

STRENGTHENING *UNIVERSITY* COOPERATION *OSIJEK – PÉCS*

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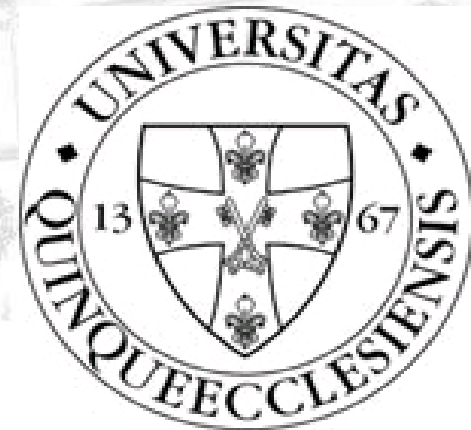


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The legal nature of EU Citizenship – Perspectives from International and EU law

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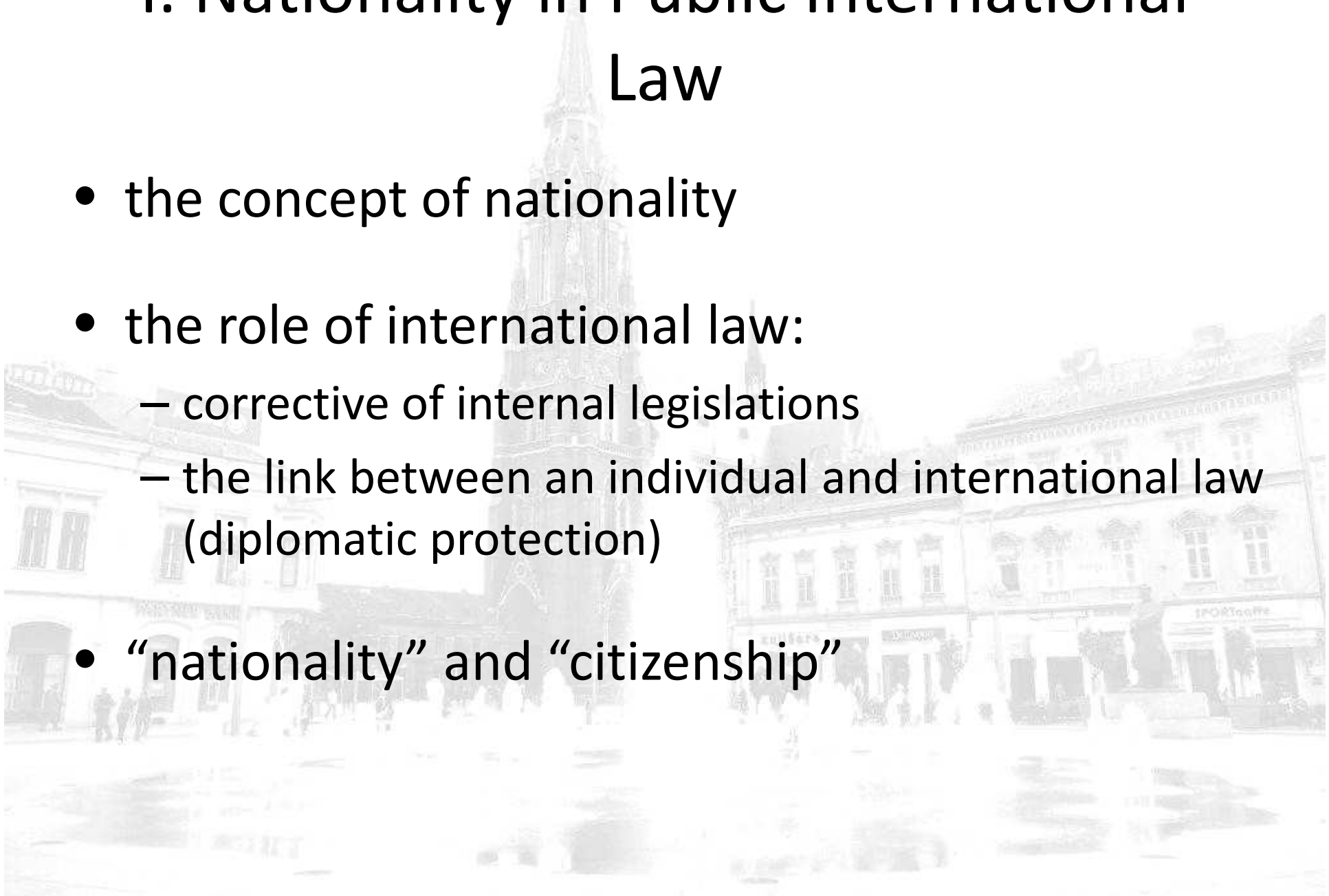
CONTEMPORARY LEGAL CHALLENGES:

EU – HUNGARY – CROATIA

Osijek, 16 – 18 february 2012

I. Nationality in Public International Law

- the concept of nationality
- the role of international law:
 - corrective of internal legislations
 - the link between an individual and international law (diplomatic protection)
- “nationality” and “citizenship”



II. The Concept of Nationality and EU Citizenship compared

- terminology used by the Treaties:
 - nationality
 - EU citizenship
- subjects of legal relationship:
 - *nationality* – an individual and a state
 - *EU citizenship* – an individual and a (supranational) international organization
- acquisition and loss of the status – additional status of EU citizenship!
- content - additional status of EU citizenship!



III. The role of the Court of Justice in defining EU citizenship

- Dynamic interpretation
- Links between EU Citizenship and nationality
- EU Citizenship – free movement & residence



Nationality – Untouched competence of the Member States?

- a MS must not restrict the effects of the grant of the nationality of another MS by laying down additional conditions for recognition of that nationality with a view to the exercising the fundamental freedoms in the Treaty (*Micheletti, Garcia Avello,...*)
- MSs need to have due regard to EU law in connection with decisions withdrawing naturalisation provided that the withdrawal results in the loss of EU citizenship as well (Rottmann)
 - + Recovery of the “original” citizenship.

EU citizenship status as an autonomous point of reference

- Free movement and residence based solely on Union citizenship status?
- Martinez Sala; Metock: free movement already exercised
- Zhu & Chen: free moving minor EU Citizen
- Zambrano: no free movement
- McCarthy: the national measure did not have the effect of depriving her of the *genuine enjoyment of the substance of the rights* associated with her EU citizen status
- Dereci: genuine enjoyment – residence in the EU

Concluding remarks

- EU citizenship: additional vs fundamental
- Active judicial interpretation
 - *Contra legem reasoning?*
- Autonomus point of reference and basis for judgments

