

EUDO CITIZENSHIP OBSERVATORY

NATURALISATION PROCEDURES FOR IMMIGRANTS ROMANIA

Roxana Barbulescu

February 2013

European University Institute, Florence
Robert Schuman Centre for Advanced Studies
EUDO Citizenship Observatory

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Naturalisation Procedures for Immigrants

Romania

Roxana Barbulescu

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1. Introduction. Rules of acquisition for Romanian citizenship: A historical overview

The current Romanian citizenship law was adopted in 1991. Although it suffered various minor amendments, the main provisions of the law have remained largely unchanged over the last twenty years. The law was approved only two years after the fall of the communist regime (in 1989), for which reason it reflects the primary legal and political concerns of that period. Hence, the Citizenship Law of 1991 primarily focuses on the perpetuation of citizenry in the transition from an authoritarian regime to democracy, and on facilitating the reacquisition of citizenship for people who had lost or who were stripped of Romanian citizenship by the former communist regime. By contrast, naturalisation of foreign citizens was of less concern for policymakers because few immigrants came to Romania in the early 1990s.

Compared with other contemporary nationality laws in Europe, the Romanian citizenship law of 1991 was rather liberal because it allowed foreign residents to apply for citizenship after 5 years of residence. Nevertheless, all amendments following 1991 reversed this trend and introduced additional requirements that made naturalization both more restrictive and more selective. For instance, the minimum residence period was raised twice over a period of only twelve years: from 5 years in 1991 to 7 years in 1999 and, finally, to 8 years in 2003. Furthermore, the knowledge of the Romanian language was already required in the initial law of 1991, but an amendment from 1999 asked applicants to also demonstrate knowledge of “elementary notions of culture and

civilization sufficient to integrate himself/herself in social life” (art. 8 f). The country-specific requirements were taken another step further in 2003 when the Citizenship Law was again amended to add to the existing requirements knowledge of the Romanian Constitution and national anthem (art 8 g).

These last amendments had a nationalist component. This is explained not by a larger presence of immigrants and expats in the country but rather by the move towards the right of the political spectrum of the Romanian electorate in search for new political formulas in the transition to democracy. This meant that from 1996-2000 the government was formed for the first time by a broad coalition representing the centre right. In the following elections in 2000, the far right nationalist party, the Greater Romania Party [Partidul Romania Mare] won 20 per cent of the votes of the electorate and became the second party in Romania (Romanian Parliamentary Elections 2000). In particular, in 2003 when the Citizenship Law was amended, the Greater Romania Party had 37 MPs who pushed for a revision of the law along nationalistic and conservative lines.

After the various amendments, the requirements for the acquisition of Romanian Citizenship are described in article 8 of the Citizenship Law:

Art. 8¹. — (1) Romanian citizenship may be granted, on application, to stateless persons or to foreign citizens, provided that they meet the following requirements:

- a) they were born and domiciled, at the date of the application, in Romanian territory or, although they were not born in this territory, they were domiciled under the law in Romanian territory for at least 8 years or, if they are married to and living with a Romanian citizen, for at least 5 years from the date of the marriage;
- b) their conduct shows loyalty to the Romanian State, they do not engage in or support actions against the rule of law or national security and they declare that they have not done so in the past;
- c) they have reached the age of 18;
- d) legal means for decent living are ensured for them in Romania, according to the conditions imposed by the legislation on the treatment of foreigners;
- e) they are known to have good conduct and they have not been sentenced, in Romania or abroad, for any criminal offence that would make them unworthy to be Romanian citizens;
- f) they speak Romanian and they have basic knowledge of Romanian culture and civilisation, to an extent that is sufficient for them to be integrated in social life;
- g) they are aware of the provisions of the Constitution of Romania and of the national anthem of Romania.

(2) The periods of time in para. (1) a) may be reduced by half under the following circumstances:

¹ English translation of the law no 21 1991 available at http://eudo-citizenship.eu/NationalDB/docs/ROM%20Citizenship%20Law%201991%20%28English_consolidated%20version%2017%20June%202010%29.pdf [accessed on 30 of July 2012]

- a) the applicant is an internationally famous personality;
- b) the applicant is a citizen of a Member State of the European Union;
- c) the applicant has acquired the statute of refugee according to the legal provisions in force;
- d) the applicant has invested more than EUR 1,000,000 in Romania.

(3) If the foreign citizen or the stateless person who has applied for Romanian citizenship spent more than 6 months of one year outside Romanian territory, that year shall not be taken into account when calculating the period of time in para. (1) a).

Minors can acquire Romanian citizenship if:

Art. 9². — (1) A child born to parents who are foreign citizens or stateless persons and who has not reached the age of 18 shall acquire Romanian citizenship together with his or her parents.

(2) Where only one of the parents acquires Romanian citizenship, the parents shall agree upon the citizenship of the child. Should the parents fail to reach an agreement, the district court that has jurisdiction over the domicile of the child shall decide, taking account of the child's interest. The consent of children who have reached the age of 14 is required.

(3) A child acquires Romanian citizenship at the same date as his or her parent.

(4) If a minor child has acquired Romanian citizenship under para. (1) or (2) herein and he or she has not been included in the certificate of citizenship of the parent or has not been issued a citizenship certificate under Art. 20 para. (5) or (7), his or her parent or, where appropriate, parents who are Romanian nationals may apply for a transcription or for the registration of the certificates or excerpts of civil registration issued by foreign authorities, into Romanian civil registries, under Act No. 119/19962 on Civil Registration, as republished.

(5) A child who has reached the age of 14 may lodge an application on his or her own behalf for the transcription or registration of his or her birth certificate or excerpt. In such cases, the citizenship of the minor child is proven by means of the identity card or the passport issued by Romanian authorities to the parent or by means of the certificate in Art. 20 para. (4).

In order to become Romanian citizens (by means of acquisition or reacquisition), one also needs to pledge a loyalty oath which is stipulated in article 20 of the law³:

“I swear to be loyal to the country and the people of Romania, to defend the national rights and interests, and to abide by the Constitution and the laws of Romania.”

2. Acquisition vs Reacquisition

Acquisition and reacquisition are two different procedures that over the last decade have developed in surprisingly opposite directions. The procedure of re-acquisition was

² Idem.

³ Idem.

extended by an amendment of the law in 2009. Government Emergency Ordinance no. 36/2009 that extended the right to reacquisition to former citizens who have lost for *reasons for which they cannot be blamed* but also included under this right the descendants of the former citizens up to the third degree. Another liberalizing reform of the re-acquisition had to do with the removal of the requirement to have residence in Romania at the time of making the application. While for the all other types of acquisition this requirement was kept, it was eliminated from the re-acquisition procedure.

Overall, the continuous restrictive trend in naturalisation policies has been contrasted by the disruptive but constant relaxation of the policies for requisition. Table one below summarized the requirements for acquisition and reacquisition in order to single out the main differences between the two.

TABLE 1. Compared conditions for acquisition and reacquisition under Citizenship Law

	Acquisition	reacquisition
Residence in the country	Yes	No
Good behavior and loyalty to the country	Yes	Yes
No threat to national security	Yes	Yes
Sufficient economic means	Yes	No
Proficiency in Romanian language and knowledge of culture	Yes	No
Knowledge of the Constitution and national anthem	Yes	No
Swearing oath of loyalty	Yes	Yes
Proof of former citizenship or descendants of a former citizen who lost Romanian citizenship for reasons not attributable to him/her	n.a.	Yes

Source: compiled by author

Iordachi (2012) focused on the reacquisition feature of the Romanian citizenship law and found that the relaxation of the requirements for reacquisition had a positive impact on the number of applications made from former citizens and their descendants. However, Iordachi (2012: 154) shows that the total number of applications has nonetheless remained rather low as over a period of over 20 years (from 1991 to 15th of August 2011), 226,507 reacquisition applications have been processed by the Romanian authorities. In press reports however, the estimated number of Moldavians that would receive Romanian citizenship ranged from 650, 000 in *Der Spiegel*⁴ to 1 million in the *Financial Times*⁵. The Romanian President Basescu himself seems to have contributed to inflating the numbers and appeal of Romanian citizenship when he declared in a TV show in April 2009 that there were between 800,000 and one million applications for citizenship in the Romanian embassy in Chisinau (Ghinea, Dinu, Ivan 2010: 17).

⁴ <http://www.spiegel.de/international/world/fanning-the-flames-romania-to-offer-moldovans-citizenship-a-619542.html> [accessed on 20 August 2012]

⁵ <http://www.ft.com/cms/s/0/aa2a138c-2a1d-11de-9d01-00144feabdc0.html#axzz247CC2oD1> [accessed on 20 August 2012]

However, Iordachi (2012) shows that these estimations were far larger than the actual numbers. Table two below lists the applications for reacquisition received and processed each year.

TABLE 2 Reacquisition of Romanian citizenship: annual applications filled and processed

year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Applications filled	3126	16 975	5379	2895	3438	2077	3883	21759	94391	51449
Applications processed	0	6	263	1603	489	664	4512	21999	41843	47128*

*until 15 August

Source: Iordachi (2012) p. 154 based on data from National Authority for Citizenship

Many important European newspapers raised concerns on Romania's policy on reacquisition after the state eased conditions for ethnic Romanians from neighboring Moldova and Ukraine in 2009 which would gain full EU rights (see Barbulescu 2012). In Germany, *Der Spiegel*⁶ wrote that the Romanian passports would earn Moldavians "an entry to the EU through the back door"; in the UK, the BBC spoke of "alarm at EU passports" for Moldavians.⁷

Concerns about Romanian policy for Moldavians resurfaced in 2010 in the discussions on the admission of Romania and Bulgaria to the Schengen area. France blocked the bids of the two countries on the grounds that "it is well understood that Romania and Bulgaria do not have a closed door".⁸

The relaxation on reacquisition conditions that took place in 2009 mostly benefited ethnic Romanians from Moldova and to a lesser degree ethnic Romanians from the Ukraine. Here, it is important to highlight the fact that the text of the law does not mention Moldova and Ukraine. However, these are the two countries where most the people who meet the two criteria listed above live. The large majority of them live in Bessarabia, a region in Moldova. Bessarabia and some other regions from the two countries were Romanian state territory before they became part of the USSR following the Molotov-Ribbentrop Pact of 1939.

The special privileges that Romanian authorities offer to ethnic Romanians in the former territories of Greater Romania contrast with less concern for Romanian minorities in other neighboring countries; a fact that has passed surprisingly unnoticed

⁶*Der Spiegel*, Romanian Passports for Moldavians. Entering the EU through the back door, 13 July 2010. <http://www.spiegel.de/international/europe/romanian-passports-for-moldovans-entering-the-eu-through-the-back-door-a-706338.html>

⁷BBC news, Alarm at EU passports for Moldova, 4 May 2009 <http://news.bbc.co.uk/1/hi/world/europe/8029849.stm> [accessed on 20 August 2012]

⁸Euroactiv, France blocks Romania, Bulgaria Schengen bids, 14 December 2010 <http://www.euractiv.com/future-eu/france-blocks-romania-bulgarias-news-500445>

in the literature. Nevertheless, the reunification of Greater Romania is one of the main projects of the extreme right in Romania and of the Greater Romania Party.

Former citizens who were born when these territories were part of Romania would now be at least 72 years old. This means that rather than restoring citizenship to former citizens, the current reacquisition procedure is granting citizenship to their descendents: their children and grandchildren. Furthermore, the large majority of the new Romanian citizens maintain their residence abroad and, in most cases they remain residents of their country of origin.

At a first glance, the situation described above creates a rather puzzling use of a citizenship law: it is more often applied outside the state territory than on the state territory, it creates more new citizens outside than inside the state borders and, finally even after take-up, the new citizens choose to maintain their residence abroad. By contrast, the citizenship law has been traditionally used to achieve the opposite i.e. to naturalise foreign citizens who took residence on the state territory and have established their homes in that country.

The current application of the Romanian citizenship law comes to confirm that its main goal is that of post-communist restitution to people who used to be citizens of Romanian prior to 1945 (see Iordachi 2009). Moreover, Romanian political analysts have also pointed out that the country's reacquisition policy serves its geostrategic interests in the area after it became a member of the EU (Ghinea, Dinu and Ivan 2010). In fact, the extension of reacquisition rights for Moldavians came only days after political protests in April 2009⁹, an event which marked a turning point in Romanian-Moldavian relations.

The preference for reacquisition is likely to be continued in the future as the new Prime Minister, Victor Ponta, from the opposition party declared on a visit to the Moldovan capital in July 2012 that Romania has "a historical duty to give citizenship to people in Bessarabia".¹⁰

3. Citizenship Statistics and Immigration

General trends on naturalisation and citizenship take-up in Romania are difficult to calculate because of the lack of official statistics. The total number of citizenships granted can be identified by counting the number of persons naturalized on each

⁹ *The Guardian*, Anti-communist protesters storm Moldova parliament after elections, 7 April 2009 <http://www.guardian.co.uk/world/2009/apr/07/moldova-protests-chisinau> [accessed 20 July 2012]

¹⁰ Ponta la Chisinau: "indiferent de anumite nemulumiri in Europa, noi avem o datorie istorica sa acordam cetatenie romana basarabenilor" [Ponta in Chisinau: Regardless of disapproval in Europe, we have a historical duty to grant Romanian citizenship to people in Bessarabia] Romanian Global News Press 18 of July 2012 available at http://www.rgnpress.ro/rgn_12/categorii/politic/6315-ponta-la-chisinau-indiferent-de-anumite-nemulumiri-in-europa-noi-avem-o-datorie-istoric-s-acordm-cetenie-roman-basarabenilor.html [accessed on 30 of July 2012].

ordinance of the National Authority for Citizenship published in part III of the Official Monitory until 1999 and by reviewing the ordinances that NAC publishes online. However, this indicator only registers the number of successful applications and not the reasons for which it was granted and therefore it cannot be distinguished whether the decision was taken in the case of reacquisition or acquisition.

Given the favorable policies for reacquisition and the high demand from former citizens in particular in Republic of Moldova and Ukraine, it is likely that reacquisitions will continue to outnumber the number of acquisitions. Nevertheless, it is important to point out that the more favorable policies also have a strong effect on naturalisation of the immigrants in the country because most of the foreign residents living in Romania are in fact Moldovan citizens. Table 3 below list the main countries of origin of immigrants. Moldovans are the largest group (14 per cent) and together with the Italian and Turkish citizens account for a third of all foreigners living in Romania.

TABLE 3. Top ten source countries of foreign residents in Romania at 30.06.2011

Moldova	14 323
Italy	9 546
Turkey	9 080
Germany	6 919
China	6 765
France	5 319
Hungary	3 448
Austria	2 715
Syria	2 505
UK	2 263
Others	37 329
TOTAL	100 212

Source: Romanian Office for Immigration, Ministry of Interior and Administration 2011.

Overall, immigration continues to be exceptional in Romania with only 100,212 registered foreign residents (June 2011) living in the country with a total population of 19,042,936 (Population Census 2011). In other words, current immigrant population represents only 0.52% of the total population. Furthermore, nearly half of the foreigners living in Romania are citizens of another EU member state and only 57 per cent are third country citizens (see Table 4 below).

TABLE 4 Foreign residents in Romania by group of citizenship

	No.	%
EU citizens	42.943	43
Non-EU citizens	57.259	57
TOTAL	100.212	100

Source: Romanian Office for Immigration, Ministry of Interior and Administration 2011.

Because of this unique mix of foreign residents dominated by Moldovans (14 per cent) who have access to Romanian citizenship via reacquisition and by EU citizens (43 per cent) who can apply after half of the period required normally for naturalisation

(4 years instead of 8 years) I argue that Romanian citizenship law is rather *inclusive in practice* precisely because it has more favorable policies for the majority of the foreign population. Evaluations of the current Romanian citizenship law should take this fact into consideration.

4. Institutional setup

The National Authority for Citizenship (henceforth NAC) within the Ministry of Justice is the Romanian state agency that manages naturalisation. In order to solve the applications in a timely matter, the institution has been repeatedly reorganised and amplified in terms of staff over the last ten years. For instance, starting from 2003, an amendment of the law moved the competence on final decisions on acquisition and reacquisition from the Romanian Parliament to the Ministry of Justice where NAC is located, making the procedure shorter. Until 2003, the parliament used to issue a governmental ordinance with approvals and rejections based on the recommendations of NAC. Currently, the final decisions are issued by the president of NAC (see naturalisation procedure at section 2 of this report).

The NAC has its main office in the capital (Bucharest) and five additional territorial offices well distributed geographically: Iasi, Suceava, Galati, Timisoara and Cluj-Napoca. Four of the five offices are located in large cities but also in cities which are close to state's borders where the demand is higher. Only the office in Cluj –Napoca is situated in the centre of the country.

5. Promotion of citizenship acquisition

In general, the Romanian state does not promote the acquisition of citizenship and there is no known naturalisation campaign. However, support for applicants is available at NAC's offices. Applicants can also get information on the application procedure as well as on the documents needed by email, by phone or in person from the state agency where applications are filed, the National Agency for Citizenship. However, NAC prints no flyers or other written materials sponsored by the state.

Acquisition of Romanian citizenship requires a language *and* a culture test. This test is administrated during the interview and it is free of charge. While there are no preparation courses (public or private) for the interview and no official preparation materials, NAC has made available an approved bibliography.

The bibliography NAC suggests lists books and topics from which the questions would be asked during the exam. Given the chosen topics and the materials suggested by NAC, it can be argued that the knowledge required in Romanian history, geography and civilisation approximates the knowledge required for a national exam that all

secondary school children take in order to be admitted to high-school (*examen de capacitate*). In fact, among the recommended materials are several handbooks which are typically used for the preparation of the secondary school exam.

The bibliography suggested by NAC for the preparation of the interview includes:¹¹ the Romanian Constitution; the Universal Declaration of Human Rights (1948); the EU Charter of Fundamental Rights; the Nationality Act as well as Immigration and Asylum Law and several legal acts on the legal status of foreigners in Romania; as well as several handbooks such as *The History of Romanians: Syntheses, Tests, Little Historic Dictionary* Else Publishing House, 2002; *Historic and Touristic Guide of Romania* by M. Stan, Niculescu Publishing House, 2006; *The History of Romanians. Selection of Text for VIII Grade*, Arves Publishing House; *Turistic Encyclopedia* by M. Ielenicz Corint Publishing House; *Geographic Atlas* All Publishing House, *Geography –Handbook for VIII grade* by G. Apostol et al. Publishing House Humanitas Educational; and finally, *The Guide to Good Manners* by A. Marinescu, Humanitas Publishing House.

As regards the courses of Romanian language for foreigners, there are only a few institutions offering it. Free language courses for foreigners are made available through the Integration Programme started in 2004 by the Romanian Office for Immigration. But these courses offer general language training directed mainly to immigrants and refugees and not to applicants for naturalisation and NAC does not offer specialised language courses to prepare for the interview. Applicants for naturalisation can nonetheless register for these courses. Other opportunities to learn Romanian are offered by specialised NGOs – such as the Immigrant Integration Centre in Brasov - who work together with local schools and local authorities and provide support to immigrants and refugees.

Information regarding the naturalization procedure is available on NAC's promotional website which also includes a FAQ section.¹² However, the information posted online is limited to basic guidelines and it uses legal rather than ordinary language which makes it difficult for applicants to understand the procedure correctly and to prepare the application without committing mistakes. Furthermore, even the limited information posted on the website is only available in Romanian without translations into other languages.

The lack of comprehensive information from the state officials makes applicants more dependent on their lawyers or on informal advice from other people who have already gone through this process and have obtained citizenship. However, the most frequently used source of information is the online forums made by former applicants

¹¹“Tematica și bibliografia pentru verificarea îndeplinirii condițiilor prevăzute de art. 8 lit. f și g din legea cetățeniei române nr. 21/1991, republicată, cu modificările și completările ulterioare”.
www.cetatenie.just.ro

¹² <http://cetatenie.just.ro/Home/Prezentaregeneral%C4%83.aspx>

who have themselves encountered the same problem. In general, forums are well established with activity stretching for many years, highly interactive (most forums have accounts in social media particularly Facebook and Twitter) and this is particularly so for the forum cetatenie-romana.info. At times, the forums act also as watchdogs of NAC's activity by systematically documenting delays in solving the applications as well as various other irregularities of NAC's office in Bucharest and elsewhere.

Application forms for the naturalisation procedure can be downloaded from NAC's web page¹³ or they can be picked up from the six NAC offices. Applications need to be filed personally with the agency. Applications cannot be sent online.

Unlike the re-acquisition of Romanian citizenship, naturalisation is also subject to a fee. All applicants have to pay this fee and no exceptions are made for applicants with lower incomes or even for refugees and asylum seekers. However, the fee is a standard administrative fee and remains inexpensive. Upon sending her file, the applicant will have to pay for the registration of application 3 RON (=0.8 Euros), to which it adds another 90 RON (=20 Euros) for publishing the naturalisation decision in the Official Monitor and, finally 1,5 RON (=0.4 Euros) for a fiscal stamp. Nonetheless, most expensive are the costs of certified translations and certified copies which can more than double the original fee.¹⁴

An additional consular fee of 187,5 RON (=45 Euro) is applied in cases where the application is filed abroad in a Romanian embassy or consulate. Interestingly, there is a fee for renunciation of Romanian citizenship (600 RON= 140 euros).

Once the application is successful, the person would be invited to swear the oath of loyalty to the Romanian state in a citizenship ceremony. The ceremony takes place at the National Authority for Citizenship in Bucharest or in consulates and embassies abroad. The ceremony has a low profile and takes place in the presence of Ministry of Justice and several civil servants of the state agency.

¹³ <http://cetatenie.just.ro/Home/Informa%C5%A3iutile/Categoriidedosare.aspx>.

¹⁴ Additional estimated cost of the documents 56 euros. Estimated costs for public notary services: 1) Certified translation circa 45 RON= 10 euros per page; 2) Certified copies of original documents circa 20 RON = 5 euros per page; 3) Hague apostille circa 24,7 RON = 5,6 euros per page



Fig.1 Photograph from a citizenship ceremony and swearing of the oath. November 2009
source: Ministry of Justice website

6. Documentation

Putting together the application can prove challenging as well as time consuming due to the large number of documents and certified copies required. In order to complete her application, the applicant has to bring **(1)** a certified translation and certified copy of their Passport [authorities have no discretion here, decision based on documents that applicant brings. This requirement is not mentioned in the law.] In this section “A” stands for applicant; “CO” stands for country of origin; “CR” stands for country of residence. In addition to the copy of the passport, the applicant has to also bring **(2)** a certified copy of residence permit (from CR) [decision based on documents, this requirement is not specified in the law] and **(3)** a certificate from the Immigration Office that testifies residence for 8 years and the date at which A has received the permit for permanent legal stay (from CR) [requirement of 8 years clearly states in the law and the applicant must bring the certificate in original. This requirement is stated in the law].

Furthermore, the file has to also contain **(4)** a declaration on A’s own responsibility that A “is not involved or supports actions against rule of law or puts at risk national security in present or in the past”. The declaration must be certified by a Public Notary (from CR) [decision based on the document A brings. This requirement is stated in the law], **(5)** a certified translation of birth certificate with Hague apostille stamped on it and stemming from appropriate embassy [decision based on document that A brings, not in the law] and **(6)** a certificate from an embassy which has to include: their first and second name, date and place of birth, first and second name of mother and father [decision based on document that A brings, not in the law]. If A is

married, then the marriage certificate **(7)** has to be included in the file in a certified copy [decision based on document that A brings, not in the law].

Criminal records are also required **(8)** from the country where A wishes to become a citizen (from CR) [decision based on document that A brings. This requirement is stated in the law. However, it is not clear which felonies can lead to refusal of naturalisation and which cannot] but also **(9)** from A's country of citizenship. In this case a certified translation with Hague apostle (from CO) [decision based on document that A brings. This requirement is stated in the law. However, it is not clear which felonies can lead to refusal of naturalisation and which cannot.]

The application should also include a document which attests the residence **(10)** which can consist in a certified copy of legal rent contract, certificate of ownership, declaration with a Public Notary of another person who registers A as living with him/her and establishes A's residence in his/her house (from CR) [decision based on document that A brings]

Also essential is the proof of sufficient economic means **(11)** for A's self-support for the last 3 years. Sufficient means can come from two sources (from CR) [the decision is based on the documents that A brings. This requirement is stated in the law. However, it is not clear what stands for 'sufficient means'.] These two sources can come from either:

(11.1) commercial activities for which the applicant has to bring proof of business ownership, financial balance from the Fiscal Authority from the previous year, proof of payment of appropriate taxes from the same authority, proof of earning from trading actions or holding shares and proof of payment of appropriate taxes from the Fiscal Authority (from CR)

(11.2) employment from which the applicant has to bring the work contract which states the *net monthly salary*, tax declaration, certificate of A's self-employment, certificate from Fiscal Authority which states A's earnings in previous year and current year or, finally, proof of pension entitlement or other similar documents (from CR).

Finally, an application is not complete without the proof of payment of the fee for naturalisation **(12)** [decision based on the bill that A brings].

In addition to the documents listed above, A has to prove that (s)he 'knows the Romanian language and has elementary notions of Romanian culture and civilization, in sufficient measure to integrate in the social life' [art 8 para 1 f)]. Furthermore, s/he has

to demonstrate that (s)he knows the Romanian Constitution and the national anthem. [art 8 para 1 g)].

7. The decision-making process

The National Authority for Citizenship within the Ministry of Justice is the Romanian state agency that controls the process from filing the application for naturalisation to granting the citizenship. All applications for acquisition have to be submitted in person in one of the offices of the National Authority. Only requests for reacquisition [articles 10 and 11 of the Nationality Act] can be handled from the consulates or embassies.

Once received, the applications are revised, evaluated and resolved by the Commission for Citizenship –a department within the National Authority. This Commission includes a technical secretary [who checks whether the applications are complete], a president and 20 members. Decisions on granting or refusing to grant citizenship are taken by majority vote of the members of the Commission who are present. A minimum 3 members have to be present for the Commission to be able to take the vote.

The application is first examined by the technical secretary of the Commission. If documents are missing, the Commission's president will inform the applicant that he/she has 6 months to bring the missing documents. If the application remains incomplete at the end of the 6 months, it is rejected.

However, if the application is complete then the president of the Commission sets a deadline for issuing a decision in that particular case. The president can ask for information from other state agencies to check the good behaviour of the applicant as it is specified in Nationality Act art 8, paragraph 1, b) and e). In practice, NAC verifies the cases of all applicants. Toderita, Silaghi and Ghinea (2012) find that NAC asks for additional information from at least four state agencies – Ministry of Interior, Ministry of External Affairs, Romanian Intelligence Service and the Foreign Intelligence Service- making the procedure much longer. The same authors found that the Romanian Intelligence Services (SRI) provided reports in 161,772 cases on NAC's request since NAC was established and only in 25 of the cases did SRI give a negative report.

On the agreed deadline, the Commission checks whether the applicant meets the other requirements (economic status, residence permit etc.) for naturalization except for the language and culture requirements. These two will be evaluated during the interview scheduled for a later date. If members of the Commission consider it necessary, they can also call persons to testify who are relevant for the case. If the Commission calls for testimonies, then another deadline is set for the final decision. If it does not call for testimonies and all documents are in order, the Commission sets a date for the **interview** which has to be within the next 6 months.

At the interview, the applicant's language and country specific skills are tested. If the applicant does not pass the interview or s/he does not come to the interview or s/he does not meet the requirements stated in the Nationality Act art 8 paragraph 1 a-g, the application is rejected. In this case, the National Authority writes a report and notifies by mail the applicant of the refusal and the reasons of refusal. A new application can be made by the same applicant after a period of 6 months. The negative decision can be contested in court within 15 days.

On the other hand, if all documents are in order and the applicant passes the interview then, the Commission writes **a report** where it is mentioned that the all conditions have been met, a report which is then forwarded to the president of the National Authority for Citizenship together with the original application and the accompanying documents.

The president of NAC then issues the **order for naturalisation** and informs the applicant by certified mail. Within the next 3 months, the applicant will have to take the oath of loyalty to the Romanian state in a citizenship ceremony. Unlike in many European states, there is no renunciation requirement for acquiring the Romanian citizenship. Since March 2011, the orders of naturalisation are published on NAC's website. At the ceremony the Minister of Justice, the President of the National Authority for Citizenship and 2 vice-presidents of this agency participate. After the ceremony the Commission issues the **certificate of citizenship**. One is considered a **Romanian citizen** on the day of the ceremony, after having taken the oath.

If the applicant does not take the oath for reasons for which s/he is responsible, the application, the order of naturalisation issued by the National Authority is ended.

Exempted to come in person and take the oath are those who can demonstrate a medical condition [permanent handicap or chronicle illness]. In this case, the person has one year to send a written request asking for the issuing of the certificate of citizenship. The one year period is counted from the day s/he received the invitation to the ceremony.

If the applicant dies before taking the oath, s/he is considered a Romanian citizen if his/her legal successor requests it. His/her successor has one year to send the written request.

In short, the procedure can be described as the applicant files in person the application and the accompanying documents. The Commission for Citizenship evaluates the documents and if all documents are in order, the applicant is admitted to the interview. If (s)he passes the interview, the file goes back to the Commission who takes a decision based on the vote of its members. If they are in favour, the Commission writes a favourable report which then is sent to the president of the National Authority for Citizenship. The final decision is taken based on the report of the Commission but it is the NAC's president who issues the order of naturalisation if the report is positive or, a refusal if the report is negative.

Final decisions are sent to applicants by certified mail. Rejected applicants learn the general grounds for which they have been refused. For instance, the applicants might be notified that their application was missing some documents or that they failed the interview of Romanian language and culture. Refused candidates can file a new application after 6 months.

On the other hand, successful applicants are invited to take the oath of loyalty. If (s)he takes it, the National Authority issues the certificate of citizenship on the same day with which the applicant can claim the Romanian ID and passport.

8. Discretion of authorities when taking decisions

The National Authority on Citizenship has some discretion when taking decisions in the naturalisation process. This first source of this discretion is the text of the Citizenship Law that puts naturalisation as *an option* rather than as *an entitlement* that foreign citizens have. Secondly, there are no clear guidelines on how some documents from the list above would be evaluated by NAC. For example, applicants must present criminal records from their country of origin as well as from Romania. However, there is no publicly available indication on which criminal offences are considered by authorities sufficient grounds for rejection.

Furthermore, the test for Romanian language consists in an examination of *written* and *reading* skills. This procedure is standard in all school exams in Romania (e.g. baccalaureate). However, both language and country knowledge are tested in **an interview**. There are no clear publicly available guidelines on what constitutes sufficient knowledge of language and culture to pass the interview.

In regards to the procedure, there are no significant exemptions for the acquisition of Romanian citizenship. The only exception that is mentioned in the law regards the applicants with a serious medical condition who will not have to take the oath of loyalty. Minors receive citizenship at the same time as their parents and do not personally take the oath.

There is no maximum time period mentioned in the law to reach a final decision in regular naturalisations. However, an amendment¹⁵ of the law from 2009 sets a 5 months period from the time of registering the application for the Commission to evaluate the file for reacquisition but the NAC seldom gives an answer within the deadline (Toderita, Silaghi, Ghinea 2012). For regular naturalisations, the law limits itself to setting specific deadlines for each stages of the procedure. Upon completion of each step, the Commission sets a new time limit for the completion of the next step.

¹⁵ Government Ordinance of Emergency no 36/2009 published in Official Monitor Part I, no 259 from 21 of April 2009 which modifies article 14 c.

Possible delays can occur especially due to a large increase in the number of applications in recent years and low administrative capacity to process them. Most of these new applications are for reacquisition from former citizens and their descendants and not for naturalisation of foreign residents. Even if that the procedure for reacquisition is far more simplified than the one for naturalisation, the waiting periods can be expected to be maintain at current rates due to the large demand from former citizens.

9. Review and appeal

The final decision of the NAC can be appealed with the Court of Appeal, the section of Contentious Administrative corresponding to applicant's place of residence. He or she has 15 days since the day s/he received the notification of the negative order from National Authority for Citizenship. The decision of the Appeal Court is final but can be appealed at the Romanian supreme court, the High Court of Cassation and Justice, in the Contentious Administrative section.

However, it's important to stress that only the final decision can be appealed. In cases where the reason for refusal is failing the interview on Romanian language and country knowledge, the decision cannot be brought to trial. As the Appeal Court Brasov has made clear in Case 45/F 2009 the court cannot substitute for the Commission for Citizenship on evaluating whether the applicant meets the necessary level of Romanian language, culture and civilisation, or whether the applicant knows the state anthem and principles of Romanian Constitution.¹⁶ The Appeal court can only verify the legal aspects of the procedure and can control whether all steps established in the law have been respected. If the applicant is refused because of the interview, (s)he can restart the application procedure after 6 months. The appeal court can change the final decision and can order the change of the final decision and can order compensation.

In addition to the courts of appeal, applicants can also seek legal assistance from the Ombudsman and the Romanian equality body: the National Council for Combating Discrimination (www.cndc.org.ro). If applicants consider that they have been discriminated against during the naturalisation procedure, they can approach the National Council for Combating Discrimination which can take legal action against the NAC. However, this is only possible if the alleged discrimination was produced less than one year from the time of the complaint was filed with the equality body.¹⁷ Furthermore, another two institutions where the decision can be appealed are the Presidency and the Chamber of Deputies which are also the two channels most frequently used by people. All complaints that reach the Chamber of Deputies are then

¹⁶ Appeal Court Brasov, Decision 45/F/2009 from 2nd of March 2009. Decision available <http://jurisprudencedo.com/Respingerea-actiunii-reclamantului-ca-neintemeiata-aratand-ca-la-data-acesta-s-a-prezentat-in-fata-Comisiei-pentru-cetatenie-din-cadrul-Ministerului-Justitiei.html> [accessed 30th of July 2012]

¹⁷ Email from National Council for Combating Discrimination on file with author.

forwarded to the Commission for Petitions, Abuse and Corruption Investigations within the Chamber of Deputies which has the authority to investigate cases of corruption or abuses from the civil servants. The commission receives a substantive but moderate number of complaints each year (see table below).

TABLE 5
Complains about naturalization procedure filled to
Chamber of Deputies

2009	54
2010	16
2011	40 *

*until 1 August 2011

Source: Toderita, Silaghi, Ghinea 2012: 173 based on data from Romanian Chamber of Deputies

According to the NAC, they were called to the High Court of Cassation and Justice - Romania's highest court - in a total of 39 cases and have won in all of them (Toderita, Silaghi, Ghinea, 2012 : 172).

10. Conclusions

The Romanian citizenship law no 21 from 1991 has favorable provisions for reacquisition for people who were Romanian citizens prior to the communist takeover in 1945. The main features of the law correct this historical wrongdoing and restore citizenship to these people and to their descendents. The rather low immigration to Romania and the strong preference for reacquisition for people from former Romanian territories, created a peculiar situation where most of those granted citizenships are from Moldova and to a less extent Ukraine and are citizens who continue to reside abroad even after taking up citizenship.

No further developments have been discussed. On the contrary, prominent political figures including the new Romanian Prime Minister, Victor Ponta have shown firm support for the current form of the law and particularly so to maintain the fast and simplified track for Moldavians. In July 2012, Ponta declared that he will continue to support the law because Romania has a "historical duty" towards people from Bessarabia.¹⁸

In this report, I have argued that the current Romanian law is more inclusive in practice than it might be expected from the text of the law. This happens because the majority of the foreign population is in fact from Moldova and from EU countries which both benefit from more favorable policies of naturalisation.

¹⁸ Supranote 10

So far, immigration to Romania has remained at very low rates, amounting to 0.52% of the total population. However, many of the immigrants present on the Romanian territory are “young” migrants with only a few years of residence in the country. It remains to be seen if and under what conditions this segment of the immigrant population will have access to citizenship.

Works cited:

- Barbulescu R. (2012): False alarm about EU passports? Less than 225.000 Moldavians granted Romanian citizenship since 1991. EUDO Citizenship Observatory, Robert Shuman for Advanced Studies, Florence. Available at <http://eudo-citizenship.eu/news/citizenship-news/697-false-alarm-about-eu-passports-less-than-225000-moldavians-granted-romanian-citizenship-since-1991#.UDuNeKD4a4w> [accessed 27 August 2012]
- Ghinea C., D. Dinu, P. Ivan (2010): “Cum am folosit fereastra de oportunitate: bilantul unui an de relansare a relatiilor Romania-Republica Moldova” *CRPE Policy Memo* no 19, Bucharest.
- Iordachi, C. (2009): “Romania. Country report” EUDO Citizenship Observatory, Robert Shuman for Advanced Studies, Florence. Available at <http://eudo-citizenship.eu/docs/CountryReports/Romania.pdf> [Accessed 15 July 2012].
- Iordachi, C. (ed) (2012): *Reacquiring Romanian Citizenship: Historical, comparative and Applied Perspectives*, Soros Foundation Romania, Bucharest April 2012.
- Inter-Parleamentary Union (2000): Romanian Parliamentary Elections http://www.ipu.org/parline-e/reports/arc/2262_00.htm [Accessed on 12 February 2013]
- Toderita A, C. Silaghi and C. Ghinea (2012) “Redobandirea cetateniei romane: cine, cand, cum, unde si de ce?” [Reacquisition of Romanian Citizenship: Who, When, How, Where and Why?] in *Reacquiring Romanian Citizenship: Historical, comparative and Applied Perspectives*, Soros Foundation Romania, Bucharest April 2012, pp 151-203.

