



All Quiet on the Eastern Frontier

The Romanian Policy of Regaining Citizenship compared to other EU case studies

Authors: Valentina Dimulescu
Andrei Avram



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This report aims to compare Romania's policy of granting citizenship with that of other Member States. Given the moral and reparatory grounds of the Romanian legislation, we specifically examined the situation of some Member States which favour certain ethnic or historically sensitive groups when granting citizenship. Romania decided to facilitate the naturalization of its former citizens (i.e. before the Second World War) and their offspring. Although it addresses an entire group (former citizens' families), this policy is implemented on an individual basis (each applicant has to prove his/her Romanian ancestry). Moreover, the Romanian policy is not based on ethnicity – a person can ask for citizenship if his/her ancestors were Romanian citizens belonging to the large national minorities which lived on the territory of the former Romanian kingdom. In contrast, ethnic Romanians living in neighboring countries and in territories which have never belonged to Romania (Hungary, Serbia) are not entitled to ask for Romanian citizenship according to this procedure. The main goal of this paper is to answer the following questions:

a) Is this policy against the EU acquis?

b) Are there some precedents in the EU with which we can compare Romania's policy?

The concluding chapter answers these questions in more detail, but we can summarize that:

a) Romania's policy is definitively within the limit of the EU acquis and

b) Romania's policy appears actually more restrictive when compared to other EU precedents.

The overlap between citizenship policy and external borders policy

As of March 27 2011, Romania and Bulgaria should have joined the Schengen area, given the favorable report issued by the European Commission's experts. However, the French and German Interior Ministers asked the European Commission to postpone the actual enlargement.

In a common letter they warned about the stagnating reforms in the justice department, the corruption and criminality problems in the two countries¹. Moreover, France made a direct link between Romania's citizenship policy and its Schengen accession. In November 2010, the French Secretary of State for European Affairs of the time, Pierre Lellouche, stated that the border with Republic of Moldova "remains poorly controlled due to the distribution of thousands of Romanian passports over the border"². This argument was reiterated in December by Laurent Wauquiez, Lellouche's successor³.

¹ „Adio, spațiul Schengen! Ce pierde România” (*Farewell Schengen Space! What does Romania have to lose*), *Evenimentul zilei*, 22 December 2010.

² „Pașapoartele pentru moldoveni nu sunt pe placul Parisului” (*Paris does not like Passports for Moldovans*), *România liberă*, 12 November 2010.

³ „Franța: România nu poate adera la spațiul Schengen din cauza moldovenilor” (*France: Romania cannot join Schengen because of Moldovans*), *Adevărul* 10 December 2010.

The two French officials simply resumed one of the most controversial problems related to Romania's Eastern border : **the overlap between its citizenship policy and the security of the EU's external frontier**. The Romanian policy of regaining citizenship unhappily overlapped with a favorite topic of public discourse in Western Europe regarding the risks of potential new waves of immigrants. In August 2010, the American weekly *Time* identified four EU member states which had recently modified their legislation on granting citizenship for ethnic and linguistic reasons, resulting in critical reactions from other European countries: Hungary, Romania, Bulgaria, and Spain⁴.

In the EU, citizenship policy is an exclusive competency of the national governments.

There is no legal European instrument to regulate the Member States' policy of granting citizenship or the concessions made to certain groups of persons from third states. There is no formal / legal connection between the Schengen acquis and the legislation on granting citizenship.

Beyond the media ruckus, it is important to note that :

The European Court of Justice (ECJ) decided in the case *Spain vs. Great Britain* (C-145/04⁵) that this type of policy is left up to the national governments. The right of Member States to grant certain persons special treatment on historic grounds is accepted at the European level.

⁴ „Four EU Nations Stoke Fears of an Immigrant Flood”, 14 August 2010, <http://www.time.com/time/world/article/0,8599,2010436,00.html>, accessed at 25 March 2011.

⁵ This case refers to the status of persons living in the former British colonies, more precisely to the fact that Great Britain granted the right to vote/ run for office for the European Parliament (EP) to „Qualifying Commonwealth Citizens” (QCC) who are over 18 and who come from Gibraltar. Spain challenged this decision and argued that only European citizens can run for office /vote for the EP and that the QCC were not included in this category. Great Britain claimed that citizens of other territories/countries which are part of the Commonwealth also enjoy this status. QCC means that these persons do not have British citizenship, i.e European citizenship, but they do have the right to live in Great Britain and take part in the national and European elections (there were 1 million QCC in 2004). Moreover, Great Britain, supported by the Commission, pointed out that Member States are not conditioned by European law on whom to grant these rights to. Consequently, Member States can grant – according to their citizenship legislation – electoral rights to persons who enjoy “a special connection” with them. At the same time, the EU has pledged to respect diversity and national identities. For a complete picture of this case, see <http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=en>

Regaining Romanian citizenship – the evolution of this policy

Romanian citizenship is based strictly on the *jus sanguinis*⁶ principle. Therefore, one becomes a Romanian citizen if at least one of the parents is a Romanian citizen. This principle also applies when granting citizenship to those or to the descendants of those who “unwillingly lost it” or to whom “it was unwillingly taken”, as provided by the Law on Citizenship, art. 37.

This law was passed in 1991 and the quoted article referred (only) implicitly at the inhabitants of the former Moldovan Soviet Socialist Republic, but also at those from Northern Bucovina, Southern Bessarabia (now in Ukraine) and the Cadrilater (now in Bulgaria), territories lost by Romania after the Second World War⁷. On the basis of the same *jus sanguinis* principle, persons born in the Soviet Republic of Moldova, but whose parents had come from other territories of the Soviet Union, may not demand the reacquisition of Romanian citizenship.

Therefore, although in public there is often talk about the shortcuts given to ethnic Romanians, in reality any former Romanian citizen - regardless of his/her ethnicity - can demand a reacquisition, whereas ethnic Romanians from areas which have never belonged to Romania, and whose parents were not Romanian citizens, such as Romanian Serbs, do not enjoy any advantages in achieving Romanian citizenship.

Although some authors have hinted that the right of regaining Romanian citizenship for those residing in former Romanian territories might be part of a “possible process of a more substantial political reunification”⁸, in reality the policy towards this particular group is consistent with the Romanian state’s wider vision on transmitting citizenship from one generation to another.

Until 2001, the number of applications for regaining Romanian citizenship was not substantial compared to the total population of the Republic of Moldova (RM). Thus, according to the press, approximately only 95 000 persons took advantage of this right⁹. However, things changed in 2001 since Romania was taken off the list of states whose citizens needed a visa to travel in the Schengen area. Between August and December 2001, the Citizenship Committee, composed at that time of only five judges, received daily about 300 applications for regaining Romanian citizenship. Therefore, its activity was paralyzed¹⁰. The Government had to pass two emergency

⁶ The principle according to which the nationality of a person is determined at birth or gaining citizenship according to the nationality of (one of) his/her parents.

⁷ Iordachi, Constantin, “Country Report: Romania”, *EUDO Citizenship Observatory*, Robert Schuman Centre for Advanced Studies, European University Institute, Badia Fiesolana 2010, p. 7, <http://eudo-citizenship.eu/docs/CountryReports/Romania.pdf>

⁸ See for example Irina Culic, „Dual Citizenship Policies in Central and Eastern Europe”, *ISPMN Working Papers on Minority Studies*: 15, p. 17.

⁹ „Calvarul cetățeniei române pentru moldoveni” (*The Nightmare of Romanian Citizenship for Moldovans*), *Ziua*, 21 March 2007.

¹⁰ Iordachi, *op. cit.*, p. 15.; O.U.G. nr.167/2001 regarding the suspension of applying art. 35 from the Citizenship Law no. 21/1991, republished in Romania’s Official Gazette, no. 802/14 December 2001 and the Emergency Ordinance no.

ordinances – in December 2001 and in November 2002 – suspending the process of granting Romanian citizenship.

Subsequently, in May 2003, via emergency ordinance, **the Romanian Government tightened the requirements for regaining citizenship**. The newly introduced article 10¹ included also the fact that the applicant had to prove that he/she knew the Romanian language, as well as the culture in order to be able to integrate into society – a condition which had not been previously imposed for former Romanian citizens and to their descendents who had unwillingly lost their citizenship. Another new element was the fact that – notwithstanding the cases where a motive was provided – the applications were to be submitted in person, either at the Ministry of Justice, or at the Romanian diplomatic missions, and could no longer be transmitted through intermediates.

The most substantial legislative changes took place in 2009, following the April 7 events in the Republic of Moldova which caused a freezing of diplomatic relationships between Chisinau and Bucharest, including the expulsion of the Romanian ambassador and the introduction of visa requirements for Romanian citizens travelling to the Republic of Moldova.

Amending the citizenship law was interpreted as intending to bring to a halt the process of reacquiring citizenship cessation of the granting

This hypothesis is supported by information coming from informal channels and according to which EU officials had expressed their concern over a potential massive influx of new Romanian citizens once Romania joined the EU on January 1st 2007¹¹.

Consequently, that was the first time a connection appeared between the Romanian citizenship policy and **the problem of Moldovan immigration into the EU via the Romanian passport**. **Caught between the imperatives of European integration and the need to maintain a special relationship with the Republic of Moldova, the Romanian State tilted the balance in favor of the first during the period up to joining the EU**. This approach was visible in the case of travel arrangements for Moldovan citizens traveling to Romania: on July 1st, 2001, Bucharest introduced a passport rule, although previously it was enough to show the identity card.

Fig. 1. Statistics of persons who „regained” Romanian citizenship

Year	2004	2005	2006	2007	2008	2009
Number of citizenships recovered						
Republic of Moldova	263	1 603	489	664	4 967	12 153
Citizenships granted in general						
Republic of Moldova	–	–	–	–	4 967	6 320
United States	0	1	0	–	85	56
Turkey	14	0	2	2	54	54

nr.160/2002 regarding the suspension of some articles from the Romanian Citizenship Law no. . 21/1991, in Romania's Official Gazette, no. . 850/November 25 2002.

¹¹ Iordachi, *op. cit.*, p. 15-16.

Israel	0	7	0	–	51	135
Syria	44	0	6	7	47	67
Total citizenships	282	767	29	31	5 585	9 399

Source: Ghinea, Dinu, Ivan, *op. cit.*, p. 17, based on data provided by National Authority for Citizenship, Eurostat website

As EU accession was approaching, the wave of applications for citizenship reacquisition became even stronger. In a poll conducted in Spring 2005, 48% of the respondents stated that they would like to become Romanian citizens and 85% of them admitted that their reason was pragmatic, i.e. the possibility to work in Europe¹².

On January 1st, 2007, once Romania joined the EU, a visa regime was introduced for Moldovans entering Romania. Therefore, this **created a new connection between the citizenship and the immigration policies, but also with the one concerning the external border of the EU**. All this occurred in a context where there already existed major problems in the administration not only of citizenship files, but also in the processing of visa applications.

The procedure of regaining citizenship procedure was simplified in November 2008 through a new emergency ordinance which eliminated the obligation of publishing a summary of the request in the Romanian Official Journal¹³. This measure – although inscribed in the logic of a gradual streamlining of this mechanism – was introduced in the context in which the Moldovan state imposed an interdiction through which it impeded persons with double citizenship to hold public office, including elected ones. This affected a large number of politicians from the democratic parties.

2008 was the first year, after the measures taken in 2002, in which a significantly larger number of Moldovan citizens received Romanian citizenship: 4 967, most of them based on art. 11¹⁴. The emergency ordinance no. 36/2009 of 15 April – and the subsequent amendments – extends the circle of persons who may request Romanian citizenship to descendents of the third degree.

Following these legislative changes – completed with the creation, in February 2010, of the National Agency for Citizenship, with five regional centers and more personnel – the number of persons originating from the Republic of Moldova who were granted Romanian citizenship increased. According to the data coming from the new institution, in 2009, only at the Romanian Embassy in the Republic of Moldova 9183 persons took the oath of allegiance, while another 2970 persons took the oath in Romania. In 2010, the number of those who were granted Romanian citizenship was even greater, – 19 613 persons took the oath in the Republic of Moldova and 5 197 in Romania, according to data provided by the National Authority for Citizenship.

¹² „Fiecare al doilea moldovean își dorește cetățenia română” (*Every second Moldovan wants Romanian citizenship*), *Timpu*, 16 May 2005.

¹³ O.U.G. nr.147/2008 for the modification and completion and of the Romanian Citizenship Law no. . 21/1991, in the Romanian Official Gazette, no. . 765/13, November 2008.

¹⁴ Art. 10, para. 1 of the Law on citizenship that Romanian citizenship ”can also be granted to persons who lost this citizenship” (including on their own will), a right that can – in theory – benefit (also) Moldovan citizens descendents of former Romanian citizens. Persons that were never Romanian citizens – including Moldovans – can also chose the way of naturalization (art. 8), that provides, however, a minimum of eight years of residence on Romanian territory or five for those married to a Romanian citizen. However, Moldovans rarely use this methods .

Conclusions

When Bucharest was put under pressure by the EU, the law was modified to the detriment of those who would have been entitled to regain Romanian citizenship. Therefore, the number of applications decreased. Once Romania joined the EU, the visa regime – unwanted at the national level but imposed by the requirements of the Community policy – was introduced. Bucharest was put in a difficult position relative to those beyond the Prut River. The answer was to gradually simplify the procedure of granting citizenship to Moldovans, since this was not regulated at European level, therefore offering room for maneuver. At the same time, the impossibility of taking action of consular or legal nature in order to simplify travel arrangements for Moldovans during the communist regime in Chisinau was balanced by the citizenship policy.

Precedents of other member states - Older Member States

France – the greatest producer of new European citizens

French law respects the principles of *jus sanguinis* and *jus solis*¹⁵. French citizens living abroad have the right to double citizenship, and they may transmit it indefinitely¹⁶.

The **Romanian policy of granting citizenship** of the last decade does not seem to have been coherently guided by the principle of historical reparation – which was the basis of the the 1991 legislation – other than at a declarative level, evolving rather as a **reflection of foreign policy priorities**.

According to the Civil Code, the immigrant may request reintegration or naturalization, both recognized by decree. Reintegration is not bound to residence and it is also granted to those who lost French citizenship after their country of origin became independent, but they have to prove strong cultural, professional, economic or family connections with France (art. 24-2). For naturalization, the immigrant has to prove "his/her assimilation into the French community" meaning:

- sufficient knowledge of the French language;
- sufficient knowledge of the rights and obligations bound to the French citizenship;
- five years residence in France.

The time for naturalization can be reduced to two years provided:

1) the immigrant completed two years of university education in a French education institution with the purpose of acquiring a degree;

¹⁵ *Jus solis* is the principle that decides the nationality of a person (automatically at birth or after birth) depending on the state in which he/she was born.

¹⁶ Patrick Weil, Alexis Spire, Christophe Bertossi, *op.cit.*, p. 7.

2) he/she provided or can "important services" for France by virtue of his/her competences and talents¹⁷.

The exceptions do not end here, as art. 21-20 provides that a person can be naturalized without fulfilling the condition of residence if it belongs to the "French cultural and linguistic space". This means that either it resides in territories or states where the language or one of the official languages is French, either French is its mother tongue, or it proves it attended at least five years of education in French. Also, by Foreign Minister's recommendation, nationality can be granted by naturalization to any French speaking person who asks for it and who "contributes through its distinguished actions at the influence of France and at the prosperity of its economic international relations".

Fig. 2: Statistics of granting citizenship policy in France

Year	2004	2005	2006	2007	2008	2009
Number of citizenships granted by decree						
Naturalization	89 739	91 446	79 740	64 046	84 323	84 730
Reintegration	9 648	10 155	8 138	6 049	7 595	7 218
Total	99 387	101 601	87 878	70 095	91 918	91 948
Third states and number of citizenships granted by decree						
Morocco	26 847	25 808	21 922	16 046	20 352	18 285
Algeria	17 840	19 726	15 869	12 626	15 933	16 368
Tunisia	7 492	7 567	6 567	5 302	6 628	6 675
Turkey	8 700	8 375	6 274	4 275	5 660	4 826
Russian Federation	522	690	883	1 434	3 214	3 730
Congo	1 534	1 602	1 810	1 371	2 621	2 918
Serbia and Montenegro	2 066	2 262	2 128	2 047	3 016	2 914
Senegal	1 615	1 754	1 733	1 229	2 080	2 143
Haiti	2 152	1 909	1 847	1 504	1 975	2 079
Cote d'Ivoire	1 352	1 455	1 384	1 143	1 653	1 946
Camerun	1 255	1 372	1 298	1 109	1 482	1 748
Mali	988	1 161	1 041	1 015	1 270	1 467
Total granted citizenships	168 845	154 643	147 868	132 002	137 452	135 842

Source: Ministère de l'immigration, de l'intégration, de l'identité nationale et du développement solidaire - Ministère de la justice, Ensemble des acquisitions de la nationalité française selon le mode d'acquisition, depuis 1995.

¹⁷ Naturalization can be granted without previous residence if the immigrant, *inter alia*: 1) provided military services in a French army unit or volunteered in times of war in French or allied army; 2) brought exceptional service to France, or his/her naturalization represents an "exceptional interest" for France (art. 21-19). Before entry into force of the "Law of Immigration and Integration" on 24 July 2006, this article mentioned another category of persons where this condition did not apply: **(former) residents of a territory or state over which France exerted its sovereignty, protectorate, mandate or tutelage**. At present, those applying for citizenship and coming from these territories must respect the five year residence condition to be eligible. This change came after the urban revolts in 2005 in the suburbs of Paris, an event which sparked a national debate and determined the authorities to impose a series of tougher conditions to improve the integration of young people originating mostly from the former African colonies. For further details on this situation, see: Patrick Weil, Alexis Spire, Christophe Bertossi, *op.cit.*, p. 24.

Germany – late Germans

Germany recognizes the right of establishment for ethnic Germans from the former Soviet Union – a right that was also granted, until 1992, to the Germans from Eastern Europe (including Romania), the later being considered Germans "in the sense of" the Fundamental Law (Constitution). According to art.7 of the Federal Law of Citizenship, they automatically become German citizens once they are granted the status of *Spätaussiedler*, meaning "late immigrant". It is significant that persons from Eastern Europe can still achieve this status, but only if they prove that they are being disadvantaged or discriminated because of their German origin.

Until December 31st, 2004, the applicant of German ethnicity had to know German even before leaving its country of origin. The situation changed once the "Immigration Law" came into force, on January 1st, 2005. This law also amended the Law of Exiles and Refugees in the sense that art. 27 provides that the spouse and even the children must have "basic knowledge of German". Since in most cases Germans from the former Soviet Union are married to different nationals, and they usually communicate in Russian, this requirement lead to a drastic fall in the number of those who were able to immigrate in Germany as *Spätaussiedler*, see Fig. 3.

Fig. 3: Statistics of granting citizenship policy in Germany

Year	2003	2004	2005	2006	2007	2008	2009
Third states and the number of granted citizenships for ethnic Germans (<i>Spätaussiedler</i>)							
Former USSR	72 289	58 728	35 396	7 626	5 695	4 301	3 292
Poland	444	278	80	80	70	44	45
Former Czechoslovakia	2	3	4	0	5	0	0
Romania	137	76	39	40	21	16	23
Hungary	5	0	3	0	1	0	0
Total	72 885	59 093	35 522	7 747	5 792	4 362	3 360
Total granted citizenships	140 731	127 153	117 241	124 566	113 030	94 470	96 122

Source: Bundesministerium des Inneren and Bundesverwaltungsamt

Currently, the vast majority of new German citizens are immigrants, who must meet a whole range of requirements, including possession of an unlimited right of residence, a prior eight years period of residence in Germany, knowledge of German language and elements of German law, culture and civilization and sufficient income to ensure their existence without resorting to social aid¹⁸.

Spain – reconciliation from the Civil War through citizenship

The Spanish citizenship law grants facilities to certain groups of people who have special links with Spain and to whom this country has a historical debt. More precisely, the Law on Citizenship

¹⁸ Die Beauftragte der Bundesregierung für Migration, Flüchtlinge und Integration (ed.), „Wege zur Einbürgerung. Wie werde ich Deutsche – wie werde ich Deutscher?“, Berlin 2008, p. 19

provides two years of residency (against the 10 years rule for other groups of applicants) for Sephardic Jews and persons from Latin America, Andorra, Philippines, Equatorial Guinea and Portugal. Moreover, persons whose parents or grandparents had Spanish citizenship at birth are required only one year of residence. These special rights, along with other reparatory measures for the victims of the Civil War are aimed towards a so-called "social reconciliation" whereby Spanish citizenship is granted to the direct descendents of those exiled in the 1930s¹⁹.

Fig. 5 shows that among the persons who come from third countries, those from Latin America received the most citizenships. Outside America, another former colony is in the lead, i.e. Morocco.

Fig. 5: Statistics of granting citizenship in Spain

Year	2004	2005	2006	2007	2008	2009
Number of citizenships granted by reason						
Third states and number of citizenships granted after two years of residence						
Ecuador	6 072	9 713	18 969	20 587	24 404	24 958
Colombia	3 428	6 537	11 538	11 937	13 101	14 800
Peru	3 652	3 373	4 363	6 050	7 604	5 972
Argentina	1 120	1 462	2 057	3 072	3 276	3 437
Dominican Republic	2 390	1 911	2 288	2 252	2 685	2 225
Cuba	1 159	1 712	1 692	1 384	1 579	1 679
Two years of residence (total)	21 549	28 507	45 596	50 030	58 813	60 352
Third states and number of citizenships granted by direct descentence						
Argentina	–	–	–	500	603	330
Cuba	–	–	–	123	123	177
Uruguay	–	–	–	58	85	60
Venezuela	–	–	–	38	40	43
Mexico	–	–	–	14	35	18
Brazilia	–	–	–	9	20	18
Colombia	–	–	–	15	15	13
Chile	–	–	–	16	18	8
Direct descentence (total)	–	–	–	820	1 124	720
Total granted citizenships	38 335	42 829	62 339	71 810	84 170	79 597

Source: Gobierno de España, Ministerio de Trabajo e Inmigración, Secretaría de Estado de Inmigración y Emigración, Anuario Estadístico de Inmigración

¹⁹ Ruth R. Marin, Irene Sobrino, "Country Report: Spain", *EUDO Citizenship Observatory*, Robert Schuman Centre for Advanced Studies, European University Institute, September 2009 (reviewed May 2010), <http://eudo-citizenship.eu/docs/CountryReports/Spain.pdf>

Great Britain – several kinds of Crown subjects

The fact that Great Britain held a vast colonial empire complicates the notions of citizenship, nationality and therefore the status of those who had been "subjects of the Crown". The *Jus solis* principle used to dominate the concept of nationality, i.e. persons who lived and were born on the territory of the Empire were considered nationals and enjoyed the same civic rights. However, following decolonization, the geographic limits of this status were restricted and currently only British *citizens* can also have the status of European citizen. In addition, the notion of *jus sanguinis* in the British Nationality Law (1983) replaced *jus solis*, thus clarifying the difference between "resident citizens" and „residents without citizenship“, with the later being subject to deportation²⁰.

For those who do not live in the British Isles, there are several forms of nationality: „British Overseas Territories Citizen“, „British Overseas National“, „British Overseas Citizen“, „British Subject“ or „British Protected Person“²¹. Also, citizens of „The Commonwealth“ countries have the right to reside and work in Great Britain, but do not enjoy British citizenship. For those belonging to the groups mentioned above, another possibility to acquire British citizenship is to ask for it after five years of residence (British Nationality Act 1981).

The statistics on granting citizenship according to the Home Office show the following trends²²:

1. over 200 000 people were granted citizenship in 2009, an increase of 58% compared to 2008 and the largest number since the first statistics were published, in 1962;
2. the main nationalities acquiring citizenship: Indians (13% of the total), Pakistanis (10%), Bengalese (6%), Philippines (6%).
3. the main reasons for granting citizenship: residence (49%), marriage (26%), minor child (23%).

Fig. 6: Statistics of granting citizenship policy in UK

Year	2004	2005	2006	2007	2008	2009
Number of citizenships granted under "other" reason (British Overseas Territories citizens)²³						
Total	9 625	4 570	3 100	2 965	1 660	2 445
Third states and number of citizenships granted in general						
India	13 540	14 160	15 125	14 490	11 825	26 535
Pakistan	14 125	12 615	10 260	8 140	9 440	20 945
Bangladesh	5 810	3 640	3 725	2 250	3 635	12 040
Philippines	2 015	3 800	8 840	10 840	5 380	11 750
South Africa	6 370	7 045	7 670	8 150	5 265	8 365
Somalia	11 185	8 305	9 050	7 450	7 165	8 140

²⁰ Caroline Sawyer, "Country Report: United Kingdom", *EUDO Citizenship Observatory*, Robert Schuman Centre for Advanced Studies, European University Institute, November 2009 (revised in June 2010), p. 10-15, <http://eudo-citizenship.eu/docs/CountryReports/United%20Kingdom.pdf>

²¹ UK Border Agency, British Citizenship, <http://www.ukba.homeoffice.gov.uk/britishcitizenship/aboutcitizenship/>

²² Philip Dazelman, Home Office Statistical Bulletin, British Citizenship Statistics United Kingdom, 2009, May 27, 2010, <http://rds.homeoffice.gov.uk/rds/pdfs/10/hosb0910.pdf>

²³ This category includes the following groups: "British Overseas citizens", "British subjects", "British Protected Persons", apatrides and those with unknown citizenship. On the other hand, "British Overseas Territories citizens" from Gibraltar are excluded. Source: Philip Dazelman, Home Office Statistical Bulletin, p. 17.

Zimbabwe	1 830	2 130	2 545	5 590	5 710	7 705
Turkey	4 885	6 765	5 590	4 710	4 640	7 205
Nigeria	6 280	6 615	5 875	6 030	4 530	6 955
China	2 045	2 545	2 880	3 455	2 965	6 335
Iraq	2 340	3 260	4 125	5 480	8 895	5 495
Serbia and Montenegro	5 280	9 800	7 550	3 485	1 865	2 140
Total granted citizenships	148 275	161 700	154 020	164 635	129 375	203 790

Source: Home Office, Research development statistics, Immigration

Precedents from other member states – The new Member States

Bulgaria – the new Bulgarians from Macedonia and Moldova

The Bulgarian legislation on granting citizenship is based on both *jus solis* and *jus sanguinis*. Moreover, it grants certain concessions to persons with Bulgarian origins, which means it follows ethnic criteria. In this respect, article 25(2) of the Bulgarian Constitution provides an easier administrative procedure for them.

The Citizenship Law of 1998, amended in 2001, states that a person can receive Bulgarian citizenship through a simplified naturalization procedure²⁴ if he/she:

- 1) has Bulgarian origin;
- 2) was adopted by a Bulgarian citizen;
- 3) one of the parents is a Bulgarian citizen or died having Bulgarian citizenship.

As in the case of France, Bulgarian citizenship can be granted through a simplified procedure to a person who brings a "special contribution" to the country (art. 16).

Many persons from countries where there are Bulgarian minorities have been attracted by the advantages of not having to know the Bulgarian language, of not having to give up your previous citizenship and of not having to live in Bulgaria. Most applications come from Macedonia, Moldova, Russia, Ukraine, Serbia and Israel. For the last 20 years, 75 000 persons have received Bulgarian citizenship, out of which 50 000 came from Macedonia. Therefore, those having a Bulgarian passport are the second largest minority in Macedonia, after the Albanians. **Likewise, the number of Moldovans with Bulgarian passport has increased to around 15 000 in 2010.** One of the most important problems in Bulgaria is the volume of files waiting to be processed (40 000 since 2006), and this grows by the day, with applications coming mostly from Macedonia and Moldova²⁵.

²⁴ The simplified procedure means that the respective person is exempt from the following naturalization conditions provided in art. 12: to have lived in the country for 5 years, to have an income source or a job, to speak Bulgarian and to have given up his/her previous citizenship. However, this person must not have been found guilty of a crime by a tribunal in Bulgaria.

²⁵ Petar Kostadinov, "Bulgarian citizenship: the latest numbers", *The Sofia Echo*, April 23 2010, http://sofiaecho.com/2010/04/23/891995_bulgarian-citizenship-the-latest-numbers

Fig. 7: Statistics of granting citizenship policy in Bulgaria

Year	2004	2005	2006	2007	2008	2009
Number of citizenships granted to persons "of Bulgarian origin"						
Total	5 559	5 722	6 511	5 837	6 945	8 911
Third states and number of citizenships granted in general						
Macedonia	–	–	2 933	3 247	3 637	–
Republic of Moldova	–	–	2 612	1 585	2 463	–
Serbia	–	–	240	235	252	–
Russian Federation	–	–	244	248	232	–
Ukraine	–	–	262	229	186	–
Total granted citizenships	5 660	5 847	6 628	5 938	7 113	9 068

Source: the Bulgarian Presidency Website

Poland – "children of the country" return home

The Polish law on citizenship places strong emphasis on *jus sanguinis* and grants the state authorities – including the President – discretion in this process. Historically, the Polish policy in this respect was based on ethnic criteria²⁶. The Polish Citizenship Law of 1962 remained in force after 1989, including the right of repatriation for those who "have been moved from their native territory against their will and remained 'children' of their homeland"²⁷. This privilege is transmitted to the descendants of those expelled, if they have a parent, a grandparent or both great-grandparents of Polish origin.

In November 2000, the "Repatriation Law" came into force. According to this law, those who get the repatriation visa receive Polish citizenship at the moment they cross the Polish border and will also benefit from financial and social aid. Moreover, the Office for Repatriation and Foreigners created a register with apartments and income sources available for those repatriated, and especially for those who had been deported or persecuted for ethnic and political reasons and whose state of health and age demands immediate repatriation. Poland's accession to the European Union resulted in an increase in the number of citizenship files. According to data, the number of applicants in 2004 was 3 807, compared to 765 in 2000²⁸.

Overall, the persons from third states who were granted Polish citizenship the most between 2005 and 2009 came from the former Soviet Union, namely Ukraine, Belarus and the Russian Federation.

²⁶ After the Second World War, the Eastern part of the country was annexed to the USSR along the so-called "Curzon Line" (these territories are shared today between the Ukraine, Lithuania and Belarus and the Poles and Jews living there were repatriated, while the Western part was enlarged by adding German territories from which the ethnic Germans were also expelled.

²⁷ Ministry of the Interior and Administration, Documents, Repatriation as a Form of Acquiring Polish Citizenship, http://www.mswia.gov.pl/portal/en/16/27/Repatriation_as_a_form_of_acquiring_Polish_citizenship.html

²⁸ Agata Gorny, Dorota Pudyianowska, "Country Report: Poland", *EUDO Citizenship Observatory*, Robert Schuman Centre for Advanced Studies, European University Institute, December 2009 (reviewed May 2010), p. 8, <http://eudo-citizenship.eu/docs/CountryReports/Poland.pdf>

Fig. 8: Statistics of policy of granting citizenship in Poland

Year	2004	2005	2006	2007	2008	2009
Total repatriation visas issued	269	252	239	248	204	164
Number of persons entered in the country following repatriation	–	335	327	281	260	214
Countries with the most issues of repatriation visas						
Kazakhstan	122	155	125	161	143	90
Russian Federation	35	32	40	38	25	32
Belarus	39	30	25	18	13	5
Ukraine	56	23	27	16	8	13
Uzbekistan	15	5	14	11	14	6
Third states and general number of citizenships						
Ukraine	–	758	428	665	587	877
Belarus	–	316	101	128	238	357
Russian Federation	–	257	122	114	107	162
Armenia	–	18	27	30	30	79
Vietnam	–	36	26	47	41	64
United States of America	–	59	8	24	44	47
Total citizenships granted	–	2 866	1 060	1 542	1 802	2 503

Source: Central Statistical Office, *Demographic Yearbook Poland 2010*, Table 43 (201); Table 44 (202); Table 47 (205)

Hungary – “plausible origins”

Similarly to the other case studies, the legislation is based both on *jus solis*, and on *jus sanguinis*. In 1993, Hungary adopted “The Nationality Law”²⁹, which was changed before the country’s EU accession. This meant that the Hungarians from third states could benefit from preferential treatment regarding the process of acquiring citizenship, in a context where the accession to the Schengen area would have meant mobility restrictions. Therefore, a series of reparatory measures were adopted³⁰, but this unilateral approach was criticized both internally and by the European Commission³¹.

²⁹ Act LV of 1993 on Hungarian Citizenship, <http://www.mfa.gov.hu/NR/rdonlyres/93F5CE78-6F49-4FBB-9360-D99B09BBB6D0/0/ActLVof1993onHungarianCitizenship.pdf>

³⁰ The “Law for Magyars living in Neighboring States” (Status Law) came into force in 2001, granting to those holding a Certificate of Magyar Ethnicity and their first degree relatives the possibility to benefit from various social, cultural and economic rights in Hungary. This law targeted those of Magyar origin from Croatia, Macedonia, Romania, Serbia and Montenegro, Slovenia, Slovakia and Ukraine. Source: Judit Toth, „Connections of Kin minorities to the Kin-state in the Extended Schengen Zone”, in Zoltan Kantor, Balazs Majtenyi, Osamu Ieda, Balazs Vizi, Ivan Halasz, *The Hungarian Status Law: Nation Building and/or Minority Protection*, 2004, http://src-h.slav.hokudai.ac.jp/coe21/publish/no4_ses/contents.html

³¹ The European Commission, through its Commissioner for Enlargement at the time, Gunther Verheugen, noted that the law has an extraterritorial effect, it does not respect the principle of non-discrimination in the Treaty in addition to the fact that neighboring states had not been consulted - all these giving birth to tensions. Problematic articles (the right to work,

The 1993 law provides seven ways of acquiring Hungarian citizenship. Art. 4, para. 3 says that a person with permanent residence in Hungary who declares himself of Hungarian ethnicity and whose "ancestor" (an ambiguous formulation) was a Hungarian citizen can be naturalized via a simplified procedure. In 2008, 78% from the total of those who applied for citizenship chose the preferential treatment³².

In 2010, preferential treatment for ethnic Hungarians in third states went even further: ethnic Hungarians, including those living outside the EU, are no longer required to prove that they have passed the Hungarian culture and Constitution examination and need not be a resident and/or have an income in order to apply for citizenship. Consequently, the number of applicants increased from January 2011³³. Currently, the debate in the Hungarian Parliament on electoral reform focuses on granting voting rights to ethnic Hungarians abroad.

Fig 9: Statistics of granting citizenship policy in Hungary

Year	2004	2005	2006	2007	2008	2009
Third states and number of citizenships granted in general						
Romania	3 605	6 869	4 326	6 052	5 535	3 805
Ukraine	568	822	541	834	855	558
Former Yugoslavia	533	946	357	757	757	–
Belarus	155	194	99	136	167	127
Russian Federation	107	152	108	116	105	119
Vietnam	10	53	40	53	95	39
Croatia	22	50	148	26	34	25
Total citizenships granted	5 432	9 822	6 172	8 442	8 060	5 802

Source: EUDO Citizenship Statistics, Hungary; Eurostat website

CONCLUSIONS AND RECOMMENDATIONS

The case studies analyzed in this report show that preferential granting of citizenship on historical grounds is far from being specific to Romania. It is a feature of both "old" members of the EU such as France, Spain, Germany and Great Britain and countries that have recently joined the Union, such as Bulgaria, Poland and Hungary. **Undoubtedly, the number of persons who took advantage of a streamlined process of acquiring citizenship in France, Spain and Great**

social and medical insurance) would be amended before Hungary's accession to the EU. Source: Open letter from the Commissioner for Enlargement, Gunther Verheugen sent to the President of Hungary, Peter Medgyessy, http://www.jogtar.mtaki.hu/jogszabalyok/Gntere_Verheugen.pdf

³² Maria Kovacs, Judit Toth, "Country Report: Hungary", *EUDO Citizenship Observatory*, Robert Schuman Centre for Advanced Studies, European University Institute, November 2009 (reviewed June 2010), p. 8, <http://eudo-citizenship.eu/docs/CountryReports/Hungary.pdf>

³³ MTI, „Hungarians abroad apply for citizenship under new law”, *Politics.hu*, January 4, 2011.

Britain is much larger than the number of those who benefited from the corresponding Romanian procedure. Germany is the only exception, with the number of persons who enjoy the *Aussiedler* status decreasing sharply in recent years. Ironically, the media in France and Great Britain was the most vocal in warning about the risks of an influx of Moldovan citizens with Romanian passport.

The situation in the new EU Member States should benefit from a more nuanced approach. Thus, although according to Eurostat Hungary ranks first among the Central and Eastern European countries in terms of granting citizenship, a significant proportion of the total consists of Romanian citizens who – in the period concerned – were already or were about to become EU citizens. It can be argued that with the Hungarian passport they could have benefited even faster by elimination of transition periods in eventual employment in the West. Thus, according to Eurostat, in 2007, 71, 7% of the new Hungarian citizens were from Romania (6 052 persons), i.e. over 10 times more than the number of Ukrainian citizens who were granted the status of Hungarian citizen (834 persons).

Bulgaria seems to be much closer to the Romanian situation: the number of persons from third countries who were granted citizenship thanks to their Bulgarian origin increased after joining the EU. In 2009, 36% more persons got a Bulgarian passport through streamlined procedures than in the last year before accession, whereas in Romania 44 times more persons were being granted citizenship than three years before. **The fundamental difference between the Romanian and Bulgarian approach consists of underlining ethnicity in the case of the Bulgarian law, compared to the reparatory, historical character of the Romanian Citizenship Law.** Bulgarian figures also highlight that during the reference period 2006-2008 where there are differentiated data according to nationalities, a number of 6 660 Moldovans became Bulgarian citizens, whereas according to the 2004 census, ethnic Bulgarians represented only 1,9% of the total Moldovan population (65 662 persons). Considering this three years, a larger proportion of ethnic Bulgarians from Republic of Moldova (RM) have the citizenship of the "mother country" than the proportion of Romanian speakers with Romanian citizenship (2 637 125 persons). The Romanian diplomacy could use this as an argument in order to legitimize its policy.

The Bulgarian policy is also different in terms of the officials' arguments regarding granting citizenship to fellow nationals in the Diaspora. Thus, in answering questions during the press conference following the new legislative simplifications, the Bulgarian Minister for the Diaspora, Bojidar Dimitrov, denied that most applicants would want citizenship in order to travel freely. He said that "the main reasons are that they are homesick and they want to be protected"³⁴.

The comparison with other European states offers Romania an important lesson regarding the intersection between citizenship policy and the EU external border management policy. **Citizenship policy should no longer be subordinated to other short-term strategic goals.** By frequently changing this policy, the Romanian governments themselves undermined the legitimacy of the historical argument.

For those who want to recover citizenship, this has to be considered a right, beyond the diplomatic necessities of the moment, and must be presented as such in European capitals. There

³⁴ "Bulgarian citizenship, easier to obtain", *Adevărul*, January 5, 2010.

are a large enough number of countries which have policies of preferential citizenship acquisition, so there is no need to look for further justification for a similar attitude. Moreover, by comparison with Hungary, Bulgaria, Poland or Germany, Romania could highlight the less "generous" character of its own legislation, which excludes Romanians from Serbia or Transnistria from the simplified procedure, despite the ethnical affinities.

More importantly, it would be useful for Bucharest to become a steady and open advocate for the Republic of Moldova in the political dialogue with Brussels on the liberalization of visas for those who have (only) the citizenship of RM. Therefore, the accusation according to which Romania undermines the regime of the future Eastern border of the Schengen area would be rejected with more credibility. In addition, if Chisinau obtains the right for Moldovan nationals to travel visa-free in the EU, Romanian citizenship would become less attractive, as has been pointed out by politicians and experts from the Republic of Moldova³⁵. While those who hold both passports would still get additional benefits, these would not be connected to the border regime, but to the right to work (which is not connected to Schengen). Moreover, as the liberalization of visas for Moldovans means first of all capacity-building for the border authorities in the neighboring country - according to the Chisinau – Brussels common agreement –, the result would be a more efficient surveillance process of the EU border on both sides of the Prut River.

³⁵ For example, Igor Corman, president of Foreign Policy and European Integration Committee of The Parliament of Republic of Moldova. See: Igor Corman, Interview on *TV Moldova Internațional*, October 10, 2009.

The authors:

Andrei Avram studied Political Science at the Free University of Berlin. He is an expert in the field of Eastern European and Post-Soviet space. He published studies on the relationship between Romania and the Republic of Moldova, the Republic of Moldova and the EU, and about the Gagauz minority in Moldova.

Valentina-Andreea Dimulescu has a Master Degree in European Integration from the Center for European Integration Studies (ZEI) in Bonn (Germany). Since 2009, she has a Master Degree in Political Science from the Central European University (CEU) in Budapest (Hungary), and in 2008 she graduated the Faculty of Political Science, Bucharest University. Her area of expertise includes the management of the migration flows and issues found at the intersection of justice, and home affairs, foreign and common security policy. She has published articles in international academic journals on topics related to both Romania and European issues.

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Centrul Român de Politici Europene
Știrbei Vodă nr. 29
ap. 4, București - 1
office@crpe.ro
Tel +4 0371.083.577
Fax. +4 0372.875.089

For further details on CRPE, visit www.crpe.ro.