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ROMANIAN CITIZENSHIP IN THE LIGHT OF THE 1923 CONSTITUTION

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Abstract: *THE CONSTITUTION OF THE ROMANIAN NATIONAL UNITARY STATE, THROUGH THE ACTS OF UNION OF BESSARABIA, BUCOVINA AND TRANSYLVANIA, GENERATED THE NEED TO HARMONIZE THE LEGISLATION TO THE NEW HISTORICAL REALITY. THE AMENDMENTS TO THE BASIC LAW OF 1866 WERE NOT SUFFICIENT TO ADDRESS THE COMPLEX PROBLEMS RAISED BY THE DE FACTO SITUATION. THESE ISSUES, REGULATING THE STATUS OF THE NATIONAL MINORITY GROUPS IN THE THREE ROMANIAN PROVINCES, REQUIRED AMENDMENTS TO THE LEGISLATION. CONSTITUTIONAL REFORM WAS ALSO CALLED FOR BY THE VERSAILLES PEACE TREATY SYSTEM, WHICH RECOGNIZED THE BORDERS OF GREATER ROMANIA AND IMPLICITLY THE NEW ETHNIC REALITIES. BOTH ARTICLE 7 OF THE CONSTITUTION AND LAW 724/1924 REGULATED BOTH THE RIGHT TO NATURALIZATION OF FOREIGN CITIZENS AND THE MEANS OF OBTAINING IT. WITH THIS WORK, WHICH USES THE OXFORD CITATION SYSTEM, THE AUTHOR CONTINUES THE RESEARCH EFFORT MADE TO UNDERSTAND THE CONCEPT OF CITIZENSHIP. THE ARTICLE IS A BRIEF ANALYSIS OF THE MAIN CONSTITUTIONAL PROVISIONS RELATING TO CITIZENSHIP.*

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The Constitution of 1866 was repealed when the 1923 Basic Law came into force, an act which took account of the political, administrative and social realities after the end of the First World War and the recognition of Greater Romania through the system of the Versailles Peace Treaties (1919-



1923). The provisions of the 1923 Constitution were suspended by Charles II's Fundamental Act of 1938 and partially re-established in 1944, but for a short period.

Regarding Romanian citizenship, i.e. the status of Romanian citizen, the constitutional text did not provide for any major changes compared to the previous one, but only some nuances. The amendments concerned changes to naturalization. Article 7 of the 1923 Constitution stipulates that "Differences of religious beliefs and confessions, ethnic origin and language shall not constitute in Romania an impediment to the acquisition and exercise of civil and political rights". Naturalization also took place on application, individually, through a procedure that was the responsibility of the Council of Ministers - "naturalization is granted individually by the Council of Ministers, following the finding of a commission composed of: the first president and the presidents of the Court of Appeal of the capital of the country, that the applicant meets the legal requirements". Naturalization did not have retroactive effect, nor did it have retroactive effect on the spouse and children.

While at the time of 1866 naturalization required "laws relating to political rights" (Art. 6) and the application was made individually by each applicant, the 1923 text proposes a single law, but of a special nature, to regulate the acquisition by foreigners of Romanian status. The institution of citizenship was therefore regulated by a special law, adopted a year after the adoption of the Constitution, namely Law No 724/1924 on the acquisition and loss of Romanian nationality, which was in force from February 24, 1924, until January 31, 1939, when it was repealed and replaced by Law No 86/1939. By reconfiguring the relationship between nationality and citizenship, these documents constitute a real legal progress and are part of the broad effort of legislative unification (Neagoe, 2014: 233 234). Until this moment, the conditions regarding naturalization were contained in documents with constitutional value circumscribing the historical interval of a century between the Organic Regulations and the 1923 Constitution.

According to Art. 1 of Law no. 724/1924, Romanian nationality is acquired through: filiation, birth on Romanian territory (children without known parents were considered Romanian), marriage and naturalization. The cumulative conditions that the foreigner had to meet, on an individual basis, in order to obtain naturalization were the following: to be at least 21 years of age, to manifest his will to become a Romanian citizen and to declare that he renounces his foreign nationality, to have resided, following this manifestation of will, continuously on Romanian territory for ten years, to be known to be of good reputation ("good behaviour"), to have sufficient means of support for himself and his family, to have lost his foreign nationality or be about to lose it, according to the laws of his country, by the effect of acquiring Romanian nationality. The application was examined by the commission operating within the Ministry of Justice and approved by the Council of Ministers, followed by publication of the decision in the Official Gazette. Naturalization was therefore granted through an administrative procedure, leaving it to the discretion of administrative bodies to determine the conditions for naturalization. To obtain naturalization, the applicant had to take an oath of allegiance before a representative of the Ministry of Justice. The oath was as follows: "On my honour and conscience, I swear allegiance to the King of Romania and the Dynasty, to the Constitution and laws of the country, to the rights and national interests of the Romanian people". Subsequently, the applicant received a certificate of naturalization issued by the Ministry of Justice (see Annex X). The foreign citizen was thus naturalized and acquired the same rights as a Romanian citizen by birth, under Article 33 of the law: "naturalization makes the foreigner similar to the Romanian citizen both in civil and political rights".

According to Liviu Neagoe (2014: 236), in the new territorial and demographic configuration of Greater Romania, naturalization also considered two particular situations: the inhabitants of the annexed territories and the naturalization of Jews. All persons who came from the new provinces united



with Romania naturally became Romanian citizens, with all the necessary rights; the same applied to Jews from the Old Kingdom, who followed the naturalization procedure by decree laws.

Law no. 724/1924 established, in art. 36, the ways in which Romanian nationality could be lost, namely: by naturalization in a foreign country, by "legitimization" of a natural child of Romanian nationality by a foreigner, by marriage with a foreigner (except in the case when, according to the law of her husband, she does not acquire his nationality or when she has reserved her Romanian nationality by marriage contract, or, in the absence thereof, by a declaration given in authentic form before or at the time of the marriage), by accepting any public office from a foreign government without the consent of Romania, by entering under the protection of a foreign state, by withdrawing naturalization or by enlisting in a foreign military service.

Separately, Romanian nationality could be withdrawn, under Article 41, from any naturalized Romanian originating from a state with which Romania is at war, if it is found that he has committed acts contrary to public order and the internal or external security of the Romanian State, if it is found that he has left the country to evade military service or any other compulsory public service, if it is found that he has committed acts of espionage and has assisted in actions contrary to the rights and national interests of the Romanian State. In all these cases, the withdrawal of naturalization was made by royal decree published in the Official Gazette, issued on the proposal of the Ministry of Justice and based on a report by the Council of Ministers. In this case, these persons could no longer regain Romanian citizenship.

Therefore, the law expressly stipulates that persons who, until 24.02.1924, opted for another nationality, options which, regardless of whether they result from authentic declarations or from declarations or documents under private signature, are considered to have lost their Romanian nationality by law, or from documents from which the will to opt out undoubtedly results, are and remain valid and have the effect of losing Romanian nationality ("Collection of Romanian Laws", f. a.: 15 16; 26)¹. It should be noted that the Civil Code of 1864 contained provisions relating to "the right of being a Romanian citizenship", in Book I, *About persons, Title I - About civil rights and about naturalization, CHAPTER 1, About the enjoyment of civil rights and about naturalization (art. 6 16), CHAPTER 2 On the loss of civil rights through the loss of Romanian status (art. 17 20)*, articles repealed by art. 54 of the Law from 1924 regarding the acquisition and loss of Romanian nationality. Therefore, these persons lost *ope legis* Romanian citizenship at the time of emigration. Only after the fall of the communist regime, Law no. 21/1991 allowed for the first time Romanian citizens to hold dual citizenship, so that they no longer lose it upon obtaining the citizenship of another state.

Law no. 724/1924 had the role of clarifying, from a legal point of view, the situation of the population in the provinces that joined the old kingdom, thus establishing in art. 56 that, without any other formality, the inhabitants who, until the date of promulgation of the law, did not opt for another nationality, are and remain Romanian citizens, as follows: all the inhabitants of Bucovina, Transylvania, Banat, Crisana, Sătmar and Maramureș who had the indigenous (membership) on November 18/December 1, 1918 or who resided in the old kingdom, all residents of Bessarabia who on March 27/April 9, 1918 had their administrative residence according to the laws in force in Bessarabia, all residents of the old kingdom who acquired Romanian nationality in the conditions of the decree laws ratified by art. 133 of the Constitution, all residents of Caliacra and Durostor counties who have been recognized as Romanian nationals and, finally, all Romanians from the territories of the Russian Empire and from those assigned to the Serbo-Croatian Slovene states, Czech Slovakian, Poland, Italy, Austria and Hungary and who have opted for the Romanian nationality before the authorities of these states or any Romanian authority, all the inhabitants of the areas which, when the

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borders are established or rectified, pass from the sovereignty of another state to the sovereignty of the Romanian state. See, in this sense, the nationality documents issued by the local public authorities (Appendices VI IX, XI and XII), which confirm the registration of these persons in the nationality register.

This was a transposition of art. 64 of the Treaty of Peace between the Allied and Associated Powers and Hungary from Trianon dated 06.04.1920, which provided that "Persons who are indigenous to a territory that was part of the former Austro-Hungarian monarchy, and who are distinguished there, by race and language, by the majority of the population, will be able, within 6 months, starting from the entry into force of this Treaty, to opt for Austria, Hungary, Italy, Poland, Romania, the Serbo-Croato-Slovenian State or the Czecho-Slovak State, as the majority of the population there will be composed of people speaking the same language and having the same race as them. The provisions of article 63, regarding the exercise of the right of option, will be applicable to the exercise of the right recognized by this article", implemented by the Regulation of November 1, 1923, for the application of the provisions of the peace treaties and their annexes regarding the determination of the rights to acquire nationality Romanian and the loss of this nationality. In this sense, see also the document from Annex V, through which the Serbian authorities take note of the right to choose the citizenship of an ethnic Romanian.

Conclusions

The Constitution of 1923 brings with it a series of fundamental changes, transforming the Kingdom of Romania into a modern state and a standard of good political and legal practices. Regarding citizenship, the new constitutional text eliminates the provisions regarding Romanian citizenship from the 1866 Constitution, thus allowing the naturalization of foreign citizens, especially Jewish ones. Through this article, the author managed to briefly analyse the main aspects of the primary legislation in the matter of citizenship and to put in a mirror the provisions of the two constitutions that marked the historical evolution of modern Romania.



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