

**ASPECTS OF EXERCISING THE OF CITEZENSCHIP  
RIGHTS IN COMPARATIVE LAW**

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*A member of a state participate within its individual capacity as well as equal practical participation, concurrent and alternatively with other members to exercise the state power and benefit from its legal system, rights and obligation to which they relate, advocates and promotes the state. Thus, citizenship appears as an expression of the principle of equality in social life, achievement of a democratic life and an expression of fight against attempts to diminish and defeat them.*

**Key words:** *citizenship, state, principle of equality*

The need for organization and regulation, both on national and international arena has led the search for a term that could help to explain and define the concepts and theories in the sphere of nationality law. Citizenship is the term used to define the position or status of an individual in a particular country. Thus, the word "citizen" has different meanings depending on the legal discipline.<sup>100</sup>

In constitutional terms "citizen" designates primarily a member that holds legal rights and privileges of the state of which it belongs, whereas in public or private international law the legal status of a citizen deviates from the original definition in terms of practice. Today, most constitutions and citizenship laws use the term to describe this association.<sup>101</sup>

The comparative research of nationality law through national legislature and comparative constitutional law demonstrates considerable theoretical and practical significance. It allows, on the one hand, the development of common principles and identifies theoretical and practical aspects regarding the exercise of citizenship rights and, on the other hand, in terms of legal techniques facilitates the drafting and completion of the constitutional mechanisms in this regard.

When we talk about citizenship law in Moldova, we cannot eschew referring to what we call plurality of citizens and its importance for citizens. Republic of Moldova has recognized the right of Moldovan citizens to have two or more nationalities by amending the constitution and a citizenship law.

The concerns of the international community in matters of citizenship, materialized in the treaties with respect to human rights, are focused on creating the right conditions for a person to get the citizenship in order to benefit from its and privileges.

In this article we will examine the institution of citizenship in the Republic of Moldova tangentially and compared with other states as well.

For example the American citizen is simultaneously a citizen of the federal entity and the State in which they reside. In fact, citizenship of the federal state are very flexible, therefore there is no requirement for permission for someone to move from one state to another, except those condemned to not to leave the state.<sup>102</sup>

The Swiss nationality law stipulates in the Federal Law adopted on 09.29.1952 with effect from 01.01.1953 that the citizenship can be acquired based on the following principles: triple citizenship (Swiss confederation, canton and municipality), acquisition of citizenship by descent ("Jus Sanguinis"), prevention of statelessness.

Swiss law states that the acquisition of citizenship by birth is possible when both or one parent is of Swiss citizen, by adoption, marriage, naturalization and regaining. Switzerland does not apply the principle of Jus Soli; hence birth on Swiss territory does not confer citizenship.<sup>103</sup>

Naturalization can be generally under (regular) and simplified regime (facilitated) for people who meet certain criteria.

Russian citizenship can be obtained: by birth, based on descent, either on the basis of Jus Soli, if born of foreign parents and did not get the citizenship of the parents or if the parents are not known, by granting, by regaining under other conditions provided by international treaties of the Russian Federation.

Portuguese law stipulates that its citizenship can be acquired through birth, descent or by "Jus Soli" principle, if the child has another citizenship or if parents are not known, by marriage, by regaining, by adoption and naturalization.

<sup>100</sup> Berceanu B. B. Citizenship: legal monograph . Bucharest: Editura ALL BECK 1999

<sup>101</sup> T. Cirnat, Constitutional Law ( second edition revised and added ) . Chişinău " Print - Caro " SRL , 2010

<sup>102</sup> <http://www.manager.ro/articole/analize/analizele-managerro-o-modalitate-controversata-de-a-obtine-cetatenia-americana-16222.html>, visited on 04/18/2016

<sup>103</sup> [http://casa-romanilor.ch/despre\\_cetatenia\\_elvetiana\\_si\\_obtinerea\\_ei](http://casa-romanilor.ch/despre_cetatenia_elvetiana_si_obtinerea_ei) , visited on 18/04/2016

According to Ukrainian legislation, citizenship is obtained by: birth in Ukraine and / or the parents of who at least one is a Ukrainian citizen, by naturalization, regaining, adoption, by establishing guardianship over the child or incapable person, affiliation, and other means provided by international treaties bilateral Ukraine. People who during the declaration of independence in August 24<sup>th</sup>, 1991, resided in Ukraine also have the right to Ukrainian citizenship.

Until the introduction of amendments entered into force on 1 January 2000, the German law did not recognize the principle of *Jus Soli*; therefore, the German citizenship can only be acquired by descent, both or one parent of German nationality, by marriage, by adoption and naturalization.

Naturalization is only provided for two classes of people: those entitled to apply for German citizenship under Art. 116 (2) of the Basic Law, i.e. those who were deprived of German citizenship for political, racial or religious grounds and their descendants, and through regulatory authority approval for those individuals who judge for the public interest and based on other criteria.

In light of the above examples, we can notice that the states have outlined several principles that constitute the main and most applied regulatory means to acquire a citizenship, which are as follows: based on descent ("*Jus Sanguinis*"), by birthplace (*Jus Soli*), by adoption, marriage, naturalization and by regaining.

Many states have special procedures regarding the acquisition of citizenship for individuals who have their historical origin in those countries. The basic requirements are the language and the ethnic identity; hence the states represent the roots and kin of the individuals' concerned. The special relationship between the individual and its homeland stems from the principle "*Jus Sanguinis*" that implies the «right of blood», which originally means recognizing the right of the child to obtain the citizenship of the parents.

Given the variety of specific situations that states have known throughout history, "*Jus Sanguinis*" principle was extended to people of the same ethnic group regardless of the status of their ancestors. Most countries that have lost territories or have passed through historical cataclysms have adopted legislation of this kind. For instance, according to art. 25 of the Constitution of Bulgaria, Bulgarian origin people acquire Bulgarian citizenship through access to a more favourable procedure. Previous relationships with the Bulgarian state do not constitute the grounds upon which the nationality is given, but the ethnic association with the community.

Finnish law contains similar provisions and ensures the right of repatriation of ethnic Finns from the former USSR; the only requirement is passing a test in Finnish.

Turkish law allows people of Turkish origin, their wives and children, to ask for Turkish citizenship without being forced to wait for five years, as provided for other immigrants.

Under Portuguese law, people who have reached the age of 18 can only be naturalized after 10 years of permanent residence in Portugal. It shall be reduced to 6 years if the person comes from a country where Portuguese is the official language. The provision is the same for children born of foreign parents. The child will become a Portuguese citizen if the parents have been resident in Portugal 10 years and 6 years if they come from a country where Portuguese is the official language.

It is known that the regulations on obtaining German citizenship targeting ethnic Germans from the former Eastern Europe and the former USSR, and later in the former Soviet republics, under a so-called «Right to Return». According to art. 116 (1) of the Basic Law, « Unless otherwise provided by a law, a German within the meaning of this Basic Law is a person who possesses German citizenship or who has been admitted to the territory of the German Reich within the boundaries of 31 December 1937 as a refugee or expellee of German ethnic origin or as the spouse or descendant of such person.». This applies to Germans lost territories, namely those in East Germany, under Soviet occupant.

According to the art. 116 (2) of the Basic Law of the Federal Republic of Germany "Former German citizens who between 30 January 1933 and 8 May 1945 were deprived of their citizenship on political, racial or religious grounds, and their descendants, shall on application have their citizenship restored. They shall

be deemed never to have been deprived of their citizenship if they have established their domicile in Germany after 8 May 1945 and have not expressed a contrary intention.

According to the Irish Nationality Act and Citizenship from 1956, any person born in Northern Ireland before 31 December 2004 shall be entitled to become a citizen of the Republic of Ireland if desired. The citizenship is granted directly by submitting an application for issuing a passport Irish.

Since January 1 2005 entered in force the Irish Act on Citizenship and Nationality in 2004. It provides that a person born on the island of Ireland after that date is not automatically a citizen or entitled to obtain citizenship, except for the situation where one of the parents is a citizen or entitled to obtain Irish citizenship or British citizen resident on the island of Ireland or the Republic or Northern Ireland without any time limit on that residence.

The Russian Federation nationality law establishes in art. 17 and 21 that if the international treaties adhered by Russian Federation change the regulations regarding the Russian borders, following that these territories are of another state or change their status; people living in those territories can claim the Russian citizenship.

According to art. 13 (2a) of Russian Federation Law, people who were born in Russia and had previously nationality of the Soviet Union, have to reside in Russia one year comparing the general rule that stipulates a period of 5 years. Art. 14 (1) eliminates the condition relating to the requirement of domicile for certain categories of people, including people who had citizenship of the Soviet Union, have been living in former Soviet states, unless they have obtained citizenship in these countries and are stateless persons.

It is necessary to pay close attention at the distinction between getting citizenship through legal means and regaining of it by means of ethnicity, since in some cases this distinction is ignored. Regaining is acquisition of dual or multiple citizenships. Likewise, regaining a citizenship in order to avoid cases of statelessness in situations where people lose the citizenship of a State.

The art. 9 of the European Convention with regard to citizenship provides that «each State party shall facilitate, in the cases and under the conditions provided for in its national law, reintegrating into his citizenship of persons who possessed it and residing legally and habitually within its territory».<sup>104</sup>

Most States recognize by law a person who has lost or renounced citizenship of a State the right to claim the citizenship of that State. Thus, regaining does not represent anything other than an opportunity made available to the person who lost or renounced citizenship of a State to become a citizen on the basis of a simplified procedure.

Issues related to citizenship in the Republic of Moldova are regulated by the Citizenship Act No. 1024-XIV of 02.06.2000 with further amendments. Also, the Republic of Moldova has ratified the European Convention on nationality from 06.11.1997, Strasbourg, by the decision of the Parliament. 621-XIV of 14.10.1999.

In accordance with the article 10 of the Nationality Law of the Republic of Moldova the citizenship can be acquired through birth, reconnaissance, adoption, regaining and by naturalization.

Currently, the status of citizen is not conceivable without its universal character and without the existence of human rights to actively participate in the public arena.

A real citizenship includes a uniform set of rights and obligations in a state governed by the principle of supremacy.

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<sup>104</sup> <http://www.coe.int/t/dghl/standardsetting/nationality/1997%20Conv%20Romania.asp>, visited on 19/04/2016 19.04.2016