
ACQUIRING ROMANIAN CITIZENSHIP – WAY TO ACQUIRING EUROPEAN CITIZENSHIP

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Abstract: On the belief that the citizenship is the legal and political bond between the man and the state, this study comes to develop this concept beyond the conventional borders, towards the notion of supranational or transnational citizenship. The analysis addresses the historical evolution of the legislation on Romanian and European citizenship, the means by which the citizenship of Romania and subsequently of the EU may be acquired, as well as the legal effects deriving from this status. The conditions and procedures by which a foreign, non-Community citizen becomes an EU citizen are even more important as the European law does not stipulate an own system of granting citizenship, the status of EU citizen deriving automatically from the citizenship of a Member State. The European citizenship does not replace in any way the national citizenship but rather adds to it, through a system of rules and rights completing the conceptual framework outlined by the national level. As a consequence, the status of European citizen involves both the national rights and an additional set of rights, from the range of fundamental rights, such as the right to vote and stand in the local and European Parliament elections, the right to good administration, the right of access to documents, the European Ombudsman, the freedom of movement and residence and the diplomatic and consular protection.

Keywords: *European Union, citizenship, integration, globalization, procedures.*

The concept of citizenship

In order to perform an analysis on the Romanian or European citizenship institution, the concept of citizenship must first be defined. According to some authors, the citizenship is a contract comprising a set of reciprocal rights and duties between the citizen and the state¹, whereas for others the citizenship is the political and legal bond between the individual and the collectively organized state, regarded as an organic integration within the community². Undoubtedly, the citizenship is a fundamental right of the individual, from which civil and constitutional rights and obligations arise. In the light of the classical doctrine of statehood, the state, as entity, through bureaucracy, protects its citizens in various forms, which are reflected in the legal sphere as the relationship between identity on the one hand (especially with regard to the relationship between nationals and foreigners), borders, and the operating frame of the bureaucracy, namely the rule of law, ensuring the conceptual and operational frameworks of this relationship.³

¹Constantin Iordachi (coord.), *Reacquiring the Romanian Citizenship: Historical, Comparative and Applied Perspectives* (bilingual edition), Curtea Veche, Bucharest, 2012, p. 20.

²Gheorghe Iancu, *Constitutional Law and Political Institutions*, Lumina Lex, Bucharest, 2004, p. 83.

³Elspeeth Guild, *EU Citizenship and Migration Law*, Kluwer Law International, 2004, pp. 1-2, *apud* https://books.google.ro/books?id=DjBCjC_2yIYC&printsec=frontcover&dq=european+citizenship&hl=ro&sa=X&ei=223UVPysBIXuUPWIgMAB&ved=0CFEQ6AEwBg#v=onepage&q=european%20citizenship&f=false, on 4.02.2015.

The historical evolution, from the right to be a citizen of a certain category of persons to the current provisions on national and transnational citizenship, as in the case of the European citizenship, saw major transformations in the field of the rights of the individuals. *The Declaration of the Rights of Man and the Citizen* adopted on 26 August 1789 records the debut of the modern democratic system in which, at least declaratively, *equality* between citizens, *freedom* of movement and expression, as well as *brotherhood* are the elements which make the society function.⁴

Despite the fact that the idea of citizenship is intensely debated, especially in the light of its social implications, it clearly defines the status of the individuals which are or are not members of a society. This shows a focus in relation to the idea of equality, which is why citizenship involves the acquisition of this notion in the light of reporting its purpose to the range of civil, political and social rights. For example, the mentioned rights represent traditional components of the *state of welfare*, the simple identification with them developing a sense of belonging to the state.⁵

In terms of historical course, the concept of 'European citizenship' is not new. The idea of establishing a new type of citizenship is an aspiration taking shape since June 1940, when Charles de Gaulle, Winston Churchill and Jean Monnet viewed this conceptual framework in the context of the Franco-British Union. However, *de facto*, the European citizenship as we understand it today is a recent concept, legally consecrated within the Treaty of Maastricht in 1992.⁶ The phrase 'European citizenship' did not exist in this form from the beginning. A first approach referred to the notion of 'Europe of citizens', term which gradually evolved and substantiated. A first step was the approach of the Adoninno Committee established under the auspices of the Council of Fontainebleau in 1984, an occasion which gave rise to a perspective pursuing 'humanizing the communitarian experience'.⁷

The timeliness of the concept, as well as the contemporary discourse on the idea of citizenship, especially the European citizenship, reflect the numerous changes in direction and, thus, evolution, of a Europe challenging its resources towards a much more democratized facet, in which the participation of citizens looms large, this being considered the key mechanism of functioning of the concept of 'European citizenship'.⁸

The Romanian citizenship

⁴ Andrei Tinu, Cătălin Boboc, *Introduction to the evolution of Romanian citizenship legislation*, in the International Conference *Law between modernization and tradition: implications for the legal, political, administrative and public organization*, Bucharest, 21-23 April 2015, Hamangiu, Bucharest, 2015, pp. 434-435, ISBN 978-606-27-0222-9.

⁵ J.M. Barbalet, *Citizenship*, Milton Keynes: Open University Press, 1988, in Percy B. Lehning, *European Citizenship: Towards a European Identity*, Working Paper Series in European Studies, Vol. 2, No. 3, University of Wisconsin, p. 5, *apud* <http://spanport.lss.wisc.edu/sites/uw-madison-ces.org/files/lehning.pdf>, on 04.02.2015.

⁶ Cristina Vintilescu, *European citizenship between past and future*, in 'Sfera Politicii', no. 116-117, *apud* <http://www.sferapoliticii.ro/sfera/116-117/art6-vintilescu.html>, on 04.02.2015.

⁷ *Ibidem*.

⁸ Ditta Dolejšiová, *Introduction: Europe, citizenship and young people*, in *European Citizenship in The Process of Construction*, Council of Europe, June 2009, p. 10, *apud* https://books.google.ro/books?id=tpMueuYB_eMC&printsec=frontcover&dq=european+citizenship&hl=ro&sa=X&ei=mWLTVOSECIn6UIjVg9AF&ved=0CCAQ6AEwAA#v=onepage&q=european%20citizenship&f=false, on 04.02.2015.

In Romania, the law on citizenship originates in a constitutional text referring to the right to naturalization of foreigners and the conditions to be met by the latter to become Romanians, text included in the Constitution of 1866⁹. Subsequent to this initial moment, the law on citizenship underwent numerous changes, all of them being strictly related to the historical evolution of Romanian society as a whole. 149 later from that originating moment, the Romanian citizenship are regulated by Law no. 21 of 1991. It stipulates that the Romanian citizenship is the bond and belonging of a natural person to the Romanian state, that Romanian citizens enjoy the protection of the Romanian state and that they are equal before the law.

After Romania joined the EU on 1 January 2007, to speak only about the Romanian citizenship became not only inappropriate, but also incorrect, as at that turning point in the recent history of our country all the Romanian citizens became European citizens. Today, the Romanian citizenship became, for many, a tool for access to the Western world.

The means of obtaining the Romanian and hence the European citizenship are: by birth, adoption or upon request. For the first two situations, the things are simple: the acquisition by birth, as a direct effect of the legal principle originating in philosophy *jus sanguinis*, means that the individual born from at least one Romanian parent, irrespective of the place of birth, is a Romanian citizen, and the acquisition by adoption, foreign or stateless child acquires the Romanian citizenship by adoption, if the adopters are Romanian citizens or, where only one of the adopters is a Romanian citizen, the citizenship of the adopted minor shall be jointly decided by the adopters. Depending on the age of the adopted, his or her consent may be needed, as appropriate¹⁰.

The foreign persons who do not fall under the two situations described above may obtain the Romanian citizenship if they meet certain conditions stipulated by the Romanian Citizenship Law. In order to obtain this right, the applicant must be born and reside, upon the date of application, in Romania or, although not born on this territory, legally residing in Romania for at least 8 years or, if married and living with a Romanian citizen, for at least 5 years from the date of marriage¹¹; proves loyalty to the Romanian state by actions and behavior, does not initiate or support actions against the rule of law or national security and declares to never have performed such actions; has reached the age of 18; has legal means for a decent living secured in Romania, under the law regarding foreigners; is known for good conduct and has never been convicted in the country or abroad for a crime making him unworthy of being a Romanian citizen; knows the Romanian language and has elementary Romanian culture and civilization notions, sufficiently to integrate into society; knows the provisions of the Romanian Constitution and the national anthem.¹²

After filing the application for Romanian citizenship, accompanied by supporting documents, the President of the Citizenship Commission sets the term to which the necessary conditions for granting the Romanian citizenship shall be verified and also orders the request

⁹Constitution of July 1, 1866. Official Gazette 142, electronic format provided by LEX EXPERT.

¹⁰Art. 5 and art. 6 of *Romanian Citizenship Law no. 21 of March 1, 1991*.

¹¹These periods may be reduced by half if the applicant is an internationally recognized personality or is the citizen of a EU Member State, or the applicant has acquired the refugee status according to the law in force or has invested in Romania amounts exceeding 1,000,000 euro.

¹²Art. 8 of *Romanian Citizenship Law no. 21 of March 1, 1991*.

of data from the partner institutions to verify the conditions of ‘good behavior’¹³. If the applicant meets all the conditions, he or she is scheduled to an interview where the Romanian language skills, knowledge on the Romanian culture and civilization, legislation and national anthem are tested. The aspirant to the Romanian citizenship is checked on basic knowledge of history and geography of Romania, constitutional law and also rules of coexistence in the Romanian society and European values.

Shall the applicant be declared admitted to the interview, based on the approval of the Commission, the President of the National Citizenship Authority issues the order of granting the Romanian citizenship, following that, within 3 months from the date of notification of this order, he or she will take the oath of allegiance to Romania. Basically, this is the moment when a foreigner acquires the Romanian citizenship and along with it, the European one. Of course, that is, if he or she is not a citizen of an EU Member State.

The European citizenship

The first regulation on the EU citizenship was introduced by the Treaty of Maastricht. Thus, Article 8, paragraph 1 of the Treaty stipulates the idea of establishing a citizenship of the Union¹⁴, this perspective being completed by the fact that ‘*an EU citizen is any person holding the nationality of a Member State*’¹⁵. Five years later, the Treaty of Amsterdam reconfigures the concept adding, in terms of its content, the fact that ‘*the EU citizenship complements and shall not replace the national citizenship*’¹⁶, the Member States observing the fundamental rights and democratic values as laid down in the domestic fundamental regulations, as well as in the international legal regulations, respectively conventions to which they are party: European Convention on Human Rights, European Social Charter, etc.¹⁷

Therefore, the European citizenship can be seen through a bivalent perspective so that, in terms of the status of rights, it contributes to shaping and observing the conceptual framework provided by the European Union, which is basically a community of law, an entity of political nature whose interests are unequivocally placed in the social-economic area.

However, in another vision, the concept offered for analysis may be viewed as a political institution, being ‘*the expression of all political or intergovernmental negotiation processes, interpretations, community impulses and social mobilization*’¹⁸. Equally, the legal institution shall designate, by extension, a group of legal norms with a common regulatory object, so that the concept basically reflects the permanent legal bond between a natural person and a state or a Union, such as the European citizenship, as appropriate. This bond, understood both as a political and legal binder, is expressed through the sum of mutual rights and obligations between a person and a state, pre-existing or formed, having a special

¹³ ‘The condition of good behavior’ is a generic name for the conditions stipulated within art. 8 let. b and let. e of Romanian Citizenship Law.

¹⁴ *The Treaty of Maastricht*, apud <http://www.eurotreaties.com/maastrichtec.pdf>, on 04.02.2015.

¹⁵ Ioana Nely Militaru, *The EU Citizenship under the Treaty of Lisbon* in *The Legal Tribune*, Vol. I, No. 1, June 2011, pp. 3-4, apud <http://www.tribunajuridica.eu/arhiva/An1v1/nr1/art%204.pdf>, on 04.02.2015.

¹⁶ *The Treaty of Amsterdam*, point 9, p. 27, apud <http://www.europarl.europa.eu/topics/treaty/pdf/amst-en.pdf>, on 04.02.2015.

¹⁷ Ioana Nely Militaru, *op.cit.*, f.p.

¹⁸ Cristina VINTILESCU, *op. cit.*, f.p.

character, reflected in the encumbrance of the person with such prerogatives, irrespective of the space factor.¹⁹

Therefore, as stated in the doctrine, it is difficult to outline a profile of the European citizenship in terms of exact coordinates, which is generated by the evolving nature defining the structure, placing it in a dynamic which allows a continuous transformation. This format of the European citizenship appears as a hybrid, given the atypical nature, encompassing both the prerogatives granted by *jus sanguinis* and the civil ones, but does not relate to these in an exclusive manner, which shows its own particularity. As for the explicit regulation of the concept, the Treaty of the European Union states, as mentioned above, the existence *de facto* as well as the prerogatives of the European citizenship within art. 17, so that the first differentiation in the relationship between the domestic and European citizenship occurs. This approach is grounded on the fact that, basically, the European Union shows legal personality, which raises a question on the existence of a *de facto* citizenship, given that it is grounded on a pre-existing legal basis.²⁰

We are therefore dealing with a first argument on the differentiation needed between the concept of 'European citizenship' and the traditional concept on the domestic citizenship. A first step in the creation of this statement concerns the manner of granting the European citizenship, manner distinct from the one existing on national level. Thus, the first occurs within the Member States in the absence of a predetermined agreement or collusion of those targeted, the special prerogative of this construction having a political purpose, namely to reduce the democratic deficit and establish a European identity.²¹ The European Union does not exclusively hold the prerogative of granting citizenship, the nationality issue being left to the Member States, placing the status of citizenship in a relationship of dependence with the Member States. In relation to these allegations, Stephen Hall believes that the actual content of the Treaty of Maastricht expressly states that the landmark of nationality was excluded from the reserved area of the EU Member States. Equally, the Treaty of the European Union transposes these regulations according to the Community law, as well as in relation to the fundamental rights and freedoms.²²

At the same time, under case law, in 1990, the case *Micheletti* exhaustively ruled that at that time, no concrete definition of the idea of Community citizenship, concept nowadays known as 'European citizenship'. This perspective was grounded on the fact that '*acquiring the European citizenship is placed in strict dependence to the member states, which act as a*

¹⁹Ioan Muraru, Elena Simina Tănăsescu, *Constitutional Law and Political Institution*, 14th Edition, Vol. I, C.H. Beck, 2011, p. 114.

²⁰Kristīne Krūma, *EU citizenship: unresolved issues* in RGSL Working Papers, No. 22, Riga, 2004, p. 5, *apud* <http://www.rgsl.edu.lv/images/stories/publications/RWP22Kruma.pdf>, on 04.02.2015.

²¹*Ibidem*, p. 6.

²²Stephen Hall, *Nationality, Migration Rules and Citizenship of the Union*, Martinus Nijhoff Publishers, 1995, p.9, in Kristīne Krūma, *EU Citizenship, Nationality and Migrant Status*, *apud* <https://books.google.ro/books?id=ffXXAQAQBAJ&pg=PA5&lpg=PA5&dq=Stephen+HALL,+Nationality,+Migration+Rules+and+Citizenship+of+the+Union&source=bl&ots=E3iI4lve1c&sig=VAuugUKPFnFrTNA-emrcnzGM2ow&hl=ro&sa=X&ei=JpXUVNZpzKfTnOGA2AM&ved=0CCsQ6AEwAQ#v=onepage&q=Stephen%20HALL%20Nationality%20Migration%20Rules%20and%20Citizenship%20of%20the%20Union&f=false>, on 04.02.2015.

*guardian of the European citizenship, being the key decision factors in relation to who may be entitled to acquire the benefits of the transnational citizenship*²³.

As regards to the relationship between the domestic and the European citizenship, it must be mentioned that the status of European citizen involves both the rights normally conferred to the citizens of the Member States and an additional set comprising, according to the Charter of Fundamental Rights of the European Union, namely: the right to vote and stand as a candidate at elections to the European Parliament, the right to vote and stand as a candidate at municipal elections, the right to good administration, the right of access to documents, the European Ombudsman, the freedom of movement and residence and the diplomatic and consular protection.²⁴ In addition to this set of expressly regulated rights in the benefit of European citizens, in the virtue of the normative acts expressly stipulating them, it is necessary to mention that these are grounded on the principle of equality in rights, which is the prerogative of the entire European construction and a fundament of the applicability of the founding principles of the EU with regard to the individuals, as main exponent of the entire European community.

As the very Charter of Fundamental Rights of the European Union states in its Foreword: *'The Union is founded on the values of respect for human dignity, freedom, equality and solidarity [...] placing the individual at the heart of its activity, establishing the citizenship of the Union and creating a space of freedom, security and justice'*²⁵. Therefore, the sources of validation and confirmation of the European citizenship refer to the equality, freedom and, implicitly, democracy of the EU citizens, aspect taking shape in the context of a competitive and stimulating Europe towards its citizens, which is a model of society based on *'individual rights and building social cohesion'*²⁶.

Conclusions

If the Romanian citizenship is particularly defined as the legal and political bond between a citizen and the Romanian state, defining the European citizenship is a much more complex approach, this being a more abstract notion. However, we may conclude that the European citizenship symbolizes, as a whole, *'the community of objectives and means intervening between the Member States of the European Union, namely the peoples of these states'*²⁷. This derives from the central idea underlying the European construction, which is to ensure peace and grant freedom to citizens to live under common rules and institutions.²⁸

The European citizenship complements the domestic one, aspect supported by the fact that nationals of the EU member states benefit from a dual citizenship. However, clarification is required regarding this claim, so in terms of European citizenship, it exercises its

²³Case C-369/90, Judgment of the Court of 7 July 1992. - Mario Vicente Micheletti and others v. Delegación del Gobierno en Cantabria, apud <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:61990CJ0369>, on 04.02.2015.

²⁴Charter of Fundamental Rights of the European Union, Title V: The rights of the citizens, apud <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:ro:PDF>, on 04.02.2015

²⁵*Ibidem*, Foreword.

²⁶Cezar Birzea, *The European citizenship*, Politeia, Bucharest, 2005, p. 191.

²⁷ Cristina Vintilescu, *op. cit.*

²⁸*Ibidem*.

prerogatives under the union law, which is of strict and immediate application, while in a subsequent approach, the domestic citizenship reflects its implications under the auspices of the domestic law.²⁹ As regards the rights of the EU citizens, these may be seen in an evolutionary perspective, this showing the power to adapt the legal framework to the incidental needs within the community, under the development and evaluation of certain situations. The rights and freedoms found in European documents confirm the status of European citizen and grant it with a unique perspective, in the light of the specific rights elaborated in the context of citizenship.

Although it initially was an idea, the core of the European citizenship fed on the desire to bring together citizen in a common system of values and perspectives, in the virtue of a living standard and common European identity, an issue which subsequently became reality, conceptualizing into the idea of 'European citizenship', together with the rights and freedoms it brings.

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²⁹Florica Marin, *Considerations on European citizenship and status of the European citizen* in Doctrine and jurisprudence, no. 1/2006, The Public Ministry, p. 76, *apud* http://www.inm-lex.ro/arhiva/fisiere/pag_34/det_415/1385.doc, on 04.02.2015.

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