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**UNRECOGNIZED DIGITAL SPACE STATE “ASGARDIA”:
CONSTITUTIONAL RIGHTS OF CITIZENS**

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Abstract

Today's most developed states in circumstance of a new wave of space activity naturally turn into space states. Their special bodies are being formed, including military space forces and national space legislation. In addition to a naturally emerged space state, there are those that were created artificially. So, in 2016, the unrecognized digital state, Asgardia, was formed. Over the years, Asgardia has created a system of state bodies, adopted the Constitution and some laws. The article considers constitutional rights of citizens of this unrecognized entity positioning itself as a space state (there are less than two thousand residents and more than a million from two hundred countries who have informally registered). It is shown that along with enshrining the traditional constitutional rights of Asgardia citizens in the Constitution, some of their specific rights as citizens of a space state are declared. A number of important points related to space activity are prescribed in the supreme constitutional values of Asgardia, which are recognized as priority guidelines for the implementation of all citizens' rights. The author argues that the Asgardia project is unlikely to end with the recognition of this political entity by other states (it is highly unlikely). However, this experiment legislation, higher constitutional values, interspersing space elements into the traditional rights and freedoms of citizens of Asgardia may be interesting for the subsequent legal regulation of real space states.

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1. Introduction

In the 21st century, the most technically and military advanced states of the planet, expanding space activity, begin to transform into space states (Krichevsky & Udartsev, 2019). They create special public authorities, including space forces and units (the USA, Russia, China, France, Japan, Iran, India, etc.). This natural way of forming space states is a logical result of their evolution. Taking into account the emerging trend, there are also attempts to accelerate the creation of the space states artificially. Asgardia (2021) can be taken as an example, which was created in 2016 by its founder, I.R. Ashurbeily, and a group of businessmen scientist and politicians from different countries. The motto of Asgardia (2021) is “Build the future through democracy and innovations. No matter where you are”.

Asgardia positions itself as the vanguard of the emerging cosmic mankind, which objectively has to explore outer space and settle in it. Therefore, in the foreseeable future, Asgardia is implementing the plan for the birth of the first man in outer space, and, in the more distant future, it is organizing, together with the other countries, a system for protecting the planet from threat emanating from outer space. There are 12 official languages in the space state. The majority of Asgardians speak English (75.4 %). Those who speak Turkish is 7.4 %, Spanish – 5.3 %, Russian – 2.6 %, Italian – 1.6 %, Hindi – 1.2 %, French – 1.2 %, Arabic – 0.6 %, Farsi – 0.5 %, Indonesian – 0.5 % (Asgardia. The Space Nation, 2020).

The first digital (network) state Asgardia, which declared itself as a space state, as well as an integrator of all mankind, has continued its institutional and legal development over the past years. It elected Head of State, Parliament, formed the Government, Court, Supreme Space Council and other Asgardian bodies, adopted the Constitution and some laws and decrees. Today, as it is reflected on the official website, there are more than 1 million 69 thousand Asgardians (from about 200 countries) (Asgardia. The Space Nation, 2020), without registration of citizenship and 1827 residents (Asgardia, 2021) from various countries (Parliament has people from 35 countries of the planet). So far, there has been a slight decline in the number of citizens.

2. Problem Statement

The formation of space states presupposes a significant restructuring administration system and legal regulation. This raises a need in special additional administration and legal regulation of space activity. This issue has not been specifically investigated. We have already addressed the issue about the formation of state bodies of this unrecognized state (Udartsev, 2019). This article considers the issue about the constitutional rights of citizens of Asgardia and their features, taking into account the proclamation of the state as a space state.

3. Research Questions

The article examines the Constitution of Asgardia and some documents of this unrecognized state to identify possible features of the constitutional rights of its citizens. Special attention is paid to the third chapter, “Space Citizenship of Asgardia” of the Constitution of Asgardia, which sets out the basic rules regarding citizenship, rights, freedoms and duties of citizens.

4. Purpose of the Study

The aim of the study is to identify some new constitutional ideas reflected in the Constitution of this unrecognized space state in the form of peculiarities of the constitutional rights of citizens of Asgardia as a space state, as well as in other constitutional norms that may affect the content and limits of rights and duties of citizens.

5. Research Methods

Comparative legal analysis, methods of analysis and synthesis, inductive and deductive methods, abduction were used in the preparation of this article.

6. Findings

6.1. Mission and supreme values, their meaning

The mission of this digital state prescribes: Asgardia aims to unite people in a transnational, equal and progressive society to build a new home for humanity in space and protect our cradle — planet Earth (Asgardia, 2021). Under the Constitution of Asgardia, its supreme value is: “humanity striving into the infinite future, the infinite Universe, and infinite new Universes” (The Constitution of the Space Nation of Asgardia, 2021).

Article 4 of the Constitution highlights the supreme values of Asgardia. Among them are those related to the declared space nature of the state and human rights. In particular: “peace in space and peaceful settlement of the Universe; ensuring equality of opportunity in space for all Asgardian citizens; safeguarding all of humanity from space-originating threats; unity of space humanity as a community; human dignity, human rights and freedoms, and the harmonious development of individuals; human happiness, life, love, children and family, and the propagation of human species. These include supremacy of Asgardia’s laws; preservation of space environment; community and mutual support; scientific and artistic creativity, and the belief in the boundless potential of human reason, knowledge, labour, and progress; peace, tranquility, safety, security, respect, and confidence; morality, fairness, and freedom; harmonious existence of individuals, society, and the nation”. The supreme values of Asgardia are applied to all relations between citizens, to the relations with all people and states of the Earth, as well as with alien intelligence, if discovered. At the same time, the supreme value has primacy over other ultimate values.

6.2. Space citizenship of Asgardia and the problem of dual citizenship

The constitution made an attempt to remove the issue of dual citizenship having created the declaration on the special nature of space citizenship of Asgardia. Under paragraph 2, Article 6 herein space citizenship of Asgardia cannot be considered as a second or dual citizenship for the state of the Earth. It was previously expressed in the legal literature that there was a need to distinguish between the citizenship in real states and in a virtual state. So, Goloskokov (2015) argues that citizens of a new virtual

state do not need to renounce their real citizenship. A state whose citizen is joining a new virtual state may not know about his wish to be a part of this state. It is just like a state would not know that its citizen is, for example, a member of a chess club. The peculiarities of the citizenship of the virtual state are to be developed (Goloskokov, 2015). This interpretation deserves attention and, apparently, would be justified and would not raise objections if the virtual state and its citizens remained only in virtual reality. They would carry out activities in it and did not go beyond it. However, the situation changes when the virtual state begins to position itself as an equal subject of interstate relations with other states in common reality, as a real and virtual state at the same time.

The problem is that not all states allow dual citizenship. Many states of the Earth will disagree that their citizens are simultaneously recognized as citizens of another state. As known, citizens have not only rights and freedoms but also duties (financial, tax, military, social, political). As the rule, the opportunity to perform public service, especially military service, to have certain social benefits, etc. are connected exclusively with citizenship.

Asgardia, as acknowledged in its Constitution, respects the legislation of other countries and international law, seeks to gain recognition from other countries and the UN. In this regard, the provision of the Constitution of Asgardia providing «A citizen of an Earth state becoming a space citizen does not confer multiple citizenship status, unless otherwise stipulated by an international treaty to which Asgardia is a party» (the last sentence of par. 2 of Art. 6) is quite opposite to what is in reality. Citizenship of Asgardia actually give rise to dual citizenship, plurality of citizenship. However, Asgardia does not have treaties stating that it does not happen, but no such treaties are forthcoming.

6.3. Acquisition of citizenship

A child acquires the citizenship of Asgardia by birth if at least one of the parents is a citizen of this state, and who was born before the creation of Asgardia becomes a citizen of a space state at the request of his parent (s) (par. 3, Art. 6). The Constitution of Asgardia allows renunciation of citizenship at the initiative of a citizen and temporary or life-long deprivation of citizenship at the initiative of a space state (par. 4, Art.e 6). This procedure shall be established by law.

Citizens are accorded the right to free movement and choice of location on the territory of Asgardia and other states but with the proviso that they will have “an appropriate legal, organizational and physical capabilities” (par. 1, Art. 7). Obviously, this proviso is primarily applied to the localities of Asgardia on Earth and in outer space. At the same time, the permanent presence of citizens of Asgardia on the territory of other states is allowed. This does not entail “deprivation or diminution” of their rights and freedoms, does not suspend or terminate citizenship, but does not abolish “obligations in relation to Asgardia” (par. 2, Art. 7).

In general, The Constitution of Asgardia covers provisions about citizens that are traditional for modern constitutions. Some researchers note that modern passports (identity cards) of citizens actively placed on states in the late 18th and early 19th centuries are largely of a fiscal and police nature. They consider that a state is not entitled to unilaterally register people as their citizens. Syryh argues that people have the right to choose citizenship, which shall be accompanied by concluding Agreement on citizenship of state and citizen containing a detailed description of mutual rights and obligations (Syryh, 2016).

Obviously, it might be possible only if appropriate bilateral, multilateral or universal treaties have been concluded. However, Asgardia that positions itself as a state of the future and where people of the future life, takes the traditional position, the only feasible at present.

6.4. Natural and fundamental rights and freedoms of citizens of Asgardia: some problems and features

Article 8 of the Constitution of Asgardia covers the fundamental rights of citizens. It states that the recognition of all human, civil rights and freedoms “in accordance with generally recognized norms and principles of international law” (par. 1, Art. 8). It also contains some incorrectly formulated provisions on inalienable rights and freedoms belonging to “everyone from birth by law”. The inalienability of human rights and freedoms in the theory of law is associated with their naturalness, which means independence, from both state and its legislation. While reading the present provision of the Constitution some mutually exclusive questions arise. If the rights are considered as inalienable (natural), consequently, they cannot be deprived or established by law. However, if their creation and alienation are associated with the law, then their naturalness and inalienability are being challenged. It arises from the fact that any law is created by a person and can be changed or cancelled. So, it is better to consider the law not as a basis but as remedy. In this case, it would be more correct to write “and are protected by law”.

Paragraph 2 of Article 8 covers the equality of all citizens of Asgardia. This formula needs to be classified. Therefore, from legal point of view, it is more accurate to speak not about the equality of citizens (a billionaire and a poor man, a boss and a subordinate, a king and a subject, strong and weak, sick and healthy, etc.) but about their equal right. The very idea of law is rather harmonization, coordination of the will and interests of unequal people and their groups in order to optimally support the existence and the development of every person, all people and society as a whole. Therefore, norms, institutions, and mechanism of ensuring equality are set up and improved that find and implement ‘common denominators’ for optimal compliance of law with different situations and unequal subjects.

Paragraph 4 of Article 8 covers the fundamental rights and freedoms of a citizen of Asgardia. They are: “a. freedom of individual; b. freedom of speech; c. right to participate in the national affairs of Asgardia, both directly and via representatives; d. right to elect and be elected/appointed to Asgardia’s governmental bodies and, participate in referenda; e. right to introduce legislative proposals; f. right to access to information about the activities of governmental bodies and monitor them. They also include g. right to participate in space exploration and universal access to scientific information about space; h. right to personal safety and the safety of home in Asgardia localities; i. right to citizens’ self-governance; j. right to ownership and inheritance; k. right to organise citizen groups on the basis of Asgardia’s laws”.

As we can see, along with well-known rights there are also some new rights of citizens of a space state, in particular, “right to access to information about the activities of governmental bodies and monitor them” and “right to participate in space exploration and universal access to scientific information about space”. Paragraph 7 of Article 8 also covers the following rights of citizens of Asgardia: “the right of peaceful and unarmed assembly, without prior approval, in accordance with Asgardia’s laws”.

Paragraph 6 of Article 8 contains a declarative rule which states that “Asgardian citizens may only be extradited to other States on the basis of Asgardia’s laws”. Firstly, at present, Asgardia does not have

its own territory on Earth. Besides, its citizens are residents of other states. Secondly, this rule would be relevant in cases if it applied only to citizens of Asgardia who are not residents of other states. Even so, they, while being actually in another state, shall have a residence permit, registration, permanent residency, etc. In this case, the issue of their extradition to other states would be solved by the state on whose territory they would have residency. The virtuality of the citizenship of Asgardia conflicts with the presence of its citizens on the territory of real countries, which, moreover, do not recognize Asgardia.

The Constitution provides for the possibility of protecting and restoring the rights of citizens that have been violated through applying to the Court of Asgardia (par. 6 of Art. 8).

Paragraph 8 of Article 8 contains a reservation which states that “the enumeration of specific citizen rights and freedoms in this article shall not be interpreted as negating or limiting other citizenship rights and freedoms stipulated by other articles of Asgardia’s Constitution, laws, and generally recognize human rights and freedoms”. Under paragraph 9 of Article 8 the restriction of a citizen is possible only by law and to the extent that it is provided for by the Constitution. And it is necessary in order to protect the sovereignty of the state, ensure the security of Asgardia, carry out its mission, realize the supreme values and protect the rights and legitimate interests of other citizens. It is significant that the fulfilment of the mission and realization of the supreme values of the space state may also limit the rights and freedoms of citizens.

6.5. Basic duties of citizens of Asgardia

Paragraph 1 of Article 9 of the Constitution of Asgardia considers duties as “inalienable and imprescriptible”, arising from “the moment of acquiring citizenship”. The main duties of a citizen are defined in Article 9 as, inter alia: “Asgardian citizens shall respect and not violate the rights, freedoms, and legal interests of other people” (par. 2 of Art. 9); “comply with Asgardia’s Constitution and laws, respect and implement its Supreme Values irrespective of their location unless this results in violation of the law of the State in which they are located” (par. 4 of Art. 9). They shall “pay voluntarily established taxes and levies in accordance with Asgardia’s laws” (par. 5 of Art. 9); “possess the right and obligation to participate in elections and referenda. Systematic derogation of this duty may lead to legal consequences in accordance with Asgardia’s laws” (par. 6 of Art. 9); “preserve nature and the environment in Asgardia’s localities” (par. 7 of Art. 9). This can result in protecting the sovereignty of the state, security of Asgardia, promoting the fulfilment of its mission and the realization of the Supreme Values (par. 8 of Art. 9). And it includes “making a contribution to the creation of Asgardia’s resources to ensure the common good that is commensurate with their ability to do so, in line with the Supreme Values of Asgardia” (par. 9 of Art. 9).

The duty enshrined in paragraph 4 of Article 9 that requires compliance with the Constitution, legislation and the supreme values of Asgardia, which contains its basic space benchmarks, is worthy of note.

The duty on the voluntariness of payment of mandatory taxes and payments to the budget of Asgardia enshrined in paragraph 5 of Article 9 seems to be a little controversial. However, it can be explained, apparently, by a high level of conscientiousness of citizens or by the initial stage of the

formation of Asgardia. Paragraph 10 of Article 9 (Financial Resources) of the Constitution of Asgardia also allows preferential tax regime but in accordance with established laws on taxation system.

If the key word for taxation is “voluntarily”, but the key word for regulating participation in elections and referendums in a space state would be “duty”. Systematic non-participation may entail legal liability. Paragraph 10 of Article 9 of the Constitution states that the measures of liability for non-performance or improper performance of duties of a citizen are: a) life deprivation of citizenship of Asgardia; b) suspension of citizenship of Asgardia; c) fine; d) restriction or complete closure of access to information and other resources of Asgardia. At the same time, under the Constitution of Asgardia the death penalty and the creation of prisons in a space state are absolutely prohibited (paragraph 10 of Article 9).

As can be seen, at the present stage of the formation of Asgardia, the main tendency of the Constitution is orientation towards ‘soft power’ that is “the conquest of hearts and minds”. American politician scientist, Joseph S. Nye Jr., compares *hard power* with thrust, but *soft power* with gravity and defines it as “the ability to influence the behavior of others by means of cooperation in designing the programs of action, persuasion, and positive impact to get the desired outcomes” (Nye, 2014; Nye, 2004).

In a world when there are changes in forms and parameters of the use of power and information and communication technology becomes an integral element of both hard power (including military power) and soft power. The importance of soft power coupled with information technology, the Internet, social networks and the media is constantly increasing. In the case of Asgardia, it is manifested in a dominant influence on the consciousness of citizens, reliance on voluntariness and cooperation, the development of interest and trust. This includes the unity based on spreading romantic and pioneering sentiments, the fascination with space exploration and the successful future of mankind, universal values and cosmopolitan ideas. However, whether there will be enough soft power for the fulfilment of space projects that Asgardia has planned is a big question.

6.6. Guarantees of rights and freedoms of citizens

Under Article 10 of the Constitution (Guarantees of rights and freedoms of citizens), these guarantees are limited to the recognition of the existence of corresponding rights and freedoms of citizens and corresponding duties in the Constitution and some laws of Asgardia (par. 4, Art. 10). It also concerns a more detailed articulation of certain obligations of the state that shall guarantee rights and freedoms of citizens. The application of all available resources of the state and state property are among such obligations of the state. Chapter 4 (Resources of Asgardia) of the Constitution of the space state provides information about what resources are involved.

The last three paragraphs of Article 10 providing information about obligations of the state, which shall ensure rights and freedoms of citizens are of particular interest. “The Government shall guarantee that the aims, plans, and development forecasts of Asgardia, as well as the threats and risks to its development, are publicly disclosed”. “The Government shall establish its public opinion and take the same into account when making administrative decisions in accordance with Asgardia’s laws”. “The Government shall guarantee that any Asgardian legal act may be repealed on the request of Asgardian citizens by means of the appropriate procedure set by Asgardia’s laws”.

At present, all these guarantees and obligations of the state remain the potential capabilities of the experimental state.

7. Conclusion

In general, the digital space state of Asgardia is one of the newest experiments relating to the integration of mankind to solve the problems of space exploration, as well as the maximum implementation of digital technologies in public administration. This involves the creation of statehood with more specialized research, scientific and technological functions, focused on space activity as much as possible and extremely curtailed traditional and typical functions of the state (in particular, social, economic, law enforcement, military). It remains to be seen how such an experimental digital state will be viable in a system of powerful and competing terrestrial and space states with territory that are placed in Earth and traditional functions.

The analysis of the supreme values shows the cosmic nature of Asgardia that was clearly manifested in them. A reference to the supreme values of a space state can reveal the space potential of a wide range of human, civil rights, and freedoms. It can be assumed that future space states can also apply such technical and legal device in the constitutions, in which the main provisions will be concentrated in its main and special parts.

The constitutional rights and freedoms of citizens of the experimental digital state, Asgardia, includes universal human rights and freedoms of citizens and certain new provisions related to the orientation towards the space exploration and human activities in outer space. In this sense, it is possible to see that the Constitution of the non-recognized state is sometimes inconsistent, contains some contradictions, and contains mainly declarative sprouts of new legal ideas in the field of human, civil rights, and freedoms of space states and space civilization.

Asgardia hopes to be recognized by other states, though it seems to be unlikely. In some five years' existence Asgardia has not made much progress on this issue. At the same time, its existence attracts attention to space activity and may accelerate the formation of human space civilization. The experience of positive and negative relations to artificial creation of the first digital (network) space state with real people may be of interest for subsequent forms of space statehood, naturally formed on the basis of the most developed states of the planet.

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