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FUNDAMENTAL RIGHTS AND FREEDOMS IN THE EX-SOVIET SPACE. THE PROCEDURE FOR GRANTING AND WITHDRAWING CITIZENSHIP IN THE REPUBLIC OF MOLDOVA AND THE RUSSIAN FEDERATION

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Abstract: *THE FUNDAMENTAL RIGHTS AND FREEDOMS OF THE CITIZEN IN THE EX-SOVIET SPACE EXPERIENCED, AT LEAST UNTIL THE OUTBREAK OF THE RUSSIAN-UKRAINIAN CONFLICT, A CONSISTENTLY POSITIVE EVOLUTION, DESPITE OBVIOUS VIOLATIONS, ESPECIALLY IN THE RUSSIAN FEDERATION, OF THE FREEDOMS OF EXPRESSION AND POLITICAL ASSOCIATION. AN IMPORTANT FIELD, WHICH NEEDS TO BE CAREFULLY ANALYSED AND DEVELOPED IN SEPARATE WORKS, IS THE ONE CIRCUMSCRIBED TO THE RESEARCH OF THE WAY AND LEGAL PROCEDURES FOR GRANTING AND WITHDRAWING CITIZENSHIP IN THE TWO SUCCESSOR STATES OF THE UNION OF SOVIET SOCIALIST REPUBLICS. MOTIVATED BY THE DESIRE TO CREATE AN OVERALL VISION OF THE CONCEPT OF CITIZENSHIP, THE AUTHOR OF THIS PAPER, WHICH COMPLEMENTS THE PREVIOUS KNOWLEDGE EFFORTS IN THIS RESEARCH NICHE, MAKES A SHORT FORAY INTO THE CITIZENSHIP LEGISLATION OF THE REPUBLIC OF MOLDOVA AND THE RUSSIAN FEDERATION.*

Keywords: MOLDOVA, RUSSIAN FEDERATION, NATURALIZATION, CITIZENSHIP, FUNDAMENTAL RIGHTS AND FREEDOMS

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Republic of Moldova

Legal reports regarding the 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 every person to a citizenship and to change his citizenship, non-



discrimination of citizens regardless of the way of acquiring it, the inadmissibility of arbitrary deprivation of citizens and the avoidance of statelessness, the non-production of effects on the citizenship of the spouse (or on the citizenship of the child, if there is no request to this effect) in the event of a change of citizenship of the other spouse.

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

A child born to at least one parent who is a Moldovan citizen 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 can also be obtained **by recognition**, for adults born on the territory of the Republic who do not have any proof of citizenship. Also, those persons are recognized as Moldovan citizens who have expressed their desire to become citizens of the Republic of Moldova and cumulatively fulfil the following conditions: they are born abroad and have at least one of their parents, grandparents or great-grandparents born on the territory of the Republic of Moldova, who until June 28, 1940 lived in Bessarabia, in Northern Bucovina, in Herța and in the Moldavian Autonomous Soviet Socialist Republic and their descendants, were deported or refugees from the territory of the Republic of Moldova starting from June 28, 1940, as well as their descendants, or who on June 23, 1990 lived legally and habitually on the territory of the Republic of Moldova and who continue to live today.

Naturalization is a way of obtaining the citizenship of the Republic of Moldova, which can be accessed by the 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 interview and who has sufficient sources of income for a decent life. The applicant must also fulfil one of the following conditions related to residence: has been domiciled in the territory of the Republic of Moldova for at least ten years (for stateless persons, refugees and beneficiaries of humanitarian protection and political asylum, the term is only eight years), has been domiciled in the territory of the Republic for five years before reaching the age of majority, is married to a Moldovan citizen for at least three years and has had an uninterrupted residence on the territory of the Republic 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.

Russian Federation

The law regulating the methods of obtaining and losing Russian citizenship is the Federal Law on the Citizenship of the Russian Federation no. 62 FZ of 31.05.2002¹. For the Russian Federation, the notion of citizenship is not synonymous with that of nationality, there are differences including from a linguistic point of view between citizens of Russia, called *Rossiyanе*, and ethnic Russians, called *Russkie*. Therefore, the notion of nationality is associated with the ethnicity of the individual, with belonging to a nation, to a cultural, linguistic and historical community, an aspect retained even in the fundamental law - everyone must have the right to determine and indicate their nationality and no one must be forced to determine and indicate his nationality.

The Russian Constitution states, as a matter of principle, that citizenship of the Russian Federation shall be one and equal, regardless of where it is acquired, and that it shall be acquired and lost in accordance with federal law. A citizen cannot be deprived of his citizenship or the right to change it.

¹ Федеральный закон о гражданстве Российской Федерации от 31.05.2002 N 62-ФЗ.



Citizenship *by birth* is obtained based on the principle of *jus sanguinis* and, in some exceptions, on the principle of *jus soli*. Russian citizenship is granted to a newborn child if one of the parents has Russian citizenship. Obtaining Russian citizenship by birth is also applicable if, on the date of birth, one of the parents has Russian citizenship and the other parent is stateless. A child can also obtain Russian citizenship by birth based on a mixture of *jus sanguinis* and *jus soli*, if one of the parents has Russian citizenship and the other has a foreign citizenship, provided that the minor was born on Russian territory, and if he was not born within the borders of Russia, he becomes stateless.

Citizenship through **naturalization** is possible if the foreign citizen meets several conditions, namely if: he/she has lived on the territory of the Russian Federation since the day he obtained a residence permit until the day of submitting the application, for a continuous period of five years; has a legal source of income; renounce the former citizenship; knows the Russian language. The general term of five-year citizenship can be reduced to one year, if the applicant has outstanding achievements in the fields of science, technology or culture or has received asylum or is a refugee on the territory of the Russian Federation.

Waiver of Russian citizenship can be done voluntarily, in accordance with art. 19 of the framework law, both by a person who resides on the territory of the Russian Federation, and by a non-resident, in the second case the procedure is a simplified one.

The Russian Federation has several bilateral and multilateral treaties with a number of states of the former USSR (Kazakhstan, Kyrgyzstan, Belarus), according to which, in principle, citizens who come from these states and obtain the right of permanent residence in Russia have the right to obtain Russian citizenship, through a simplified procedure, if they are former citizens or were born on the territory of the USSR before 21.12.1991 or have relatives who are citizens or permanent residents of the Russian Federation.

There are differences between the regular and the simplified procedure, in the sense that in the regular procedure the decision to grant Russian citizenship belongs to the President of the Russian Federation, and in the simplified procedure, the decision belongs to the heads of the Federal Migration Services of the Subjects of the Russian Federation.

Conclusions

The procedures for acquiring and losing citizenship in the Russian Federation and the Republic of Moldova are almost similar, because both states are successors and inheritors of the customs and way of organization of the Union of the Soviet Republic. Without being a complete and complex analysis, the work of the author, currently a PhD student at the Bucharest Academy of Economic Studies, opens new avenues of research: a thorough and comparative analysis of the legislation incident to citizenship in the entire ex-Soviet space and another direction, in which the author proposes a foray into the historical evolution of the constitutional provisions regarding naturalization in the successor countries of the USSR.



REFERENCES

1. Alexandru, I. (ed.), 2006, *Curs de drept administrativ*. București: Editura Economică;
2. Almond, G.A., Verba, S., 1996, *Cultură civică: atitudini politice și democrație în cinci națiuni*. București: Du Style;
3. Bădescu, M., 2001, *Drept constituțional și instituții politice*. București: Lumina Lex;
4. Bădescu, M., 2022, *Teoria generală a dreptului*, Ediția a VII-a, revizuită și adăugită. București: Hamangiu;
5. Bădescu, M., 2023, *Drept constituțional și instituții politice*, Ediția a XV-a, revizuită și adăugită. București: Hamangiu;
6. Tinu, A., 2021, *Introducere în dreptul administrativ*. București: Hamangiu;
7. Tinu, D. (ed.), 1990, *Drepturile omului: Documente adoptate de organisme internaționale*. București: Adevărul;
8. *Kodakondsuse Seadus vastu võetud 19 jaanuaril 1995 – Actul Cetățeniei estoniene din 19 ianuarie 1995*;
9. *Legea nr. 1024 din 02.06.2000 a cetățeniei Republicii Moldova*, publicată în 10.08.2000, în Monitorul Oficial al Republicii Moldova nr. 98-101;
10. *Закон України про громадянство України – Legii cetățeniei ucrainene*;
11. *Конституцияи Чумхурии Тоҷикистон – Constituția Republicii Tadjikistan (1994)*;
12. *Қазақстан Республикасының азаматтығы туралы Осы Заң Қазақстан Республикасының азаматтығы мәселелерін реттейді – Legea Republicii Kazahstan din 20 decembrie 1991 asupra cetățeniei Republicii Kazahstan*;
13. *Федеральный закон о гражданстве Российской Федерации от 31.05.2002 N 62-ФЗ – Legea federală cu privire la cetățenia Federației Ruse nr. 62-FZ din 31.05.2002*.