SOME COMPARATIVE LAW ASPECTS OF CITIZENSHIP LEGISLATION IN THE REPUBLIC OF MOLDOVA AND ROMANIA

CATEVA ASPECTE DE DREPT COMPARAT ALE LEGISLATIEI CETATENIEI IN REPUBLICA MOLDOVA SI ROMANIA

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Summary. *With a Romanian historical and cultural background, with a common future within the Euro-Atlantic bodies, Romania and the Republic of Moldova continue the effort of democratization and harmonization of national legislation with the community acquis, the amendments and adaptations also targeting legal procedures and technical conditions for their fulfilment. The electronic certificate, the collection of biometric data, the reduction or, where appropriate, an increase in the processing time for applications for naturalization or recognition of citizenship are elements which are or will be part of the legislation on citizenship in the Republic of Moldova and Romania.*

Keywords: *citizenship, Republic of Moldova, Romania, legislation, Euro-Atlantic bodies*

INTRODUCTION

The present study has the merit of analysing the mirror image of the legislation related to the acquisition or loss of citizenship in two of the Eastern European states: Romania and the Republic of Moldova. Moldova largely comprises the former territory of the historical province of Bessarabia, which was part of the Kingdom of Romania between March 27/April 9, 1918, and June 28, 1940, and is inhabited by 2512800 people (as of January 1, 2023)[1]. Over 80% of the population are ethnic Romanians [2], declaring themselves Moldovans and Romanians. Many of them, approximately one million people of Bessarabia, are full citizens of Romania [3] and enjoy the status of European citizens.

Through this paper, the author wishes to open new research directions, aimed at providing answers to legitimate questions: what are the common elements of the legislation on the individual's right to apply for citizenship of the Republic of Moldova and Romania; what are the obstacles to the realization of a common legislative framework, considering the historical and ethno-linguistic elements characteristic of Romanian and Moldovan citizens?

In this article, the author has analysed general and specialized works, the legislation related to citizenship in both countries and statistical data provided by the institutions of the Republic of Moldova and Romania. Among the materials used are Constitution of Romania[4], Constitution of the Republic of Moldova[5], Romanian Citizenship Law no. 21/1991[6], Citizenship Law of the Republic of Moldova no. 1024/1994[7], general and special works[8], online resources[9].

Administrative procedures for obtaining Romanian citizenship

The courts of the EU have held, in the numerous cases brought before them, that the right to acquire or retain the nationality of a particular state is not guaranteed by the Convention or its protocols. Apart from this, the Court leaves room for interpretation, admitting that arbitrary denial of nationality may, in certain circumstances, be controversial and run counter to Article 8 of the Convention, given the major implications, ultimately harmful to the social climate of the individual and his or her relationship to the society in which he or she lives. In support of this assertion, the ECtHR has pronounced itself in a positive manner (*Petropavlovskis v. Latvia, Ramadan v. Malta, K2 v. the United Kingdom)*, agreeing on a type of legal symmetry between the situation of withdrawal of citizenship already granted and the case of refusal to grant citizenship. The Court considers that the two situations are governed by the same principle, namely the same rationale, since they may lead to a similar, if not more severe, interference with respect for the private and family life of the individual. However, it is necessary to mention the source of this measure, so that, in the above-mentioned situations, the measure depriving the applicants of their citizenship was the consequence of their culpable behaviour, being the result of their actions see GEO No 147/2008.

According to the Romanian legislation in force, the ways of obtaining Romanian citizenship are **by birth**, by adoption or upon application. The acquisition of Romanian citizenship by birth, as a direct effect of the philosophical legal principal *jus sanguinis*, means that a person born of at least one Romanian citizen parent, regardless of place of birth, is a Romanian citizen. Obtaining citizenship **by adoption** occurs when the minor who is a foreign citizen or without citizenship obtains Romanian citizenship by adoption, if the adopters are Romanian citizens or, if only one of the adopters is a Romanian citizen, the citizenship of the adopted minor will be decided by mutual agreement between the adopters. Depending on the age of the adoptee the consent of the adoptee is required, according to art. 5 and 6 of Law no. 21/1991.

In the category of obtaining Romanian citizenship **upon application**, there is a simplified procedure for the regaining of Romanian citizenship by former Romanian citizens, their descendants up to the second degree included (Art. 10) and persons who received Romanian citizenship by birth or adoption (including their descendants up to the third degree) and who lost it involuntarily (Art. 11).

Foreigners can apply for Romanian citizenship if they fulfil certain conditions provided by the Romanian Citizenship Law. In order to obtain this right, the applicant of

full age must have been born and domiciled in Romania at the time of submitting the application or, although not born in Romania, has been domiciled in Romania for at least eight years or, if married to a Romanian citizen, for at least five years from the date of the marriage[10]; he/she proves that he/she is loyal to the Romanian State, that he/she does not have and has not had any actions against the rule of law or national security has a sufficient income in Romania to have a decent standard of living, under the conditions established by the legislation on the status of foreigners; is of good repute and has not been convicted in the country or abroad for a crime that makes him unworthy of being a Romanian citizen; has knowledge of the Romanian language, Romanian culture and civilization, which allow him to integrate easily into social life; is familiar with the provisions of the fundamental law and knows the national anthem (Law no. 21/1991, art. 8).

As a way of working, applications for Romanian citizenship are settled primarily according to the legal basis of the application in question [granting - art. 8, granting special contributions - art. 81, granting of sportsmen by HG - art. 82, granting of minors - art. 9, regaining - art. 10, regaining - art. 11, regaining minors - art. 10 paras. (4) (6), re-adoption - Art. 11 para. (2), renunciation - Art. 27 and withdrawal of Romanian citizenship - Art. 25]. Secondly, the applications submitted under these articles are submitted to the Citizenship Commission for analysis and verification of the fulfilment of the legal requirements, in the chronological order of their registration in the SAFA ANC database.

By way of exception, applications concerning Romanian citizenship may also be submitted to the Commission for Citizenship at a later date than the one initially set, following a written request (memorandum accompanied by the relevant evidence) that the holder makes to the President of the National Authority for Citizenship, who orders, by written resolution on the memorandum, that the application be submitted to the Commission for examination. In most of the requests of this kind that have been approved previously, the reasons given include medical situations of a particular urgency.

Administrative procedures for granting citizenship in the Republic of Moldova

The legal relations concerning citizenship of the Republic of Moldova are regulated by Law No 1024/2000. According to the provisions of this law, the rules on Moldovan citizenship are based on the following principles: the right of each person to one citizenship and to change his/her citizenship, non-discrimination of citizens irrespective of the way of acquiring it, inadmissibility of arbitrary deprivation of citizenship and avoidance of statelessness, no effect on the citizenship of the spouse (or on the citizenship of the child, if there is no request for it) in case of change of the citizenship of the other spouse.

Moldovan citizenship is acquired by birth, recognition, re-acquisition, naturalization, naturalization, based on international agreements to which the Republic of Moldova is a party.

A child born to at least one Moldovan citizen parent or who was born on the territory of the state to stateless parents or who is under international protection is considered a citizen of the Republic **by birth.**

Citizenship of the Republic may also be obtained **by recognition**, for those persons of full age born on the territory of the Republic who have no proof of citizenship. Also recognized as Moldovan citizens are those persons who have expressed their wish to become citizens of the Republic of Moldova and cumulatively meet the following conditions: they were born abroad and have at least one parent, grandparent or great-grandparent born on the territory of the Republic of Moldova, who until June 28, 1940 lived in Bessarabia, Northern Bukovina, Herta County and the Autonomous Soviet Socialist Moldovan Socialist Autonomous Republic and their descendants, were deported or refugees from the territory of the Republic of Moldova since June 28, 1940, and their descendants, or who on June 23, 1990 were legally and habitually resident on the territory of the Republic of Moldova and continue to reside there today.

Naturalization is a way of obtaining the citizenship of the Republic of Moldova, which can be accessed by a foreign citizen or stateless person with legal domicile and habitual residence on the territory of the Republic, who complies with the provisions of the Constitution, who has passed the language test and who has sufficient sources of income for a decent living. The applicant must also fulfil one of the following conditions related to residence: has been domiciled for at least ten years on the territory of the Republic of Moldova (for stateless persons, refugees and beneficiaries of humanitarian protection and political asylum, the term is only eight years), has been domiciled on the territory of the Republic of Moldova for five years before reaching the age of majority, has been married to a Moldovan citizen for at least three years and has been continuously domiciled on the territory of the Republic of Moldova for the last three years, has been domiciled on the territory of the Republic of Moldova for the last three years with parents or children who are Moldovan citizens.

CONCLUSIONS

Based on the analysis of the similar texts on citizenship in the Republic of Moldova and Romania, it can be noted the similarity of some terms and procedures. In both countries, the procedures, complex or simplified, are aimed at naturalization or recognition of the citizenship status of former holders. This paper summarizes the main legislative regulations in this area in the two countries and highlights the specific features.

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