

## Legal Guarantee of Citizenship Issues in the United States of America

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### Annotation

The article analyzes the specifics and legal guarantees of citizenship issues in the United States. Based on the results of the study, proposals and recommendations were developed to improve the legal regulation of the legislation of the Republic of Uzbekistan.

**Key words:** citizenship, naturalization, conditions of naturalization, political asylum, refugee.

The United States of America (USA) is one of the countries that has created a specific regulatory framework that regulates citizenship relations and has achieved positive results in this regard. The US is a state where immigration and citizenship relations are regulated at the liberal level. According to the Department of Homeland Security, only in the 4th quarter of 2020, 130.000 foreigners with the status of permanent resident, 132.000 persons were admitted to citizenship on the basis of naturalization. In connection with COVID-19, this figure decreased by 78 and 48 percent compared to the same period last year. Apparently, migration legislation in this state is quite liberal.

Analysis shows that US citizenship can be obtained in 3 different ways: 1) the most common way - "jus soli", on the basis of birth according to the Anglo-American tradition; 2) on the basis of naturalization (in which case the resident must have met certain conditions); 3) on the basis of parental citizenship ("jus sanguinas").

In accordance with the requirements of the US law on immigration and citizenship (27.06.1952), a person must fulfill the following conditions for obtaining citizenship by naturalization:

1. to reside in the country on a permanent basis for 5 years;
2. to have reached at least 18 years old (if younger, a parent who is a U.S. citizen may apply instead);
3. to be able to read, write and speak English (Article 312). This requirement does not apply to the following persons with mental or physical disabilities:
  - A. to have lived permanently in the country for 20 years, over 50 years old; b) to have lived permanently in the country for 15 years, over 55 years old.
4. to have a "high moral quality" for 5 years prior to the date of application for citizenship. In this case, it is taken into account the payment of taxes (or other mandatory payments) to the state, committing an act that gives rise to criminal liability.
5. To recognize and fulfill the obligation of the US Constitution. This is done by acknowledging the application of democratic principles in the country and proving that it is not opposed to the constitutional order;
6. not to be atheist;
7. to take an oath of allegiance to the United States (Article 337).

This process involves the individual's support for the U.S. Constitution and laws in open court, and protection from internal and external threats; is expressed in the form of an oath of allegiance to the citizenship of any other state.

It can be seen that the conditions for obtaining citizenship are much more widely interpreted in US law. It is also possible to observe some advanced norms that serve as a template for national legislation on this place. Thus, In the article of 19 of the Law of March 13, 2020 "On Citizenship of the Republic of Uzbekistan", the legal mechanism for assessing a person's "high moral quality" during the period of permanent residence in the country, including the issue of whether the criminal prosecution of a person is a ground for refusing to grant citizenship is not clearly defined. In this regard it has been established that persons sentenced to 180 or more years of imprisonment for a crime committed in the last five years may be found to be of low moral character in the U.S. law.

Therefore, in our opinion, it is expedient to supplement Part 1 of Article 19 of the Law of the Republic of Uzbekistan "On Citizenship of the Republic of Uzbekistan" of March 13, 2020 with paragraph "e" in the meaning of "If he or she had a positive attitude during his or her permanent residence in Uzbekistan". In assessing this condition, it should be

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taken into account that the person has been prosecuted for a crime in the Republic of Uzbekistan or abroad, and the term of imprisonment has not expired or has not been expunged. (this proposal was approved by 84.8 percent of the practicing specialists who participated in the sociological survey in the process of the conducted research). In addition, in the United States, the practice of calculating the period of permanent residence, which is the basis for obtaining citizenship, is established in 2 different ways. The followings serve as the basis for citizenship: first, a five-year continuous residency in a country that includes a period of actual stay in the United States for at least 30 months prior to the date of application for citizenship; a five-year continuous residency from the date of admission for refugees, and for asylum seekers, 1 year from the date of receipt of U.S. resident status. If a person has been abroad for a period not exceeding 6 months per year, the period of continuous residence shall be deemed not to have been violated. In our national legislation, this period is 183 days. Also, unlike the legislation of Uzbekistan, the application for citizenship in the US must be made while staying on the territory of the state. A number of specific features of citizenship acquisition in U.S. law and certain censors imposed on applicants can also be observed. These restrictions are intended to ensure national security. In particular, Article 2, Part 4 of the Law on Immigration and Citizenship states that citizenship is not granted during federal elections and referendums in the United States.

At the same time, the legislation also provides for the provision of a number of benefits and rights to the individual. In particular, the application for citizenship must be considered by the competent authorities within 2 days (in this case, special checks are carried out through automated electronic databases). In addition, a person who receives a rejection of an application from one state has the right to immediately apply for citizenship in another state. For comparison, in the Law of "On citizenship of the Republic of Uzbekistan" Of March 13, 2020 The total period of consideration of materials on citizenship of the Republic of Uzbekistan shall not exceed one year from the date of entry of the application in the interagency database on citizenship of the Republic of Uzbekistan (Article 41). It was noted that a repeated application for citizenship of the Republic of Uzbekistan may be considered one year after the decision to terminate the consideration of materials on citizenship (Article 42) (except in the case of new circumstances that are not known to the applicant and may not be known). This requires further modernization and improvement of our current legislation on citizenship cases and the existing organizational and legal mechanisms in the practice of its application on the basis of modern requirements.

A green card is a document that identifies a person who has the right to reside permanently in the United States. This document will then serve as a basis for obtaining citizenship of the country. This document is obtained: 1) on the basis of lottery winnings; 2) on the basis of investment activity in a US labor firm; 3) on the basis of marriage to a US citizen; 4) on the basis of obtaining refugee status; 5) on the basis of kinship with a US citizen; 6) on the basis of investment in the US economy; 7) on the basis of adoption of a US citizen; 8) on the basis of a special immigration program.

Compared to our national legislation, we can see that there are no grounds for granting the right to permanent residence of some of the types mentioned above. For example, there is no basis for a quota lottery system, adoption, or obtaining a permanent residence permit based on a special immigration program. This is of course explained by the following factors: first, the lack of a state concept in the field of migration; second, that Uzbekistan is a more exporter (labor-selling) country; third, the low flow of labor migration relative to the country. At the same time, it should be noted that the further growth of the economic potential of the republic will allow establishing a procedure for obtaining a permanent residence permit in the country on the above grounds.

It is noteworthy that the period of residence required to obtain citizenship varies depending on the basis on which the permanent residence permit was obtained in the United States. In particular: 1) for persons receiving political asylum - 1 year; 2) for persons married to a US citizen - 3 years; 3) for all other categories of individuals - 5 years.

In this regard, acknowledging the underdevelopment of relations with the institution of political asylum in our country, it can be noted that the fact that persons with a permanent residence permit under political asylum can serve as the basis for obtaining citizenship in the future for the term of stay (residence) in Uzbekistan remains one of the controversial issues. Because the legal status of the institution of "political asylum" is not clearly defined in the Law of the Republic of Uzbekistan № URQ-692 of June 4, 2021 "On the legal status of foreign citizens and stateless persons in the Republic of Uzbekistan" (Article 8) and Regulation on the procedure for granting political asylum in the Republic of Uzbekistan, approved by the Decree of the President of the Republic of Uzbekistan dated May 29, 2017 № PF-5060.

That is, although paragraph 3 of the Regulation states that a person granted political asylum and his family members enjoy the rights and freedoms of foreign citizens and stateless persons permanently residing in the Republic of Uzbekistan, the fact that these issues are reflected in the legal document does not change anything. In our opinion, Article 8 of the Law of June 4, 2021 "On the legal status of foreign citizens and stateless persons in the Republic of Uzbekistan" should be supplemented with a separate paragraph:

*“A person granted political asylum in the Republic of Uzbekistan is equal to a foreign citizen and stateless person permanently residing in the country and his term of permanent residence in the Republic is calculated from the date of signing the Presidential Decree on granting political asylum in Uzbekistan. In the future, political asylum will serve as a basis for obtaining citizenship of the Republic of Uzbekistan in the manner prescribed by law.”*

We believe that the reflection of these proposals in our national legislation, along with the harmonization of existing laws with international law and standards, will also serve to improve the practice of citizenship of the Republic of Uzbekistan.

## References:

1. Legal Immigration and Adjustment of Status Report Fiscal Year 2020, Quarter 4 // URL: Official website of the Department of Homeland Security of USA: <https://www.dhs.gov/immigration-statistics/special-reports/legal-immigration#.%E2%80%9310.03.2019> (мурожаат вақти: 28.09.2021).
2. Legislative acts on citizenship: / compiled by P.M. Gromushkin. T. 263. M.: Terra, 1993. P 41-42.
3. Naturalization in the USA // URL: <http://ru.myattorneyusa.com/naturalizaciya-v-ssha> (application time: 09/29/2021).
4. Article 19 of the Law of the Republic of Uzbekistan No. URQ-610 of March 13, 2020 "On Citizenship of the Republic of Uzbekistan" // URL: <https://lex.uz/docs/4761984> (application time: 29.09.2021).
5. The United States law “On citizenship” (27.06.1952) // URL: <https://politsim.ru/threads/zakon-soedinennyx-shtatov-o-grazhdanstve.110/#post-3032> (мурожаат вақти: 22.01.2021).
6. Green Card and US Citizenship in Los Angeles // URL: <https://rusonline.com/ru/immigration-services-los-angeles/green-card-citizenship-los-angeles/> (application time: 28.09.2021).