents/20230513-legge-fond-sev.html).

⁵ Wojciech Góralczyk and Stefan Sawicki, *Prawo międzynarodowe publiczne w zarysie* (Warszawa: Wolters Kluwer Polska, 2020), 200-202.

of public international law.⁶ These two are linked by functioning in a specific relationship through constructed coexistence.

Essentially, the Vatican has no separate goals, it was created to provide a complementary service to the Holy See, ensuring that it effectively fulfils its goals. The superior position of the Holy See – a *sui generis* international entity – is realized through the Vatican.⁷ Another constitutive convention that the Vatican fulfils is maintaining relations provided for by international law, especially those relating to passive and active legation, with other entities of public international law. The diplomatic representatives of the Pope are Apostolic Nuncios, who began to perform their service already in the initial phase of the existence of the *Patrimonium Sancti Petri*.⁸ Currently, to a different extent, they are still fulfilling their entrusted tasks. These primarily focus on two levels: first, maintaining diplomatic relations with host countries (*ad extra*), and second, cooperation with particular Churches (*ad intra*).⁹

The last factor providing grounds for treating an international entity as a state is the legal category regarding the citizenship of a subject of international law. According to the latest data, the Vatican's population includes the Holy Father, Cardinals, citizens, and residents of the state (citizens and non-citizens).¹⁰ Some of the Vatican's citizens are also outside state borders, among others performing their assigned diplomatic tasks. The first regulations on the institution of Vatican City State citizenship were included in the Lateran Treaty (*Il Trattato fra la Santa Sede e l'Italia sottoscritto l'11 febbraio 1929 fu pubblicato negli Acta Apostolicae Sedis n. 6 del 7 giugno 1929*) itself, specifically in articles 9 and 10. The parties to the agreement designated Vatican jurisdiction over persons located within the territory of the Papal State.¹¹ Moreover, the Vatican, like any other state, being an independent and sovereign entity, has its legislation aimed at regulating this institution. These arguments are then sufficient to conclude that *La Stato della Città del Vaticano*

⁶ Stefan Marek Grochalski, „Instytucja obywatelstwa Państwa-Miasta Watykan”, in: *Kościół a polityka*, ed. Marcin Worbs (Opole: Redakcja Wydawnictw Wydziału Teologicznego Uniwersytetu Opolskiego, 2011), 62.

⁷ Góralczyk and Sawicki, *Prawo międzynarodowe publiczne w zarysie*, 160.

⁸ Józef Wroceński, „Pozycja legatów papieskich w prawie kanonicznym i międzynarodowym”, *Prawo Kanoniczne* 61(3) (2018): 33, accessed November 11, 2023. <https://doi.org/10.21697/pk.2018.61.3.02>.

⁹ Maciej Mróz, *Watykańska polityka wschodnia wczoraj i dzisiaj. Stolica Apostolska i dyplomacja watykańska wobec komunizmu i transformacji ustrojowej w Europie środkowej i wschodniej w latach 1958-2010* (Toruń: Wydawnictwo Adam Marszałek, 2011), 53.

¹⁰ „Popolazione”, accessed November 11, 2023. <https://www.vaticanstate.va/it/stato-governo/note-general/ popolazione.html>.

¹¹ Traktat między Stolicą Apostolską i Włochami z dnia 11.02.1929 r., Article 9, in: Tadeusz Włodarczyk, *Konkordaty. Zarys historii ze szczególnym uwzględnieniem XX wieku* (Warszawa: Państwowe Wydawnictwo Naukowe, 1974), 444.

fulfils the last attribute of statehood. Therefore, the Vatican, granting citizenship and fulfilling each of the other attributes of statehood, meaning having its own territory, government, and maintaining international relations, is undoubtedly a state, under whose authority some individuals can possess its unique citizenship status.

VATICAN CITY STATE CITIZENSHIP

Citizenship can be defined as *a special legal bond connecting an individual with the state, which gives rise to an obligation of fidelity and loyalty to the state and the state's personal authority (jurisdiction) over its own citizens, regardless of where they are located [...]*.¹² As to the Vatican State, citizens are natural persons who meet the statutory requirements for obtaining this status. These persons remain subject to Vatican legislation, which fully regulates their legal functioning within state borders. Legal acts are issued regarding them, and they are fully subject to them. Failure to comply with them may result in legal consequences laid down in the regulations. The latter also includes civic privileges, giving the citizens priority over other people who do not possess this status. It should be emphasized that Vatican citizenship is an institution regulated by internal legislation. Although its basis can be found in the international agreement between the Vatican and Italy, this act does not contain any guidelines regarding its regulation. As is the case with other countries, the Vatican also has legislative freedom, owing to which the state authorities regulate citizenship according to their beliefs and values. No external factor interfered in this legal process, which further emphasizes this entity's statehood.

The jurisprudence of public international law distinguishes various forms of acquiring citizenship and divides them into primary and secondary ways. The first of these includes birth, and the second includes, among others, granting (naturalization), marriage, full adoption (adoption), option, and repatriation.¹³ There are two primary methods of acquiring citizenship: *ius soli* (jus soli; the law of the soil) – the acquisition of citizenship of a given country is determined by the birth of a person in the territory of that state, and *ius sanguinis* (jus sanguinis; the law of the blood) – a situation where the citizenship of the newborn person's parents will be the determining factor, owing to which the newborn will acquire the same citizenship as their parent.¹⁴

¹² Góralczyk and Sawicki, *Prawo międzynarodowe publiczne w zarysie*, 280.

¹³ *Ibidem*, 281.

¹⁴ *Ibidem*, 281-282.

However, in the case of the Vatican, completely different methods apply, because the conditions for citizenship acquisition will be the occurrence of specific factual circumstances, one of which is the performance of a specific function in the Vatican City State or in the Holy See, called *ius functionis*, and the other results from *ius domicilii* – the right of permanent residence in the Vatican territory.¹⁵ These unique grounds for acquiring citizenship also determine the characteristics of the citizenship itself. It is not a structure resembling, for example, legal solutions present in other European states. It is characterized by certain specific features, one of which is its temporality. The analysis of the provisions in the Act of February 22, 2011, on citizenship, residence and the right of access promulgated by Pope Benedict XVI (*Legge sulla cittadinanza, la residenza e l'accesso N.CXXXI*) clearly indicates the transience of this status. Its commencement is related to, among others, the commencement of residence in the Vatican, being appointed to an office, performing duties in the Holy See and the Vatican, or being tasked with a specific function, while revoking citizenship may be related to the completion of a specific task or the inability to continue residing in the Vatican.

Of course, the above cases are only a list of some of the many yet not all exhaustive possibilities. Hence, obtaining Vatican citizenship is closely related to obtaining certain conditions, and a consequence of their ceasing results in loss of citizenship. The only exception to the rule of temporality is the lifelong citizenship of the Holy Father.¹⁶ Another feature of Vatican City State citizenship is its accessory character. It results from the fact that Vatican citizenship is granted in addition to the already applying citizenship of the country of one's origin, so it does not apply independently, but only in addition to the one already possessed.¹⁷ The discretionary character is yet another feature. It may happen that, despite the existence of legal and factual conditions that would make a person entitled to Vatican citizenship, the authority granting it may issue a negative decision or deprive someone of it without stating a reason. This is due to the papal authority structure contained in the 2011 act, since in it, the pope reserves the capacity to make an autonomous decision that, despite the candidate's failure to meet the formal requirements, may grant citizenship, and may also terminate the citizenship of its holder despite the still-existing grounds for its continuation. Also worth pointing out is that Vatican legislation does not provide for a catalogue of civil rights and obligations. This is different than

¹⁵ Grochalski, „Instytucja obywatelstwa”, 64.

¹⁶ Ibidem, 62-63.

¹⁷ Ibidem, 62.

in other countries since, among others, we will not find an entitlement in the form of electoral rights that elsewhere can essentially create the essence of citizenship.¹⁸

REASONS FOR ACQUIRING THE VATICAN CITIZENSHIP

The new Act of February 22, 2011, on citizenship, residence and the right of access promulgated by Pope Benedict XVI (*Legge sulla cittadinanza, la residenza e l'accesso N.CXXXI*) repealed the act of June 7, 1929 promulgated by Pope Pius XI (*Legge sulla cittadinanza ed il soggiorno. N. III.*) and all provisions contrary to it. The legal basis for acquiring Vatican citizenship can be found in its dispositions.

The first basis is the already-mentioned *ius functionis*, meaning fulfilling specific duties for the Holy See or the Vatican. Persons concerned are the cardinals who also have their residence in the state or Rome. Additionally, Vatican citizenship is granted to diplomats of the Holy See on this basis.¹⁹ The group of people in question also includes other clergy and lay people employed in the broadly understood state administration, state services (e.g., Swiss Guards) and others, such as medical personnel, gardeners, cooks, drivers, pharmacists, postal and museum workers. The *sine qua non* condition is the performance of a service for the Vatican or the Holy See.

In connection with the above-mentioned provision of the Act of 2011, the issue of service in papal diplomacy requires consideration, because, in addition to specially-trained clerical staff of diplomatic rank, Apostolic Nunciatures also employ people providing technical support for these diplomatic missions. The Vienna Convention on Diplomatic Relations of April 18, 1961, distinguishes members of the mission staff including members of the diplomatic, administrative and technical and service staff of the mission.²⁰ Observing the diplomatic practices of various countries, it can be noticed that, within their embassies, the citizenship of the sending country is held not only by diplomatic representatives, but also by lower-level employees. This is also emphasised by Article 8 paragraph 1 of the Vienna Convention on Diplomatic Relations: *members of the diplomatic staff of the mission should in principle be of the nationality of the sending State.*²¹ Of course, under another

¹⁸ Alessio Sarais, *La cittadinanza vaticana* (Città del Vaticano: Libreria Editrice Vaticana, 2012), 173-209.

¹⁹ Legge sulla cittadinanza, la residenza e l'accesso nello Stato della Città del Vaticano Benedetto PP. XVI promulgatus 22.02.2011, n. CXXXI, *Acta Apostolicae Sedis* Suppl. 82 (2011), Article 1 paragraph 1, letters a-b.

²⁰ Vienna Convention on Diplomatic Relations 18.04.1961, Article 1, letter c; Polish text: Konwencja Wiedeńska z dnia 18.04.1961 r. o stosunkach dyplomatycznych, Dz.U.1965.37.232, art. 1 lit. c.

²¹ *Ibidem*, Article 8.

provision of the cited Article 8, namely paragraph 2, which states that *members of the diplomatic staff of the mission may not be appointed from among persons having the nationality of the receiving State, except with the consent of that State which may be withdrawn at any time*, it can be concluded that not only citizens of the sending state are employed in a diplomatic mission. However, concerning the Vatican, the situation of granting citizenship to a member of the administrative and technical staff does not arise, since Vatican citizenship in the diplomatic services of the Holy See can only be held by persons who are members of the mission and have a diplomatic rank – the Apostolic Nuncio, the Counselor of the Nunciature (*Consigliere*), the Secretary of the Nunciature (*Segretario*) or its Attaché (*Addetto*). This thesis led to research conducted by the author at the turn of September and October 2022 consisting of a survey aimed to obtain specific data regarding papal missions abroad concerning the employment of staff of Apostolic Nunciatures about their status as citizens or non-citizens of the Vatican City State. The responses indicated that only higher-ranking diplomatic personnel are granted Vatican citizenship.

Another basis for obtaining Vatican citizenship is *ius domicili*, meaning the right of permanent residence in the territory of the Papal State. This applies to the cardinals who reside in the Vatican or Rome, people whose residence in the Vatican City State is required due to their office and position, and to the families of citizens who must also have appropriate authorisation for residence. Obtaining the right of residence is regulated by Article 2 of the *Legge sulla cittadinanza, la residenza e l'accesso N.CXXXI*. It is granted based on holding a specific office or being employed by a body of the Vatican, the Holy See or a related institution and having family ties with a citizen.²² The right of residence is granted by a statutory authority indicated in the discussed provision. As to the granting of Vatican citizenship to family members of Vatican citizens, they are required to meet two conditions: obtaining the above-mentioned residence permit and establishing that family ties exist, making it possible to apply for a permit. Both of these conditions must be met concurrently if one wants to obtain citizenship due to family ties. This possibility is available for spouses and children of Vatican citizens. However, in the *Legge sulla cittadinanza ed il soggiorno N. III.*, there used to exist a much broader catalogue of relatives who could apply for Vatican City State citizenship, because it also listed the descendants and siblings of citizens. At the same time, they had to fulfil other conditions, such as living in a common household, inability to support themselves, not being married, and age restrictions.²³

²² Legge 22.02.2011, Article 2.

²³ Ustawa o obywatelstwie i pobycie z dnia 7 czerwca 1929 r. promulgowana przez papieża Piusa XI, in: Longchamps de Bériet and Zubik, *Ustawa Zasadnicza Państwa Miasto Watykan*, 54-55.

Additionally, citizenship may be acquired through recognition expressed by the Holy Father in the residence permit issued. In such a case, none of the legal and factual bases specified in the act will apply, and the decision to grant citizenship will directly result from the Pope's authority. This prerogative is provided by Article 1, paragraph 2, letter b of the 2011 Act, because, despite the lack of a position or office, the presence of a specific person in the country makes it necessary for them to obtain citizenship status through the application for residence procedure.

Also worth emphasising is the division of acquiring citizenship into two distinct formal processes. The first requires the action of the authorised candidate, as it is request-based. The person in question must meet the conditions specified by law, including its formal and factual requirements, but these alone only allow them to apply for citizenship yet do not result in its acquisition *ipso iure*.²⁴ People residing in the Vatican due to their office (after obtaining authorisation) and people who have the right to reside without performing duties, as well as spouses and children of citizens with residence permits, must submit an appropriate application, and after its consideration by the Holy Father or the Cardinal President of the Governorate, they will receive a decision.²⁵ The second possibility is the acquisition by operation of law, which applies to cardinals residing in the Vatican and Rome, to diplomats of the Holy See, and to people whose stay within the borders of the country is necessary due to the duties they perform.²⁶

Given the above considerations, it can be concluded that the inhabitants of the Vatican are divided into citizens and non-citizens, and Vatican citizens are divided into two dichotomous subgroups – citizens residing and citizens not residing in the Vatican City State. The *Legge N. CXXXI* emphasizes the institution of residency, thereby reducing the group of persons entitled to citizenship compared to the *Legge N. III*. This is the result of increasing changes and intensified movement of the population as well as the possible confluence of citizenships, which may result in an unfavourable situation for individuals. Hence, the power of the right to residence was increased at the expense of reducing the number of citizenships granted. Such a procedure should be assessed positively, as it provides greater mobility for an individual and increases the flexibility of functioning and adapting to the staffing needs of the Holy See's institutions.

²⁴ Grochalski, „Instytucja obywatelstwa”, 62-63.

²⁵ Legge 22.02.2011, Article 1, paragraph 2, letters a-c.

²⁶ Ibidem, Article 1, paragraph 1, letters a-c.

LOSS OF VATICAN CITIZENSHIP

It should be noted that in the current era of globalisation and movement of people, as well as taking into consideration the effects of freedom of employment, a frequently arising problem in connection with the convergence of national laws regarding citizenship *per se* is the possibility of multiple citizenship, and so is an individual's stateless status. Under international law, states adopt different concepts of dealing with multiple citizenship. The first of them is that, upon acquiring the citizenship of another country, a person must renounce the citizenship of the country of their origin. Therefore, as a consequence, one loses their original citizenship, and if one wants to return to it, they must follow an appropriate path to regain it, which also involves renouncing the citizenship previously held. Unfortunately, an individual will have to go through the return process adopted in the legislation of a given country, which is not always easy and is full of various conditions that have to be met. In short, such states do not honour more than one citizenship.

The second situation arises when, upon acquiring a new citizenship, there is no legal obligation to renounce or get rid of the previous one. A person with at least two citizenships may thus hold both of them, but the state, and specifically its administration, will only respect its citizenship, while any other(s) will be then omitted for legal purposes, or even considered suspended (as the one in question will be treated as the so-called "active citizenship"). Withholding the original citizenship would mean that one's citizenship of their country of origin will be temporarily inapplicable in favour of the one obtained later.²⁷ In the case of the Vatican, there are two dominant solutions to the combination of citizenships. This distinction is made by J. Czaja, and one can find examples of both. The first option is that the citizenship of a person who starts serving the Vatican City State ceases when this person is called to serve, but when their work is finished, the person in question regains the citizenship of their country of origin based on secondary methods of acquisition that a specific state provides for in its legal system. There is also a second option where the citizenships of the country of origin and the Vatican coexist and overlap, and neither of them is lost, but from the moment of acquiring Vatican citizenship (e.g., beginning with service) to its cessation, Vatican citizenship becomes the dominant position, prevailing over the original citizenship and becoming the "active" citizenship. In the latter case, the subsequent loss of Vatican citizenship results in a return to the citizenship of the country

²⁷ Mieczysław Zdanowicz, *Wielokrotne obywatelstwo w prawie międzynarodowym i krajowym* (Warszawa: Dom Wydawniczy ABC, 2001), 165-170.

of origin, and such a person does not have to go through the recovery process.²⁸ In the situation when starting service for the Vatican or the Holy See involves losing the citizenship of the one's country of origin, when service ends, the person in question will not become an apatriate despite the eventual impossibility of returning to the original citizenship, since they are protected against statelessness by Article 9, paragraph 2 of the Lateran Treaty, which states that "If persons [...] cease to be subject to the sovereign power of the Holy See, they shall be treated entirely – following the provisions of Italian law, if, regardless of the factual circumstances [...] they have no other nationality – as Italian citizens."²⁹ Therefore, any possibility of statelessness in such cases should be completely excluded.

Article 3 of the Act of February 22, 2011, on citizenship, residence and right of access, establishes the grounds for loss of Vatican citizenship. This will occur in the event of the loss of the statutory basis for its acquisition. For example, a cardinal living in the Vatican or Rome and any Vatican citizen who voluntarily resigns from residing within the boundaries of the Vatican City State shall be deprived of their citizenship when their residence ends and when their residence permit expires.³⁰ Another basis is the cessation of performing functions for the Vatican or the Holy See by anyone who previously acquired citizenship on these grounds, and in the case of diplomats of the Holy See upon the end of their diplomatic service.³¹ An additional reason for the loss of the Vatican citizenship is the lack of citizenship status, which in turn was the basis for granting this status to one's spouse or child. Once a Vatican citizen loses their citizenship, their family members will also lose it.³² In the case of children of Vatican citizens who obtained citizenship due to the above-mentioned circumstances, the loss of this citizenship will occur by law on the day they reach the age of eighteen.³³

In principle, there are several bases for the loss of Vatican citizenship. The first is the failure to continue to be covered by the *ius functionis*, next is the lack of the *ius domicilii*, another reason is the loss of citizenship of the person who allowed their close relatives to obtain it, and the last cause is the *age caesura*, when a child of a citizen reaches the age of eighteen. However, Vatican citizenship is not lost due to a temporary stay outside the Vatican without giving up one's residence there.³⁴

²⁸ Czaja, *Prawnomiędzynarodowy status*, 150.

²⁹ Treaty of 11.02.1929, Article 9 paragraph 2, 444.

³⁰ Legge 22.02.2011, Article 3, paragraph 1, letters and d.

³¹ Ibidem, Article 3 paragraph 1, letters b-c.

³² Ibidem, Article 3 paragraph 1, letter e.

³³ Ibidem, Article 3 paragraph 2.

³⁴ Ibidem, Article 3, paragraph 3.

IS THE PRIMARY ACQUISITION OF VATICAN CITIZENSHIP POSSIBLE?

It should also be mentioned that, because public international law mentions various types of citizenship acquisition, namely primary and secondary, and the construction of Vatican citizenship is distinguished by its specific form, then from the point of view of the above-mentioned possibilities of acquiring citizenship, one can point to it as a case different from the generally-accepted principle. It seems that Vatican citizenship, due to the reasons for obtaining it, meaning the *ius functionis* (also known as *ius officii*) and the *ius domicilii*, can only be acquired through a secondary method of obtaining citizenship.³⁵ This is because, as already emphasized, no one is born a citizen of the Vatican, and the grounds for acquiring them result from the function performed or can also be due to fulfilling certain statutory requirements (falling within the scope of secondary, not primary acquisition as determined by *ius soli* and *ius sanguinis*).

Additionally, when a person who previously held another citizenship becomes a citizen of the Vatican, the jurisprudence calls this fact accessory to Vatican citizenship.³⁶ When analysing this last statement, it can be *prima facie* accepted due to the lack of spontaneous existence of Vatican citizenship, as it occurs alongside or instead of citizenship of the country of origin, and not as citizenship of the country of origin, i.e., primary citizenship. Hence, an original acquisition of Vatican City State citizenship is practically impossible, as this can only occur as a consequence of serving at the Vatican or the Holy See. However, apart from the above, it would be possible to discern an exceptional factual basis that would make the primary acquisition of Vatican citizenship possible – though clearly as an isolated incident. Namely, a case could arise where a child was to be born on the Vatican territory to Vatican citizens (for example, an employee of the unit dealing with internal security and his spouse who come from a country or countries where the acquisition of citizenship is only based on the law of the soil – lacking the rule of subsidiarity of citizenship, or the applicable law of the blood as the necessary preconditions), and these parents live in the Vatican. In such a case, the son or daughter of these Vatican citizens would not obtain the citizenship of any of their parents' countries of origin because they would not meet the *ius soli* condition. According to Article 1 of the Act on Citizenship, Residence and Access of February 22, 2011, Vatican citizenship is granted to persons performing services,

³⁵ Marcin Łukaszewski, „Obywatelstwo watykańskie a zasada *ius sanguinis* i *ius soli*”, *Środkowo-europejskie Studia Polityczne* 1, (2010):184-185, accessed November 12, 2023, <https://doi.org/10.14746/ssp.2010.1.10>.

³⁶ Grochalski, „Instytucja obywatelstwa”, 62.

which is undoubtedly the case of an employee of internal security services, as well as to their family – in this case his wife and child.³⁷ Therefore, a child of Vatican citizens would in such a case acquire Papal State citizenship without having any other citizenship. One would then be dealing with the primary acquisition of Vatican citizenship, which would contradict previous claims about the purely secondary nature of Vatican City State citizenship. Therefore, this underlying thesis should not be treated as absolute, since it is demonstrably possible to acquire this citizenship as a primary one under the circumstances described.

Despite *the prima facie* validity of the above statement, it should be assumed that there is one more relevant factor stemming from the reservation of Article 9, paragraph 2 of the Lateran Treaty. This provision foresees a situation when a person will no longer be subject to the authority of the Holy See. A newborn child, by the very fact of being born in the territory of the Vatican, would be subject to the jurisdiction of that country. Assuming that the child's parents have Vatican citizenship and that this child cannot acquire the citizenship of their country or countries of origin due to the *ius soli* principle applying, this natural person's subjection to the law and authority of the state is moved to the Vatican. Therefore, any assumption that the situation presented in the above example is not possible would be contrary to the grounds for cessation of being a subject of a state, which would in turn determine a subsequent affiliation to the Italian state. From this, it can be concluded that the conditions for acquiring Vatican citizenship would need to be the first to occur, and a failure to grant it would result in the acquisition of Italian citizenship, and not the other way round. This means that the son or daughter of Vatican citizens whose citizenship of the country of origin could only be acquired based on the *ius soli* principle, residing in the territory of the Vatican, first obtains Italian citizenship due to the provisions of Article 9 paragraph 2 of the Lateran Treaty, and then is granted Vatican citizenship due to the child's parent having the same citizenship. Therefore, it can be legitimately claimed that there could exist a primary acquisition of the status of a citizen of the Vatican City State.

CONCLUSIONS

As already mentioned, Vatican citizenship is an exceptional institution on a global scale. The basis for its acquisition differs significantly from those in other countries. Yet, this 'otherness' does not result in any deficiency or disability for

³⁷ Legge 22.02.2011, Article 1.

Vatican citizenship, or the possibility of relegating it to an incomplete or “quasi-citizenship” status. States themselves, under their laws, decide about the nature of their citizenship, its acquisition and loss, and the basis for these. The way they apply in the Vatican City State undoubtedly results from the nature of this state and the mission it performs. The Papal State regulates its citizenship in a manner suiting its interests, while not forgetting about the individuals concerned. First, the right of residence is emphasised, and only then can citizenship be considered. The Vatican also protects these concerned against possible negative consequences of losing their citizenship, so as not to leave them without nationality. Therefore, the uniqueness of Vatican citizenship itself proves the significant position of the Vatican and the Holy See in the international arena which, owing to, among others, its citizens can be perpetuated.

BIBLIOGRAPHY

- Barcik, Jacek, and Tomasz Srogosz. *Prawo międzynarodowe publiczne*. Warszawa: C.H. Beck, 2014.
- Czaja, Jan. *Prawnomiędzynarodowy status Watykanu*. Warszawa: Państwowe Wydawnictwo Naukowe, 1982.
- Góralczyk, Wojciech and Stefan Sawicki. *Prawo międzynarodowe publiczne w zarysie*. Warszawa: Wolters Kluwer Polska, 2020.
- Grochalski, Stefan Marek. „Instytucja obywatelstwa Państwa-Miasta Watykan”. In: *Kościół a polityka*, ed. Marcin Worbs, 57-70. Opole: Redakcja Wydawnictw Wydziału Teologicznego Uniwersytetu Opolskiego, 2011.
- Łaski, Piotr, and Karolina Słotwińska. „Stolica Apostolska a Państwo-Miasto Watykan. Kilka uwag o wspólnej podmiotowości prawnomiędzynarodowej”. *Kościół i Prawo* 10(1) (2021): 57-68. Accessed November 11, 2023. <https://doi.org/10.18290/kip21101-4>.
- Łukaszewski, Marcin. „Obywatelstwo watykańskie a zasada ius sanguinis i ius soli”. *Środkowoeuropejskie Studia Polityczne* 1 (2010): 179-190. Accessed November 12, 2023. <https://doi.org/10.14746/ssp.2010.1.10>.
- Mróz, Maciej. *Watykańska polityka wschodnia wczoraj i dzisiaj. Stolica Apostolska dyplomacja watykańska wobec komunizmu i transformacji ustrojowej w Europie środkowej i wschodniej w latach 1958-2010*. Toruń: Wydawnictwo Adam Marszałek, 2011.
- Sarais, Alessio. *La cittadinanza vaticana*. Città del Vaticano: Libreria Editrice Vaticana, 2012.
- Wroceński, Józef. „Pozycja legatów papieskich w prawie kanonicznym i międzynarodowym”. *Prawo Kanoniczne* 61(3) (2018): 29-71. Accessed November 11, 2023. <https://doi.org/10.21697/pk.2018.61.3.02>.
- Zdanowicz, Mieczysław. *Wielokrotne obywatelstwo w prawie międzynarodowym i krajowym*. Warszawa: Dom Wydawniczy ABC, 2001.
- Traktat między Stolicą Apostolską i Włochami z dnia 11 lutego 1929 r. In: Tadeusz Włodarczyk. *Konkordaty. Zarys historii ze szczególnym uwzględnieniem XX wieku*, 441-452. Warszawa: Państwowe Wydawnictwo Naukowe, 1974.

Ustawa o obywatelstwie i pobycie z dnia 7 czerwca 1929 r. promulgowana przez papieża Piusa XI. In: Franciszek Longchamps de Bériér and Marek Zubik. *Ustawa Zasadnicza Państwa Miasto Watykan oraz inne akty ustrojowe*, 54-57. Warszawa: Wydawnictwo Sejmowe, 2008.

Vienna Convention on Diplomatic Relations, 18.04.1961; tekst polski: Konwencja Wiedeńska z dnia 18.04.1961 r. o stosunkach dyplomatycznych, Dz.U.1965.37.232.

Ustawa Zasadnicza Państwa Miasto Watykan z dnia 26 listopada 2000 r. promulgowana przez papieża Jana Pawła II. In: Franciszek Longchamps de Bériér, and Marek Zubik. *Ustawa Zasadnicza Państwa Miasto Watykan oraz inne akty ustrojowe*, 35-40. Warszawa: Wydawnictwo Sejmowe, 2008.

Legge sulla cittadinanza, la residenza e l'accesso nello Stato della Città del Vaticano Benedetto PP. XVI promulgatus 22.02.2011. *Acta Apostolicae Sedis* Supplemento 82, 2011.

PRZYCZYNY NABYCIA ORAZ SKUTKI UTRATY OBYWATELSTWA PAŃSTWA-MIASTA WATYKAN

Streszczenie

Obywatelstwo Państwa-Miasta Watykan jest unikatowym rozwiązaniem prawnym w skali globalnej, a jego przyznawanie i charakter różni się od tożsamyh instytucji innych państw. Artykuł stanowi omówienie rozwiązań oraz prawnych uwarunkowań nabycia obywatelstwa watykańskiego, a także jego czasu obowiązywania i następstw ewentualnej utraty na podstawie ustawy z 22 lutego 2011 r. N. CXXXI Legge sulla cittadinanza, la residenza e l'accesso, promulgowaną przez papieża Benedykta XVI, oraz praktykę prawnomiędzynarodową. Dokonano analizy przypadków nabycia obywatelstwa państwa papieża oraz jego utraty, w tym skupiając się na personelu nuncjatur apostolskich. Zaprezentowano również pogląd o możliwości teoretycznego wystąpienia pierwotnego nabycia obywatelstwa Państwa-Miasta Watykan.

Słowa kluczowe: Obywatelstwo watykańskie; Państwo-Miasto Watykan; Stolica Apostolska; dyplomacja papieska.