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NATURALIZATION OF THE FOREIGN ATHLETE  
A COMPARATIVE STUDY OF IRAQI, EMIRATI, FRENCH AND SOUTH  
KOREAN LEGISLATION.

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**Abstract**

Naturalization in general is the person's acquisition of a nationality that is proven to him after birth, even if some of the elements of acquiring it after birth, as the lesson is to fully enter into the nationality and to what extent this was achieved at the time of birth or at a later date. The acquired nationality differs from the original nationality in terms of the time it was acquired, and what unites them is the need for a link between the individual and the state granting the nationality.

The nationality laws that are the subject of comparison in the research did not agree on a specific formula that defines the legal nature of the naturalization of a foreign athlete, and the most likely opinion is that the naturalization of a foreign athlete is naturalization based on the performance of a useful service for the country as stipulated in some of the nationality laws in question, such as the Iraqi, Emirati and French laws. And South Korean.

The naturalization of foreign athletes is one of the topics of newly established and rapidly formed, so countries that interested in sports activity and their desire to develop their various sports activities have tended to naturalize foreign athletes so that these people can represent this country (nationality grantor) in regional and international activities and tournaments to achieve sporting achievements in this regard. , Explicit laws legislated and regulated the various types of naturalization, including the naturalization of the foreign athlete under different legal names and situations, some countries considered the naturalization of the foreign athlete in exchange for providing useful or great services to the state, and others made it an exception to the general rule of naturalization and this is what we will address in the research subject of study.

## Introduction

Naturalization is the person's acquisition of the nationality of a country other than his original nationality at a later date after birth, the naturalization of a foreign athlete is a newly emerging topic, as countries interested in developing their sports activities have tended to naturalize foreign athletes in order to represent them in regional and international activities and tournaments to achieve sporting achievements. Legislation tended to regulate the naturalization of foreign athletes under different legal names and situations, which we will discuss.

### **The importance of the topic**

The naturalization of foreign athletes has expanded significantly in recent years and has taken more space in the Arab Gulf states, especially in the football and athletic games, as these countries began to attract football players and talented runners who do not have an opportunity to represent their country or participate in international forums.

#### Research problem

The problem of the research is to determine the legal nature of the naturalization of a foreign athlete, what are the conditions required for the naturalization of a foreign athlete, what are the implications of this naturalization, and has the legislator regulated all of this, directly or indirectly, which we will discuss to address the deficiencies and shortcomings in our national legislation in addressing This topic .

### **Topic structure**

Based on the foregoing, the research topic will be divided according to the following research structure:

**First:** The legal nature of naturalizing a foreign athlete

**Second:** Legislation view on naturalization of a foreign athlete

**First:** The legal nature of the naturalization of a foreign athlete

The question arises about the legal nature of the naturalization of a foreign athlete, so is it considered a normal naturalization, or is the naturalization of a foreign athlete an extraordinary naturalization as an exception to the nationality law, or is it considered equivalent to the foreign athlete providing great and beneficial services to the state, and based on the above, we will divide this topic into Three points, as follows:

#### **1- Naturalization of the foreign athlete, a normal naturalization**

The original in the subject of nationality is that every country has to set conditions for naturalization of its nationality in a way that achieves its higher political, economic, social, cultural, sports, population and other interests, considering the reciprocity principle in light of the international treaties to which it is a party, and this type of naturalization (ordinary naturalization) is the usual form of acquiring Citizenship and it shall be in a written request submitted by the person and subject to the discretion of the competent authority in the donor country after fulfilling the required conditions(1).

From reviewing the texts of the enforceable Iraqi Nationality Law No. (26) of 2006, we find that the Iraqi legislator has adopted ordinary naturalization in the first paragraph of Article 6 of the above law, and this article does not include any explicit or implicit reference to the permissibility of naturalization of a foreign athlete (2),Corresponding to

Article 8 of the UAE Nationality and Passports Law No. (17) for the year 1972 (3).

As for the French civil legalization, it made the naturalization of a foreign athlete a normal naturalization by residency, but it shortened the period of residency from five years to two years in recognition of the capabilities and talent of the foreign athlete wishing to be naturalized. Article (21-18-2) stated that: "The duration of the gradient referred to in Article 21- 17 , reduced for two years: 2..."The person who provided or could provide important services to France through his capabilities and talents"(4).

We believe that the naturalization of a foreign athlete cannot be considered a normal naturalization for several reasons, perhaps the most important of which is the absence of any direct or indirect reference to this in Article 6 of the Iraqi Nationality Law, and the activity of a foreign athlete by providing sports services and activities to raise the flag of the country that gives nationality is inconsistent with the requirements and the basis for granting citizenship in the case of normal naturalization, which leads us to say that the legal nature of naturalization for a foreign athlete is not normal naturalization.

2- The naturalization of the foreign athlete has naturalized extraordinary

Extraordinary naturalization is the state's granting of its nationality to a specific person outside the traditional conditions for naturalization stipulated in its national laws, such as if the state grants its nationality on the basis of reciprocity, for humanitarian reasons, or for any other reasons that the competent authority decides to be convincing for the sake of granting its national citizenship as an exception to the conditions for naturalization contained in Its national law (5).

The Iraqi and Emirati legislators did not take extraordinary naturalization (6), in this regard we commend the view of the Iraqi and Emirati legislators not to approve this type of naturalization, so it is indeed good for them to prohibit extraordinary naturalization, which gives the supreme authority the hand of the state and gives it the power to grant national citizenship to a foreigner outside the legal conditions required naturalization in all its forms.

In our perception, the legal nature of extraordinary naturalization approaches the idea of granting a foreign athlete nationality on the one hand that the state has the power to grant its nationality to anyone outside the legal conditions for naturalization, given that this falls within the state's authority to regulate its nationality matters, and on the other hand naturalization is far from naturalizing the athlete The foreigner, because the last is required for the foreigner to practice a sports activity, which is not required for extraordinary naturalization, which is considered free naturalization without conditions, which leads us to say that the legal nature of naturalization for a foreign athlete is not extraordinary naturalization.

**3- The naturalization of a foreign athlete has been naturalized on the basis of performing a service beneficial to the country**

The state may grant its nationality to whoever provides a useful or great service to the state, this naturalization is related to the standard of services provided to the state, and the competent authority in the country

granting nationality has the authority to assess services and whether they rise to the level of great services according to its legislative text (7).

Returning to the Iraqi nationality law in effect, we find that it came free of naturalization on the basis of performing a useful service for the country, and thus it did not allow this type of naturalization (8).

As for the Emirati legislator, he has approved naturalization to perform a beneficial service for the country, the Article 9 of the Law on Nationality and Passports in effect that: "Nationality may be granted to anyone who provided great services to the country without being bound by the periods of residence stipulated in the previous articles."

We believe that the naturalization to perform a useful service for the country is very close to the naturalization of the foreign athlete who performs useful services for the country through participation and achievement in international sporting championships in a way that raises the name of the country in international forums. We see that the performance of the foreign athlete in the manner presented is consistent with the intended provision of services. The activity of the foreign athlete is considered one of the beneficial actions that raise the sporting level of the nationality-granting country, as well as the representation of the state in those forums, competitions and sports tournaments and obtaining sports achievements registered in the name of the country granting the nationality and raise its status and sporting fame. Thus, we can say that the legal nature of the naturalization of a foreign athlete is naturalization on the basis of performing a beneficial service for the country.

In this regard, we call on the Iraqi legislator to follow the example of the Emirati legislator in regulating naturalization on the basis of performing a beneficial service for the country, which is a manifestation of loyalty, as well as to encourage the attraction of foreigners with competencies, talents and rare specializations, and we propose to include a legal text whose first paragraph is as follows: (1- As an exception to the provisions of Articles (11,7,6,5,4), the Council of Ministers, based on the minister's proposal, may accept the naturalization of a non-Iraqi if he has performed, performed, or can perform services beneficial to the country or is one of the competencies and talents that the state needs and requires the public interest without being bound by the conditions for naturalization contained in this law).

**Second:** Legislation view on naturalization of foreign athletes.

The research on the naturalization of the foreign athlete requires a statement of the legislative applications for this naturalization, what are the legal conditions required for this, and what are the legal implications of this naturalization, and based on the above, we will divide this topic into three points as follows:

### **1- Naturalization applications for foreign athletes in legislation**

Legislations that approved the naturalization of a foreign athlete was divided into three directions, as follows:

**The first trend:** Legislations that approved the naturalization of a foreign athlete in an un explicit text and adapted it within the general concept of providing useful services to the country, such as the nationality law and Emirati passports, by saying: "Nationality may be granted to anyone who

provided great services to the state without being bound by the periods of residence stipulated in the previous articles” (9).

**The second trend:** Legislations that took the naturalization of a foreign athlete with an unexplained text and adapted it within the general concept to provide useful services to the country, but restricted to a short residency such as the French civil legalization by saying: “The duration of the gradient, referred to in Article 17-21, is reduced to two years: .... 2, to the person Who has rendered or could provide important services to France through his capabilities and talents”(10).

**The third trend:** Legislations that took the naturalization of a foreign athlete with an explicit text, such as the South Korean Nationality Law No. (5431) for the year 1997, stating: “A foreigner to whom any of the following two sub-paragraphs applies and residing in the Republic of Korea may obtain a naturalization permit without the need to complete the conditions stipulated in the sub\_ paragraph. Subsidiary (1) or (2) or (4) of Article (5) ... 3- A person who has contributed to the national interests of the Republic of Korea with a very excellent degree in a specific field such as economic, cultural and sports sciences (11).

## **2- Conditions for the naturalization of the athlete**

In view of the different of the legislation regarding the naturalization of a foreign athlete, we will determine the conditions for the naturalization of a foreign athlete in based on what we have concluded that the legal nature of the naturalization of a foreign athlete is naturalization for the performance of a beneficial service for the country in the sports field, as follows:

**The first condition:** that the applicant for naturalization is a foreigner

The applicant for naturalization must be a foreigner, and the foreigner is a person who does not hold the nationality of the country whose nationality he wishes to acquire, as he may hold the nationality of another country or be stateless (12).

**The second condition:** the applicant for naturalization must be an athlete.

He also must practice a sporting activity such as athletics, football, bodybuilding, weightlifting, basketball, karate and other sports, and sport is known as a social activity that contributes to the improvement of the individual's mobility, health and psychological adequacy and is determined by the training and competition elements and the required rules and regulations based on fair comparison (13), and is also known as every physical activity characterized by the spirit of playing, practiced by the individual with desire and sincerity, which includes a competitive struggle with others, the self, or with the elements of nature. Sport is the individual or collective practice of these activities. As for the athlete, is every person who practices sports or participates in its activities, in other words, is a person who carries out the physical effort involved in the sporting activity, it includes everyone who contributes to the sport activities, as player, referee, coach, members of sport federation, and the organizer of the sport of the championship and other people who contribute to these Sport Games (14).

**The third condition:** The naturalization applicant must be coming of age

The foreign athlete must be coming of age in order to his application to acquire the national citizenship to be counted, conversely, his application is not considered legal due to the lack of legal capacity required to submit the

application for naturalization (15). We must mention here that an athlete who does not have the required legal capacity can acquire the nationality through the father's naturalization, that is his father is the one who submits the application if he has the legal capacity required to apply for naturalization, and thus the minor athlete, according to the general rules of naturalization, acquires the nationality of his father.

**The fourth condition:** The naturalization applicant should perform a useful or great service to the state in the field of sports

The basic condition in this naturalization is that a foreign athlete performs a useful service in the sports field of the country whose nationality he is seeking to acquire, by playing for the country of which he acquired its nationality in order to achieve a sporting achievement and to raise the flag of that country in sporting activities regionally and internationally.

We note that the legislation requires that the foreigner has performed a useful service for the country whose nationality he wishes to acquire before granting him national citizenship, and this assumption cannot be achieved in the case of a foreign athlete who cannot represent the concerned country in sporting forums except after acquiring its nationality, so naturalization is first and then comes after the beneficial services provided by the foreign athlete.

**The fifth condition:** Submitting an application for naturalization by the foreign athlete.

The state does not impose its nationality on the foreign athlete, rather, he must submit an application to the authority concerned with nationality affairs in the concerned country, as the application approved by the authority concerned with nationality affairs is the basis on which the acquisition of nationality is based on this assumption.

**The sixth condition:** that a decision be issued by the competent authorities in the state

The last condition is the approval of the competent authority - in the concerned country - of the naturalization application submitted by the foreign athlete, and these authorities are permissible and not obligatory, so the application for naturalization can be approved, so the foreign athlete becomes naturalized with the national citizenship, and the application can also be rejected (16).

### **3- The implications of the naturalization of the athlete**

The effects that result from the naturalization of a foreign athlete are of two types, individual effects related to the naturalized athlete personally, and collective effects related to his family, as follows:

#### **A: Individual effects**

The principle is that a foreign athlete who has acquired the nationality of a country becomes a national in it and deserves the privileges established for citizens and has the same obligations (17), but his naturalization is limited to the purpose for which he was naturalized, which is to practice sporting activity in the name of the country he acquired its nationality and is not entitled to exercise political rights such as the right to vote, run for election or assuming sovereign positions, and this is what the Emirati legislator adopted by saying: "Whoever acquires the state's nationality by naturalization in accordance with the provisions of Articles (5, 6, 7, 8, 9, 10) does not have the right to nominate, vote, or appoint in any of the

representative or popular bodies , or ministerial positions. Citizens of Omani, Qatari or Bahraini origin are excluded from the provisions of this article after seven years have passed since they acquired the nationality.”(18)

While the French civil legalization went to equality between the naturalized athlete and the patriot in the exercise of rights by saying: “The person who acquires the French nationality deserves all the rights and abides by all the obligations associated with the French status from the date of acquiring this nationality” (19), and then the naturalized athlete is entitled to the French nationality , that his name be registered in the electoral lists, and international treaties signed with the country of which he was a citizen cannot be invoked.(20)

We find that the Emirati law in this regard deserves support and is better than the French , so as long as the foreigner has been naturalized exceptionally to represent the state in the sports field, it is better not to grant him the right to nominate or assume sovereign positions and his right to be elected and appointed to ordinary positions related to sports activity as an expert or coach or administrator and the like.

In this regard, we call on the Iraqi legislator to adopt the Emirati legislator and to include a second paragraph for the text that we previously proposed in the Nationality Law, as follows: (2- It is not permissible for a non-Iraqi who acquires Iraqi nationality in accordance with this article to occupy the position of President of the Republic, his deputy, or the Prime Minister or as a minister or a member of a parliamentary body, or who assumes a sovereign or security position, taking into account the provisions of the second Paragraph of Article 9 of this Law) (21).

#### **B: Collective effects**

They are the effects related to the family of the naturalized athlete from a wife and children, and the origin in it is that the wife's nationality is not affected by the acquisition of the nationality of a state by her athlete, as is the case for adult children of the coming age , while this acquired nationality extends to include young children who are not adults of adulthood, so they join the nationality of their father in a dependent manner (22)

We call on the Iraqi legislator to include a third paragraph of the text that we previously proposed, taking into account the children of the naturalized athlete who are not adults of adulthood, and as follows: (3- Naturalization in this article is limited to the person alone, taking into account what is stated in the first paragraph of Article 14 of this law)(23).

### **Conclusion**

After we previously discussed the issue of the naturalization of the foreign athlete, we reached a number of the most important findings and recommendations, which are as follows:

#### **First: The results**

1. Legislations differed regarding the provisions for the naturalization of the foreign athlete, some subject him to the rule of ordinary naturalization, others subject him to the rule of extraordinary naturalization, while other legislations subjected him to the rule of naturalization to perform a beneficial service for the country.

2. The legal nature of the naturalization of a foreign athlete is naturalization on the basis of performing a beneficial service for the country

3. The Iraqi Nationality Law in effect, did not explicitly or implicitly admit the naturalization of a foreign athlete, while the repealed Nationality Law No. 43 of 1963 took naturalization to perform a useful service for Iraq, and the naturalization of a foreign athlete could be considered among them.

4. The conditions for the naturalization of a foreign athlete do not differ from the general conditions for naturalization, which are represented by being a foreigner and qualified, submitting an application for naturalization and the approval of the competent authority, and in addition to being practicing a sporting activity without being restricted to a period of residency, with the exception of the French legislator who requests residence for two years.

5. The Emirati legislator restricted the individual effects of the naturalized athlete and did not allow him to practice political rights, while the French legislator equated the naturalized person with the national in the exercise of all rights. As for the collective effects, the laws limited them to the naturalized athlete without his wife and adult children.

### **Second: Recommendations**

We recommend the Iraqi legislator to regulate the naturalization of a foreign athlete in the nationality law as a form of providing beneficial or great services to the country, and we propose to include a legal text in three paragraphs as follows:

1- As an exception to the provisions of Articles (11,7,6,5,4), the Council of Ministers, based on the minister's proposal, may accept the naturalization of a non-Iraqi if he has performed, performed, or can perform services beneficial to the country or is one of the competencies and talents that the state needs, the public interest requires this without being bound by the conditions for naturalization contained in this law.

2- It is not permissible for a non-Iraqi who acquires Iraqi nationality in accordance with this article to occupy the position of the President of the Republic, his deputy, the Prime Minister, a minister, or a member of a parliamentary body, or hold a sovereign or security position, taking into account what is stated in paragraph Two of Article 9 of this law.

3- Naturalization in this article is restricted to the person alone, taking into account what is stated in paragraph 1 of Article 14 of this Law)

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