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The Pretences of Loss of Hungarian Citizenship in the 19th Century

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The codification of Hungarian citizenship law was helped by the appearance of the idea of sovereignty and of the principle of equality before the law in 1848. The development of a bourgeois state organisation striving to rid itself from the vestiges of feudalism made the reform of citizenship law, as one of the elements of state sovereignty, unavoidable. 1

The first citizenship law defined the following cases whereby Hungarian citizenship could be acquired: *descent*, *legitimization*, *naturalization* and *marriage*. This list of the law is not exemplificative, but taxative; in other words, there were no other ways of obtaining citizenship. According to Hungarian citizenship law, entering state service did not automatically result in obtaining citizenship. 2

The ministerial justification of the law specifically mentions the German regulations of 1870, with which the bill of 1879 was drafted in harmony. The German citizenship law defined the legal titles of acquiring and losing citizenship in a way that was identical with the Hungarian law 3

Act 50 of 1879 lists five cases whereby Hungarian citizenship could be lost. These are the following: *dismissal*, *authority's decisions*, *absence*, *legitimization* and *marriage*.¹ This 4

1 Ladik, Gusztáv: *Közigazgatásunk fejlődése 1867 óta* [The development of Hungarian public administration since 1867]. Budapest, 1933. 11-12., Kisteleki, Károly: *Magyar állampolgárság a XX. században* [Hungarian citizenship in the 20th century]. *Állam- és Jogtudomány*, 2000. 57-58.

list of the law is also taxative. Hungarian citizenship could not be lost by way of resignation or the acquisition of foreign citizenship. A Hungarian citizen would keep his or her citizenship until losing it for any of the above-mentioned reasons, even if he or she became the citizen of another country in the meantime.

In 1884, the Hungarian Minister of the Interior sent an official communication to his Austrian counterpart on the issue of adoption under status law. According to Act 50 of 1879, citizenship could not be either acquired or lost by way of adoption.² In a case involving the adoption of a child of Hungarian citizenship, the Minister of the Interior declared that this was not included among the reasons whereby citizenship would be lost. Therefore, he rejected the possibility that the Hungarian child assume his adoptive parents' Austrian citizenship by way of the act of adoption³, which shows that the officials participating in the procedure strictly adhered to the ways of losing citizenship listed in the law.⁴ 5

1. Dismissal

The first case of the loss of citizenship was dismissal.⁵ This was also the most problematic way of losing one's citizenship. The law provided an opportunity to Hungarian citizens to renounce their citizenship and to break ties with the bonds of the Hungarian state. For 6

2 Vidovich, Ernő: *Tudnivalók állampolgársági és illetőségi ügyekben* [Information on issues of citizenship and residence in a township]. Székesfehérvár, 1938. 4.

3 Ministry of the Interior official communication no. 47.159 1884. Berényi, Sándor – Tarján, Nándor: *A magyar állampolgárság megszerzése és elvesztése (honosság, letelepülés, kivándorlás, útlevéllügy). Az 1879. évi L. törvény-cikk és az ezzel kapcsolatos törvények s rendeletek gyűjteménye és magyarázata* [The acquisition and loss of Hungarian citizenship (national status, settling, emigration, passport regulations). A collection and explanation of Act 50 of 1879, as well as related laws and regulations. Budapest, 1905. 4-5., Pongrácz, Jenő: *Magyar állampolgárság és községi illetőség. Törvények, rendeletek, elvi határozatok, díjak és illetékek, magyarázat, iratminták* [Hungarian citizenship and township residence. Laws, decrees, principle decisions, fees and dues, explanation, sample documents]. Budapest, 1938. 18-19. This was not listed among the possible reasons for losing citizenship. Beleznai, József: *A magyar állampolgárságról* [On Hungarian citizenship]. Debrecen, 1941. 46.

4 Berényi, S. - Tarján, N.: *ibid.* 6. Yet another example given by the authors is that conversion to the Islamic faith would not allow the loss of Hungarian citizenship either.

5 Sections 21 to 30 of Act 50 of 1879 discuss the loss of Hungarian citizenship by way of an authority's decision together with dismissal, even though these two modes were completely different. Vajda, János: *Ki marad magyar állampolgár? Ki veszíti el magyar állampolgárságát? Az új magyar állampolgársági törvény ismertetése* [Who will remain a Hungarian citizen? Who will lose his Hungarian citizenship? A description of the new Hungarian citizenship law]. Budapest, 1939. 6-9., Bródy, Ernő: *Ki a magyar állampolgár?* [Who is a Hungarian citizen?]. Budapest, 1938. 24., Némethy, Imre: *Állampolgárság és községi illetőség a magyar jogban* [Citizenship and township residence in Hungarian law]. Budapest, 1938. 7-8., Peregriny, Géza - Jacobi, Roland: *Magyar állampolgárság, községi illetőség és idegenrendészet* [Hungarian citizenship, township residence and foreign registration]. Budapest, 1938. 27-29.

dismissal to be valid, the will of the individual and of the state had to meet, whereby it was not sufficient for a citizen to unilaterally give up citizenship, as such statements had no legal effect; therefore, the consent of the state was also necessary for the validity of dismissal.⁶

The precondition of dismissal was that the applicant had to have fulfilled all obligations toward the Hungarian state and not renounce citizenship with the intention of getting exempted from under these obligations.⁷ It follows from the above that the procedure was always initiated at personal application, and only Hungarian citizens could be dismissed.⁸

Before dismissal, the applicant had to have settled all obligations toward the state, of which military service was the most important. It was not impossible for persons in military service to receive an approval to their applications. Persons in regular, reserve and supplementary reserve service⁹ could only be dismissed with the permission of the Minister of War. Persons of at least 17 years of age who were not under such obligations but have not yet been finally exempted from military service had to be dismissed only if the competent municipality certified that the objective of such persons in their application was not gaining defense obligations.¹⁰

Those domestic citizens who left their service obligations before fulfilling a specific period of time were given a letter of discharge, and could request the termination of their citizenship without the need for any further permission. Persons who left the territory of the Austro-Hungarian Monarchy for the purpose of evading military service, or stayed outside of the borders during the time of recruitment committed were prosecuted. Pursuant to Section 45 of Act 6 of 1889, perpetrators could be punished by up to one year of imprisonment and a fine of one thousand Forints.

The discharge necessary for emigration before the fulfillment of service obligations was issued by the common Minister of War in case of the joint army and the navy, and by the

6 Ferenczy, Ferenc: *Magyar állampolgársági jog* [Hungarian citizenship law]. Gyoma, 1930. 74-75.

7 Pongrácz, Jenő: *ibid.* 19.

8 Ferenczy, Ferenc: *ibid.* 76., Tar József: *Állampolgárság* [Citizenship]. Debrecen, 1941. 20-21. Therefore, it had to be examined at the time applications were submitted whether the applicant was of Hungarian rights and why the termination of citizenship was necessary. The person to be dismissed had to submit proof of his Hungarian citizenship.

9 The service obligations of these persons were regulated in Act 6 of 1889, in case of army servicemen in Act 5 of 1890, and the obligation for insurrection in Act 21 of 1886

10 According to the conscription law, military obligations started on the 21st birthday of the person involved and came to an end on December 31 of the year when he turned 23. Berényi, S. – Tarján, N.: *ibid.* 78-79., Pongrácz, Jenő: *ibid.* 20.

Hungarian Minister of War in case of the Hungarian army. In case of regular conscripted servicemen, permission was only granted if the applicant's parents also emigrated together with him. Dismissal was to be regarded as valid if the person involved moved abroad during the one-year period with the intention of settling down there. If the settling down did not take place within the pre-determined time period, then the person was required to serve the remaining time of his military service.

No person in military service could be given a discharge in the time of war or mobilization. Because of the special public law status existing between Hungary and Austria, an exemption was made on the basis of reciprocity for those to whom the prospects of Austrian citizenship were held out. Such persons were discharged from the ties of the state if they otherwise met the general conditions.¹¹ 11

According to Gejza Ferdinándy, Section 25 of Act 5 of 1890 on the Hungarian Army was drafted improperly, whereby “servicemen who are granted citizenship in another state of the Monarchy shall be transferred to a military unit on the basis of his new place of residence with the maintenance of such person's service obligation. [This is erroneous, since] such a person's military obligations are terminated together with his citizenship, and his military service according to the laws of his new country do not constitute a continuation of his interrupted military service in his former country, but is an obligation deriving out of his new citizenship, and therefore, his old service obligation cannot be maintained.”¹² In his opinion, the correct text of the law should have read: “servicemen who are dismissed from the ties of the Hungarian state and who are granted citizenship in another state of the Monarchy shall, for the purpose of performing the military obligations according to their new country, be transferred, on the condition of reciprocity, to an appropriate unit of the imperial and royal Austrian Army at the request of the relevant imperial and royal Austrian military authority.”¹³ 12

In an official communication, the Hungarian Minister of War informed the Hungarian Minister of the Interior¹⁴ that there should be no obstacles to the dismissal of those who did not have Hungarian citizenship at the time of the drafting of people of his age and only obtained citizenship subsequently.¹⁵ 13

11 Berényi, S. - Tarján, N.: *ibid.* 71-73.

12 Ferdinándy, Gejza: *Magyarország közzjoga (Alkotmányjog)* [Public law of Hungary (Constitutional law)]. Budapest, 1902. 247.

13 Ferdinándy, Gejza: *Ibid.* 247., Pongrácz, Jenő: *ibid.* 26.

14 Ministry of War official communication no. 4946. In: Berényi, S. - Tarján, N.: *ibid.* 73.

15 *Ibid.* 73.

Hungarian citizens had to provide proof of three conditions: that they have the capacity to act, or in case of minors, the consent of his father or guardian was obtained to the dismissal; that they have no unpaid public debt; that they are not under criminal procedure or under the execution of a court judgment.¹⁶ 14

According to the justification of the Minister, the latter two was important because Hungarian taxes could not be collected or the judgments of Hungarian courts enforced abroad.¹⁷ 15

Such termination of citizenship was also extended to the wife and children of a dismissed husband.¹⁸ In case the wife and the children did not move out of the country, the law ensured that they were not stateless. The law separated their legal status from that of the head of the family, and provided that they are only dismissed if they leave the territory of the country together with the husband or father.¹⁹ 16

It was presumed, therefore, that the will of the head of the family coincides with the intentions of all other members of the family, who could, however, show the opposite by way of a passive behavior. Legal protection was not possible if the family had moved abroad previously. 17

Married women also had the opportunity to request dismissal on their own right. In such cases, the legal effects were very different in terms of other members of the family, since the dismissal only applied to the applicant herself. For the dismissal of her children, the consent of the father was also necessary.²⁰ 18

Discontinuation of cohabitation was not an obstacle to the granting of dismissal. The legal 19

16 Ferenczy, Ferenc: *ibid.* 77., Pongrácz, Jenő: *ibid.* 27-28., Tar, József: *ibid.* 21., Stein, Artur: *Népszerű tájékoztató állampolgársági ügyekben* [Popular information in citizenship cases]. Budapest, 1947. 14., Peregriny, G. - Jacobi, R.: *ibid.* 28.

17 *Ibid.* 77.

18 Vajda, János: *ibid.* 9. p., Bródy, Aladár - Bán, Kálmán: *Állampolgárság és illetőség. A Magyarországon érvényben lévő jogszabályok ismertetése, különös tekintettel a belügyminiszteri és a közigazgatási bíróság legújabb gyakorlatára. Kérvényminták, díjak és illetékek betűsoros tárgymutatója* [Citizenship and residence. The description of the laws and regulations in effect in Hungary, with special attention to the recent practice of the Minister of the Interior and of the Administrative Courts. Samples of applications, fees and stamp duties in an alphabetical listing.]. Budapest, 1938. 19.

19 Ministry of the Interior official communication no. 3810 of 19930. In: Berényi, S. - Tarján, N.: *ibid.* 79., Pongrácz, Jenő: *ibid.* 28.

20 Czebe Jenő: *A magyar községi illetőségi jog és a magyar állampolgársági jog szabályai. (Tekintettel a kifejlődött joggyakorlatra s kiegészítve az elszakított területeken érvényben lévő állampolgársági rendelkezésekkel)* [Hungarian laws and regulations on township residence and Hungarian citizenship law (With a view to the legal practice emerged, and supplemented with an overview of the citizenship regulations in effect on the annexed territories)]. Budapest, 1938. 370., Ferenczy, Ferenc: *ibid.* 78.

capacity of a woman was not affected by whether or not she lived together with her husband. In an official communication, the Minister of Justice declared that spouses could have different citizenship as well.²¹

A divorced or widowed woman could freely decide on her own person, but she needed the consent of the public guardianship authority in case of a child below the legal age. It was also necessary that children over the age of 12 explicitly request the termination of their citizenship. In exceptional cases there was also an opportunity for the termination of a child's citizenship in such a way that his or her mother and father was not dismissed. In such cases the consent of the father (or if he was not alive, then the consent of the mother) was necessary, which also had to be endorsed by the public guardianship authority. In case of orphans, the guardianship authority made the decision on its own. The dismissal of a mentally ill person could only be requested by the guardian appointed by the competent court.²²

The dismissal of a married woman could be refused if her husband had arrears of tax payment.²³ It is apparent from the decision of the Minister of the Interior²⁴ that tax registrations were interpreted in a rather broad meaning of the word. For this reason, debts to the parish or other local religious community were also regarded as obstacles to dismissal until paid by the applicant. The Minister of the Interior called upon the competent sub-prefect to take measures in the interest of the payment of the arrears. If payment was effected, then the opportunity for re-submitting the case to the Minister of the Interior was given.²⁵ According to the Minister, however, not all kinds of public debts were to be regarded as tax arrears. A debt in the expenses of caring for foundlings was not regarded as an obstacle to dismissal, since it was of private law nature. Similarly, arrears on the payment of fair and market district fees were not an obstacle, since these could not be considered as township or municipal taxes.²⁶

If the above requirements were fulfilled, a person could be dismissed from the ties of the Hungarian state. The deed of dismissal was always to be delivered to the applicant himself

21 Ministry of the Justice official communication no. 11.531 of 1889. In: Berényi, S. - Tarján, N.: *ibid.* 76.

22 Ferenczy, Ferenc: *ibid.* 79., Peregriny, G. - Jacobi, R.: *ibid.* 180-182.

23 According to Act 44 of 1883 (on public taxes), Section 95, joint and several liability existed with regard to commercial taxes levied on the head of the family.

24 Ministry of the Interior regulation no. 2320 of 1889. In: Berényi, S. - Tarján, N.: *ibid.* 77.

25 *Ibid.* 77., Czebe, Jenő: *ibid.* 1938. 369., Peregriny, G. - Jacobi, R.: *ibid.* 179.

26 Ministry of the Finance official communication no. 8387/91. In: Berényi, S. - Tarján, N.: *ibid.* 77-78., Czebe, Jenő: *ibid.* 1938. 371., Peregriny, G. - Jacobi, R.: *ibid.* 179-180.

or herself. The significance of this laid in the fact that the applicant lost his or her citizenship upon receipt of this letter. It could happen, however, that the applicant either refused to take over the letter, or failed to receive it for any other reasons, and consequently, dismissal lost its validity. In extraordinary and exceptional cases, authorized attorneys could also receive the letter. In such cases, these attorneys had to undertake the responsibility that they shall deliver the deed, and then report the date of such receipt to the local authorities and to the Minister of the Interior.²⁷ In 1892 the Minister also issued an executive decree in connection with delivery²⁸, in which it was set down that the above authorization had to be given in a deed countersigned by an attorney-at-law or a notary public.²⁹

Dismissal became finally effective with the act of moving out. The law provided a period of one year for leaving the territory of the country, to be calculated from the day of receipt of the deed of dismissal. The person in question had the right to change his position, and no justification was necessary to be given. The rights and obligations of the dismissed person were suspended but not terminated in this period.³⁰ In case any of the obstacles set forth by the law emerged, the dismissal was considered as invalid. This provision had great significance, since otherwise the dismissed person, as a non-Hungarian citizen, would have been exempt of his or her criminal liability.³¹

The definition of this one-year period was justified, on the one hand, that an intention to emigrate that was not acted upon during such a period could not be taken seriously. On the other hand, the applicant became a *quasi* re-naturalized person at the elapse of this time period, since, pursuant to Section 48, aliens who did not maintain their own citizenship in a period of one year became Hungarian nationals.³²

Dismissal was usually requested by those citizens only who stayed outside the territory of the country before. For this reason, invalidity or dismissal due to the elapse of one year happened very rarely.³³

27 Ferenczy, Ferenc: *ibid.* 80.

28 Ministry of the Interior regulation no. 82.560/1892. In: Berényi, S. - Tarján, N.: *ibid.* 85-86.

29 *Ibid.* 85-86., Pongrácz, Jenő: *ibid.* 29-30., Czebe, Jenő: *ibid.* 1938. 378-380.

30 Ferenczy, Ferenc: *ibid.* 81.

31 Berényi, S. - Tarján, N.: *ibid.* 80-81., Pongrácz, Jenő: *ibid.* 30.

32 Berényi, S. - Tarján, N.: *ibid.* 81.

33 Ferdinándy, Géjza: *ibid.* 244., Peregriny, G. - Jacobi, R.: *ibid.* 184-185.

The above provisions applied for peacetime only.³⁴ War changed the provisions inasmuch that the monarch had the final word of decision.³⁵ 26

The application with detailed justification and supplementary documentation was to be addressed to the Minister of the Interior, but submitted to the highest official of the local municipality.³⁶ Documents proving personal information (birth and marriage certificates), as well as proof of no public debt and of full legal capacity to act also had to be attached.³⁷ A fee of two Pengös had to be paid for the application, and an additional 30 Fillers for each sheet of attachments.³⁸ 27

In the decree of the Minister of the Interior on the execution of the law³⁹ it was provided that the certificate issued by the officials had to indicate that the objective of the applicant is not exemption from military obligation and also to fact whether he intended to leave the country together with his family or by himself. In the resolution, the names of his dismissed wife and children also had to be indicated. At the time of delivery of the deed, the conditions that could invalidate the resolution had to be notified to the applicant. The date of delivery had to be reported to the Minister of the Interior, as was also the fact if the applicant did not leave the country within one year or moved to another domestic township.⁴⁰ 28

This executive decree, however, still failed to answer some of the practical problems that emerged in the meantime, and therefore, it was amended in 1892.⁴¹ This executive decree was drafted by the Ministry of the Interior in agreement with the Ministry of War and the Ministry of Finance. 29

Those Hungarian applicants who intended to emigrate to Austria, the German Empire or 30

34 According to Section 21 of Act 50 of 1879, in the Hungarian and Fiume dismissal cases the Hungarian Minister of the Interior, while in case of applications received from Croatian, Slavonian and Dalmatian territories, the Croatian-Slavonian-Dalmatian Ban would be competent to decide.

35 Kisteleki, Károly: *Az állampolgárság a dualizmus idején* [Citizenship at the Time of the Dual Monarchy]. *Állam és Jogtudomány*, 1996–1997. 51., Csiky, Kálmán: *Magyar alkotmánytan és jogi ismeretek kézi könyve* [Hungarian constitutional and legal studies]. Budapest, 1907. 38.

36 Listed among the formal requirements of the application was the fact that it had to be submitted to the highest official of the municipality (sub-prefect, mayor) where the person in question had township residence. Berényi, S. - Tarján, N.: *ibid.* 80., Peregriny, G. - Jacobi, R.: *ibid.* 185-186.

37 Ferenczy, Ferenc: *ibid.* 83-85.

38 Pongrácz, Jenő: *ibid.* 23. p., Bródy, A. - Bán, K.: *ibid.* 21.

39 Ministry of the Interior Regulation no. 584 of 1880 on the execution of Act 50 of 1879 on the acquisition and loss of Hungarian citizenship. In: Berényi, S. - Tarján, N.: *ibid.* 81-82.

40 *Ibid.* 81-82.

41 Ministry of the Interior Regulation no. 23.901/1892. In: Berényi, S. - Tarján, N.: *ibid.* 82.

Serbia had to present an official promissory note for admission to citizenship in these states, which also had to be renewed if it expired in the meantime.

The tax certificate was to be issued by the competent Hungarian Royal Tax Office. The applicant also had to submit his military registry book issued by the competent military replacement center, or an authenticated copy of the military registration records, if the applicant or anyone in his family was of military age. The military replacement center examined the case preliminarily if the applicant was in the ranks of the army (or navy) at the time of application. 31

The tax for exemption from military service also had to be paid at the tax authorities, and the receipt attached to the application. The applications of persons that have exceeded the military age of 21 to 35 years were also sent to the financial department (tax inspectors). This was necessary as it frequently happened that individuals of military age were drafted not at the ordinary age as determined by Act 6 of 1889, but several years later. In such cases disqualification from military service or the obligation for the payment of the exemption tax could only be established later. 32

Applications submitted properly were to be immediately sent to the Minister of the Interior together with a report containing the opinion or proposal as to whether the applicant's request should be granted or not. Deficient applications were returned to the applicants.⁴² 33

The Minister of the Interior had to request the opinion of the Minister of War in all cases when the applicant was of military age. The common (imperial) Minister of War was only asked when the individual belonged to the ranks of the common army and Austria was not his destination. The opinion of the Minister of Finance was also requested if the issue of tax arrears came up.⁴³ 34

If the Minister of the Interior found the case to be in order, then he issued a deed of dismissal⁴⁴, which was then sent to the highest official of the competent municipality. Delivery took place subsequently. 35

In the course of the legislative process the principle was not accepted that the acquisition of a foreign citizenship would automatically terminate Hungarian citizenship, even though such a provision would have significantly simplified the administrative process. A 36

42 Berényi, S. - Tarján, N.: *ibid.* 82-83.

43 Ferdinándy, Géjza: *ibid.* 243.

44 *Ibid.* 243.

separate act of dismissal from the ties of the Hungarian state would not have been necessary.

Further devaluing the importance of dismissal was the fact that the majority of countries 37 did not request the termination of the former citizenship for their naturalization process.⁴⁵

This led to a situation in which many people did not request dismissal.⁴⁶

The deed of dismissal, however, had the major advantage of certifying that the applicant 38 has fulfilled all his obligations existing toward the state.⁴⁷

2. Absence

The concept of absence meant the residence of a Hungarian citizen beyond the borders of 39 his home country.⁴⁸ The initial date of absence was the day on which the individual left the territory of the country. If he or she left with a passport, it was the date when his or her passport expired, or when he became of legal age (provided that he had not previously lost his citizenship by the right of his father), or when the period of guardianship or trusteeship came to an end.⁴⁹ The last paragraph of Section 48 of the Act clearly states that the period of ten years' absence is to be calculated from the date when the law comes into effect. It was only after this period of ten years that a person could lose his Hungarian citizenship by reason of absence.⁵⁰ It must be noted, however, that only such persons could lose their

45 Sweden and Norway made the acquisition of citizenship dependent on dismissal. Certain German members states, including Württemberg on the basis of a decree from 1881, Lübeck in 1870, and Hamburg (Wilhelm Cahn: *Das Reichsgesetz über die Erwerbung und den Verlust der Reichs- und Staatsangehörigkeit vom 1. Juni. 1871.* Berlin, 1908. 66.) also acted similarly. It must be noted that the German citizenship act of 1870, however, did not set such conditions. Only few states (Russia, Luxemburg) demanded of their would-be citizens to certify the performance of their obligations, especially military ones, to their former home countries. The Unites States was satisfied with the resignation of the earlier citizenship by way of an oath. In Spain it was also accepted if one renounced citizenship. Special mention must be made of the Japanese regulation of 1899 whereby only such persons could be naturalized who were either stateless or who have lost their citizenship as a consequence of the acquisition of Japanese citizenship. Királyfi, Árpád: *A magyar állampolgárság kizárólagossága* [The exclusivity of Hungarian citizenship]. Budapest, 1903. 108-109.

46 Thirring, Gusztáv: *A magyarországi kivándorlás és a külföldi magyarság* [Hungarian emigration and Hungarians abroad]. Budapest, 1904. 94.

47 Czebe, Jenő: *ibid.* 24-30. p., Királyfi, Árpád: *ibid.* 88.

48 The German citizenship law of 1870 also used this case of termination. The evaluation of foreign residence essential to the question of absence, however, was very complicated, since the overseas territories would only be regarded as domestic land from 1888. Max Bahrfeldt: *Der Verlust der Staatsangehörigkeit durch Naturalization und Aufenthalt im Auslande nach geltendem deutschem und frazösischem Staatsrechte.* Breslau, 1903. 64.

49 Ferenczy, Ferenc: *ibid.* 89-90.

50 Nagy, Ernő: *ibid.* 114., Vajda, János: *ibid.* 12-17., Peregriny, G. - Jacobi, R.: *ibid.* 191-193. This is how Lajos Kossuth also lost his Hungarian citizenship. BÉNYEI, Miklós: *Kossuth Lajos és Debrecen* [Lajos Kossuth and the city of Debrecen]. Debrecen, 2003. 201-205.

citizenship this way who had no connections with the Hungarian state in this period of time.

According to Act 50 of 1879, only such persons could lose their citizenship this way that stayed outside the territory of the Hungarian Crown other than on commission of the Hungarian government or the common Austrian-Hungarian Ministers for an uninterrupted period of ten years.⁵¹ Hungarian citizens with the legal capacity to act who had no obligations outstanding toward the state and against whom there was no procedure pending before Hungarian authorities would lose their citizenship this way. Accordingly, no minors or persons under guardianship of trusteeship could lose their citizenship on their own right. 40

Any measure taken in the interest of maintaining citizenship would prevent loss of citizenship by absence. This could happen by way of the person at the time of his departure or any time before the expiration of the ten years reporting to the highest official of the municipality competent on the basis of his place of residence (sub-prefect or mayor of a municipality town) that he wished to maintain his Hungarian citizenship. Giving such notice would interrupt the period of absence, and the ten-year period was to be restarted. Any visit to Hungary, for however short a time, would also interrupt the above period. Similarly, traveling across the territory of the country, even if it was not with the intention of the individual, would have the same consequences.⁵² 41

If the person involved requested a new passport, or received a residence permit from any Austrian-Hungarian consular office, or his name was entered in the register of the consular community, then these acts were also regarded as acts of maintenance under the law.⁵³ Those receiving benefits from the treasury outside the borders of the country were regarded as being on official commission. A list was to be maintained of those who reported that they wished to maintain their citizenship. The list was to be presented to the Minister of the Interior.⁵⁴ 42

Due to the mere existence of the institution of absence, several persons lost their 43

51 Esser, Károly: *Magyar honos vagyok-e? (Az illetőségi bizonyítvány és állampolgársági bizonyítvány megszerzésének módja.)* [Am I a Hungarian citizen? (The way of obtaining a residence certificate and a citizenship certificate)]. Árpádföld, 1938. 11., Balogh, Arthur: *Politikai Jegyzetek* [Political notes]. Budapest, 1905. 92., Pongrácz, Jenő: *ibid.* 31-33., Bródy, Ernő: *ibid.* 24., Tar, József: *ibid.* 24-25., Czebe, Jenő: *ibid.* 1938. 384-387., Bródy, A. - Bán, K.: *ibid.* 21-23.

52 Vajda, János: *ibid.* 13., Peregriny, G. - Jacobi, R.: *ibid.* 189-190.

53 Sephan Egyed: *Das Staatsangehörigkeitsrecht des Königreiches Ungarn.* Budapest, 1933. 191., Csiky, Kálmán: *ibid.* 142., Némethy, Imre: *ibid.* 8-12.

54 Ministry of the Interior decree no. 584/1880. In: Ferenczy Ferenc: *ibid.* 186.

citizenship who never intended to. It is true that the law provided opportunities for preventing the loss of citizenship in the ways described above, but practical experiences showed that few Hungarian citizens living abroad used these opportunities. This followed partly from their lack of information, and partly from the fact that the consular offices were located far from their places of residence.⁵⁵ Many people failed to perform the acts that could have interrupted the period of absence, and therefore, loss of citizenship by reason of absence had the negative consequence that those “who were in economic and cultural relationship with their mother country, and who therefore, despite their physical absence, represented valuable assets for the Hungarian state, were, against their will, deprived of their Hungarian citizenship together with their descendants, which, in addition to the significant proportions of Hungarian emigration, was a further serious contribution to the loss of a sizable contingent of our population.”⁵⁶

A person could only lose his or her citizenship by reason of absence if the person had no commission by the state, received no benefits from the state treasury or other public funds (pensions, national assistance, etc.), had no procedure pending against him or her, was not of military age, his or her child did not come of military age in the meantime, and was not registered for the purposes of the payment of military exemption tax. If any of the above circumstances occurred, this would interrupt the continuity of the ten years, and another ten year period started that had to expire for the fact of absence to be certified.⁵⁷ 44

It did not count in the period of absence, however, if a person was outside of the countries of the Central Powers during the war. This period was to be regarded as if it did not happen. Captivity as a prisoner of war also was not calculated as adding to this period. The time spent by a person abroad before the coming into effect of the first citizenship law also did not count, as all those who spent the above-mentioned uninterrupted ten years' period abroad could lose their citizenship by reason of absence after January 8, 1890 at the earliest, unless they maintained it by one of the ways described above. 45

The loss of Hungarian citizenship by reason of absence also extended to the cohabiting wife of an absent husband, as well as all minor children under the custody of the father.⁵⁸ 46

55 Királyfi Árpád mentions as an example the Hungarian emigrants living on Canadian farms, who had to report in such cases at the consular office of Montreal, several days of travel away. Királyfi, Árpád: *ibid.* 89.

56 *Ibid.* 89.

57 Korbuly, Imre: *Magyarország közzjoga illetőleg a magyar államjog rendszere* [Hungarian public law and the system of Hungarian state law]. Budapest, 1884. 142.

58 Stephan Egyed: *ibid.* 191., Vajda, János: *ibid.* 14-15., Czebe, Jenő: *ibid.* 1938. 395., Peregriny, G. - Jacobi, R.: *ibid.* 196.

In case the wife and the children did not follow the husband or father and remained within the territory of Hungary instead, they would keep their citizenship independent of the father. A woman who lost her citizenship by reason of the dismissal or absence of her husband or by way of marriage to a foreigner, and subsequently divorced or widowed, and was admitted to a township community or the prospects of such admission were held out, could be re-admitted to citizenship at her request.

A minor who lost his or her Hungarian citizenship by reason of the dismissal or absence of the father, could also be readmitted as a Hungarian citizen upon the death of his or her father or when reaching the legal age, provided that the issue of township community residence was earlier settled.⁵⁹ The consent of the guardian had to be obtained as well. Special attention had to be devoted to orphaned children below the legal age, since the provisions of Section 31 in Act 50 of 1879 did not apply to them, as the institution of absence could only be applied from the time of coming of age.⁶⁰ 47

The elapse of the ten-year period could not be taken into consideration in case of persons under guardianship or trusteeship who resided abroad until they regained their legal capacity of action. The absence of legal capacity to act, however, could be substituted by the consent of their legal representatives. For the dismissal of a person under guardianship or trusteeship, the consent of the guardian or the trustee was necessary, which also had to be endorsed by the guardianship authorities. It also clearly follows from this that if a person had no capacity to act, then he also could not obtain citizenship rights independently.⁶¹ The termination of the individual's citizenship in such cases, unlike in all other cases,⁶² was the result of not so much the will of the individual, but of the passing of time. 48

The loss of citizenship could be established *ex officio* or at the request of the individual.⁶³ 49
The Minister of the Interior had the competence to make a decision, but in effect he did not terminate citizenship, just declared that it was not longer valid. This is how it

59 Explanation of township residence: This institution is introduced in Act 58 of 1871. Section 6 of the above Act provides that "each citizen shall be a resident of one of the townships." Beyond this, township residence has no impact on citizenship law. Act 50 of 1879 provided that this institution be one of the conditions of naturalization, since all Hungarian citizens had to be residents of a township.

60 Ministry of the Interior regulation no. 10.804/1890. In: Ferenczy, Ferenc *ibid.* 188., Ministry of the Interior regulation no. 13.459/1894. In: Ferenczy, Ferenc: *ibid.* 188-189.

61 Tar, József: *ibid.* 25.

62 Contemporary Austrian citizenship law also regulated the cases of the loss of citizenship in a similar way. (Emanuel Milner: *ibid.* 105.)

63 Ferenczy, Ferenc: *ibid.* 90.

happened that the loss of citizenship was frequently established after 20 or 30 years. The loss of citizenship happened not at the date of the resolution but at the expiry of the predetermined period of time.

The Minister of the Interior issued a general decree in connection with the procedure.⁶⁴ 50
The effect of the declaratory resolution was completely independent of acknowledgement by the interested party, from the delivery of these documents and attachments. This document was to be entered in the list of dismissal by the ministry officials.⁶⁵ If the applicant subsequently based his application for naturalization on the fact that he had lost his Hungarian citizenship by reason of absence, he could request the restoration of his citizenship by way of a favorable re-naturalization procedure.⁶⁶ According to the law, a person who lost his or her citizenship by reason of absence and acquired no other citizenship in the meantime, could regain his Hungarian citizenship under the above procedure by returning to Hungary. A person who was admitted to a domestic township upon his return also had to be readmitted as a Hungarian citizen.

3. Legitimization

A child born out of wedlock to a foreign father and Hungarian citizen mother who was legitimized according to the law of the country of the father's origin would lose his or her Hungarian citizenship without any special procedure.⁶⁷ 51

There were some cases, however, when a child did not lose his or her Hungarian citizenship despite legitimization: if he or she acquired no citizenship by way of the legitimization; or if he did acquire a citizenship, but continued to live in the territory of the Hungarian state after the legitimization.⁶⁸ 52

Of course a child born to a foreign woman could also acquire Hungarian citizenship this way. This reciprocity was not fully consistent, because in this case no separate act was 53

64 Ministry of the Interior official communication no. 52.273/1897. In: Ferenczy, Ferenc: *ibid.* 186-187.

65 Ministry of the Interior regulation no. 83.303/1895. In: Ferenczy Ferenc: *ibid.* 187.

66 Bajáki, Veronika: *Magyar állampolgárság – kettős állampolgárság* [Hungarian citizenship – dual citizenship]. Budapest, 1973. 124., Sömjén, László, Szitás, Jenő, Kiss, Miklós: *Magyar állampolgársági jog. (A magyar állampolgárságról szóló 1948:LX. Törvénycikk és a községi illetőség megszűnéséről szóló 1948:LXI. Törvénycikk a kapcsolatos jogszabályokkal.)* Hungarian citizenship law. Budapest, 1949. 116-117. According to the German regulation of 1870, those who lost their citizenship due to absence and obtained no other citizenship could request the maintenance of their former citizenship by way of re-naturalization. (Max Bahrfeldt: *ibid.* 37.)

67 Kisteleki Károly: *ibid.* (Az állampolgárság a dualizmus ...) 51.

68 Ferenczy, Ferenc: *ibid.* 85., Némethy, Imre: *ibid.* 7-8., Tar, József: *ibid.* 25., Czebe, Jenő: *ibid.* 1938. 395-396.

necessary. By contrast, in the case described above, the territory of the country had to be left and the citizenship of the father acquired.⁶⁹

4. Marriage

Marriage also had similar consequences.⁷⁰ A Hungarian woman who married a foreign man lost her Hungarian citizenship at the moment of her wedding. Citizenship acquired by way of marriage, however, was not lost even if she was subsequently widowed or divorced.⁷¹ 54

Of course, only validly concluded marriages would have such legal consequences, since invalid (void or contestable) marriages were only valid until a final court ruling pronounced them invalid. 55

The law was not clear with respect to what would happen if a Hungarian woman married a foreigner, and then stayed in Hungary either alone or with her husband. In case of legitimization, the fact of leaving the country was specifically mentioned in the text of the law; however, it is not mentioned here, which leads us to the conclusion that marriage to a foreigner would deprive a woman of her Hungarian citizenship even if she did not leave the country. This was also true the other way round. The real problem arose when she was trying to get out of wedlock. She could only file for divorce in Hungary in such cases as any other foreign citizen. A rescissory act, on the other hand, was only possible if the marriage was concluded in Hungary and she did not subsequently follow her husband abroad. The situation was even more complicated if she became the citizen of a state that did not recognize the institution of divorce.⁷² 56

Our marriage law at the time only allowed a Hungarian woman to seek remedies for her grievances at a Hungarian court if there were reasons of invalidity, the marriage was concluded in Hungary, and she lived within the territory of the country. These three conditions had to be met at the same time: if even one was absent, she was not able to assert her case at Hungarian courts. In most situations, these cases only reached the courts 57

69 Ministry of the Interior regulation no. 26.855 of 1896. In: Berényi, S. - Tarján, N.: *ibid.* 108-109., Pongrácz, Jenő: *ibid.* 33., Kálmán, Ödön: *Mit kell a magyar állampolgárságról tudni?* (What should be known about Hungarian citizenship?) Miskolc, 1938. 9., Bródy, Ernő: *ibid.* 25., Peregriny, G. - Jacobi, R.: *ibid.* 196., Bródy, A., Bán, K.: *ibid.* 23.

70 Act 50 of 1879, Section 34-35. Kisteleki, Károly: *ibid.* (Az állampolgárság a dualizmus ...) 51., Csiky, Kálmán: *ibid.* 38.

71 Ferenczy, Ferenc: *ibid.* 86., Tar, József: *ibid.* 25., Czebe, Jenő: *ibid.* 1938. 396-397., Peregriny, G. - Jacobi, R.: *ibid.* 197., Bródy, A. - Bán, K.: *ibid.* 23.

72 Berényi, S. - Tarján, N.: *ibid.* 109-111.

if the woman was re-naturalized first. This, however, was not an easy task either, since the pre-condition of re-naturalization in this case was to get divorced. The most fundamental condition was nevertheless to be “separated from bed and board.”⁷³

5. Authority’s decision (expulsion)

The last case of losing citizenship was by way of an authority’s decision. The Hungarian state did not tolerate if an individual was working against her interests. This was regarded as a gross violation of allegiance to the state. Naturally, the fact that somebody worked in the service of another state was not sufficient grounds for expulsion.⁷⁴ All states, including Austria, would be considered such foreign states. Because of the dual monarchy, however, this provision of law was not applied in connection with Austria.⁷⁵ It was also a necessary condition that the individual’s activity be directed against the Hungarian state. 58

After the Minister of the Interior established the fact of the violation, the individual concerned was called upon to resign his service by a certain deadline.⁷⁶ If he complied with this request, then the loss of citizenship could not be declared by way of authority’s decision. The termination of citizenship was always pronounced *ex officio*, unlike in the case of dismissal, where the procedure was initiated at the request of the applicant. The authority’s decision simply declared the termination of an individual’s citizenship, which fact would then also be notified to the Prime Minister. Such decision could be made by the Hungarian Royal Minister of the Interior or by the Ban of Croatia and Slavonia. Citizenship could not be lost in any other way than defined in the law; in other words, expulsion could be used neither as a penalty nor in case of resignation. 59

The executive decree of 1880 also affected this way of losing citizenship, inasmuch that any case that could be grounds for expulsion had to be reported to the Minister of the Interior.⁷⁷ 60

Similarly to absence, the authorities’ decision made it possible for a Hungarian citizen to lose his or her national status without becoming the citizen of another state. This way, loss 61

73 Berényi, S. - Tarján, N.: *ibid.* 87., Pongrácz, Jenő: *ibid.* 33., Bródy, Ernő: *ibid.* 25., Némethy, Imre: *ibid.* 7-8.

74 Ferenczy, Ferenc: *ibid.* 91-92.

75 Berényi, S. - Tarján, N.: *ibid.* 87.

76 Kisteleki, Károly: *ibid.* (Az állampolgárság a dualizmus ...) 51., Némethy, Imre: *ibid.* 8-12., Tar, József: *ibid.* 21., Czebe, Jenő: *ibid.* 1938. 383-384., Peregriny, G. - Jacobi, R.: *ibid.* 186-187., Bródy, A. - Bán, K.: *ibid.* 21.

77 Berényi, S. - Tarján, N.: *ibid.* 87-88.

of citizenship could easily become a punitive sanction, and this contradicted with the international principle that nobody should lose his or her citizenship by punishment.⁷⁸

6. Conclusion

The first regulation of Hungarian citizenship according to the contemporary constitutional reforms and legal practice only took place in 1879. Despite the errors of the law, it is a major milestone in Hungarian citizenship law, since it also incorporated in its system the cases of acquisition and loss of citizenship. The law contains detailed provisions on how the legal relationship between the citizen and the state could be established and terminated. The objective of the law was to make the system of citizenship clear and transparent. **62**

This citizenship law could be regarded as one that was able to withstand the test of time, since it remained in effect, with minor amendments, until 1948. The first such amendment was Act 4 of 1886 on the re-naturalization of people resettling in large numbers, which was followed by Act 17 of 1922, aimed at the settling of the unique status of citizenship that was the result of the Trianon Peace Treaty. A further significant change was also included in Act 13 of 1939, which provided that those obtaining citizenship in another country would automatically lose their Hungarian citizenship. **63**

78 Királyfi, Árpád: *ibid.* 90-71.