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COUNTRY REPORT: MOLDOVA

Viorelia Gasca

Revised and updated November 2012



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

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Moldova

Viorelia Gasca

1 Introduction

The Constitution of the Republic of Moldova was adopted on 29 July 1994, but the Republic came into existence as an independent and sovereign state on 27 August 1991, with the adoption by the parliament of the Declaration of Independence.¹ Prior to this date, the first democratically elected parliament of the Moldovan Soviet Socialist Republic had already adopted the Declaration of Sovereignty on 23 June 1990.² This momentous document explicitly provided for the establishment of a republican citizenship and the guarantee of the protection of rights and freedoms for these citizens which would be regulated by the Constitution and domestic legislation.³ This citizenship provision was based on the law of the Union of Soviet Socialist Republics (USSR) of 5 May 1990, which recognised the right of union republics to adopt their own domestic laws on citizenship (Arseni & Suholitco 2002: 18). Between these two historically significant declarations, the parliament adopted the Law on the Citizenship of the Republic of Moldova in June 1991. Following domestic and external developments, the Moldovan Parliament adopted a new law regulating citizenship issues in June 2000, providing for cases of multiple citizenships and, after its amendment in 2003, finally granting Moldovan citizens the right to possess the citizenships of other states.

The frequent changes of the legal framework on citizenship have taken place within very complex political and legal contexts which have involved radical territorial transformations and multi-ethnic populations. Among the major factors shaping this setting are the Transnistrian conflict (an internal situation) and the regulation of citizenship acquisition in Romania (an external situation).

Transnistria is the region of the Republic of Moldova which is situated on the left bank of the river Nistru. The region represents approximately 12 per cent of Moldova's territory and is home to 17 per cent of its population, the majority of whom are Russian speakers. Since 1989 there has been strong opposition in this region to the democratic independence efforts of the Republic, and, in particular, to the adoption of Romanian, written in the Latin alphabet, as the official language of the state. In September 1990, the region's authorities declared its independence and proclaimed it the 'Transnistrian Moldavian Soviet Socialist Republic within the USSR'. The conflict between the governmental attempts of the Republic of Moldova to achieve territorial integrity and effective control over its eastern territories and the separatist forces on the left bank of the river Nistru escalated into an armed conflict in the summer of 1992. The secessionists had the crucial support of the Russian 14th Army which was stationed on the left bank. During the 1999 Istanbul OSCE Summit Russia undertook the obligation to withdraw its army, but the Russian peace-keeping forces remain posted in the region even now. After the 1992 ceasefire and with the start of international peace efforts, a political dialogue between Chisinau (the capital city of Moldova) and Tiraspol (the main city in the Transnistrian region) has opened but no substantial progress has been made. Even the '2 + 3' format (*i.e.* Moldova, the Transnistrian region + Russia, Ukraine and the OSCE) of the conflict resolution negotiations, with the participation of the EU and the USA as observers,

¹ Governmental newspaper *Moldova Suverana*, Nos. 125-126, 25 August 2006.

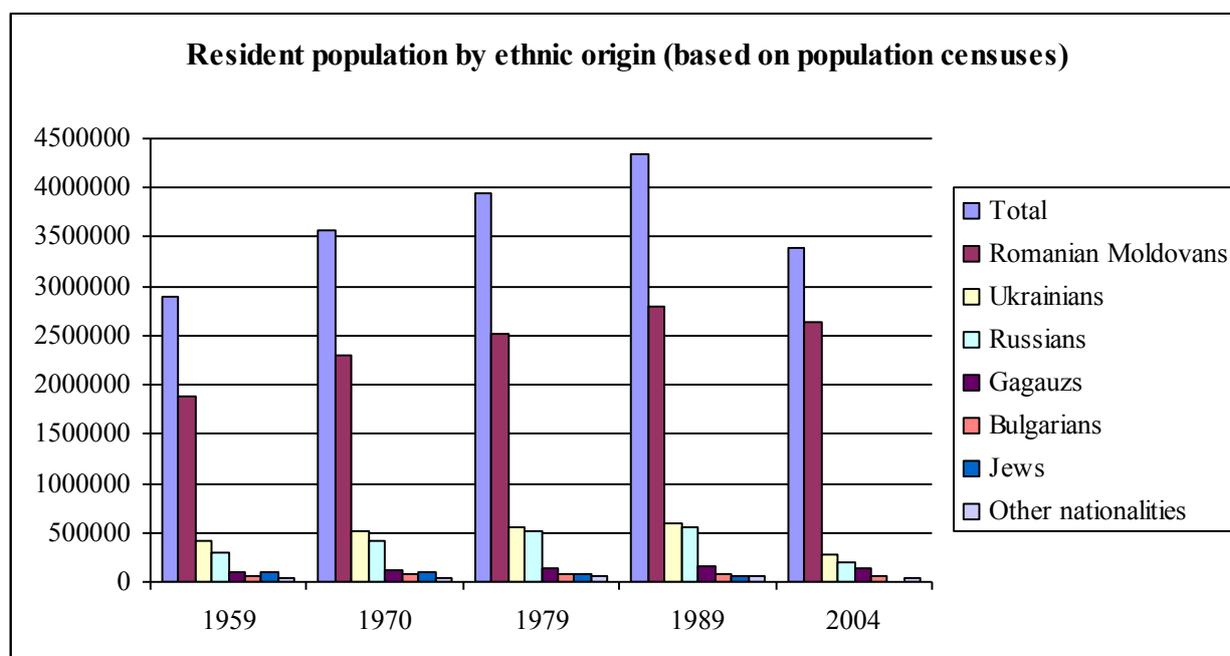
² Independent weekly newspaper *Timpul*, No. 239, 22 June 2005.

³ Point 8, *Declaration of sovereignty*, Supreme Soviet of the Moldovan Socialist Soviet Republic, No. 148-XII, 23 June 1990.

did not bring any closer a solution acceptable to both parties. The latest developments show more active engagements by the EU and the Government of the Republic of Moldova towards the ‘5 + 2’ negotiating format (which includes the EU and the USA as mediators) as ‘the only guarantee of the transparency and legitimacy needed to find a lasting and peaceful solution’, as well as for post-conflict developments.⁴

Meanwhile, on the right bank of the river Prut, the Republic of Moldova’s western neighbour, Romania, adopted a new citizenship law in March 1991.⁵ Since then, Romanian legislation provides for the possibility of possessing dual citizenship by allowing for the restoration of Romanian citizenship to former nationals. This special legal provision is directly applicable to the citizens of the Republic of Moldova who lost their Romanian citizenship before 22 December 1989 without their consent or for reasons not imputable to them, to their first and second generation descendants and, as of November 2009, as well to their third generation descendants. It created a unique situation where, on the one hand, the Moldovan citizens were applying for the re-acquisition of Romanian citizenship, while, on the other, the Moldovan legislation did not recognise their dual citizenship until 2002.⁶

Figure 1: Resident population by ethnic origin



Source: National Bureau of Statistics of the Republic of Moldova, <http://www.statistica.md/>

With regard to the different meanings of the terms ‘citizenship’ and ‘nationality’ in the English language and in some legal systems, it is necessary to point out that in Moldova the term used to describe the legal status of its nationals, their legal link with the state, their rights, freedoms and duties is the term ‘citizenship’ (*cetățenie*). The word ‘nationality’ in Romanian language (*naționalitate*) has a strong ethnic underpinning and its use remains a highly sensitive issue in Moldova. This is because the term ‘nationality’ was used legally and

⁴ Council Conclusions on the Republic of Moldova, General Affairs Council, Luxembourg, 13 October 2008.

⁵ Law on Romanian citizenship, No. 21 of 1 March 1991, *Official Monitor* No. 44 of 6 March 1991, republished in *Official Monitor* No. 98 of 6 March 2000.

⁶ The amendment of the Constitution of the Republic of Moldova and lifting of the ban to hold dual citizenship. Law No. 1469-XV of 21 November 2002, *Official Monitor of the Republic of Moldova* of 12 December 2002.

politically in the Soviet Union to distinguish the fifteen ethnicities of the Union republics. Thus, legislation, policy instruments, political discourse and media in Moldova use the term ‘citizenship’ to characterise the legal tie between the individual and the state and his or her rights and obligations both within the country and abroad.

2 Historical Background and Changes

In order to understand the background of the present citizenship policy of the Republic of Moldova, it is necessary to present a brief overview of certain major territorial changes, along with their strong ethnic underpinnings.

2.1 Before the 1990s

Until 1812 the majority of current territories of the Republic of Moldova (with the exception of the left bank of the river Nistru) were part of the historic Romanian principality of Moldova, which also incorporated territories on the right side of the river Prut (today the north-eastern part of Romania).

During the period 1812-1917, almost all of the territories of the present Republic of Moldova, known as Bassarabia,⁷ were part of the Russian Empire. Between 1918 and 1940, Bassarabia united with Romania and correspondingly came under Romanian citizenship regulations.

Meanwhile, on 12 October 1924, the USSR officially established the Moldavian Soviet Socialist Autonomous Republic (MSSAR) on the present-day territories of the Republic of Moldova’s Transnistrian region (then territories of the Ukrainian SSR). After its first Constitution in 1925, the MSSAR adopted a new Constitution in 1938 which provided in art. 17 for a triple citizenship for the citizens of the MSSAR, *i.e.* citizenship of the MSSAR, citizenship of the USSR and the citizenship of the Ukrainian Soviet Socialist Republic (Costachi & Guceac 2003).

As a result of the Molotov-Ribbentrop Pact of 1939,⁸ the Soviet Union created a Moldavian Soviet Socialist Republic (MSSR) which included the territories between the rivers Prut and Nistru (however, parts of northern and southern Bassarabia, *i.e.* Northern Bucovina and the Black Sea coastal area, were given to the Ukrainian SSR), and the MSSAR. The MSSR existed from 1940 until the 1991 Declaration of Independence, with the exception of a short period in 1941-1944 when it was annexed by Romania under its royal dictatorship. The Constitution of the MSSR of 1941 recognised all citizens of the MSSR as the citizens of the USSR automatically, and guaranteed to the citizens of other union republics equal rights with the citizens of the MSSR. The essence of this provision on citizenship was reiterated in the 1978 Constitution of the MSSR. The new constitution proclaimed the Moldovan Republic as a sovereign soviet socialist state with the right to grant citizenship regulated by a union law (Costachi & Guceac 2003; Carnat 2004).

⁷ I am using the term ‘*Bassarabia*’ based on the original word in Romanian (*Basarabia*), and not ‘*Bessarabia*’ which is a literal transcription from Russian language (*Бессарабия*).

⁸ *Pactul Molotov-Ribbentrop si consecintele lui pentru Basarabia*, Chisinau: Universitas, 1991.

2.2 The 1990s and Moldovan Citizenship

The 1990 Declaration of Sovereignty of Moldova, which established the republican citizenship and stated the supremacy of republican legislation over union legislation, created the legal premises to adopt the 1991 Law on the Citizenship of the Republic of Moldova.⁹

The law was adopted after much debate (both in first and second readings) over the issue of which residents of the Republic of Moldova should acquire the legal status of citizens of the Republic of Moldova and which ones should not (Arseni & Suholitco 2002:18-19). According to a parliamentary decision and in order to facilitate a transparent debate, the draft of the Law on Citizenship was published in the official governmental newspaper with three versions of the article stating who the citizens of the Republic of Moldova were.¹⁰ The majority of Russian speaking MPs supported the so-called ‘version zero’ of the discussed article which stated that ‘citizens of the Republic of Moldova were the persons who, on the day of the entry into force of the Law on Citizenship, were residing permanently on the territory of the republic and had there a permanent source of existence’. They also expressed their discontent with the fact that the draft law did not allow dual citizenship in the Republic of Moldova (art. 6), thus excluding the additional status of citizens of the then still extant USSR. On the other hand, most of the Romanian-speaking MPs argued in favour of the so-called ‘residence census’, which recognised as citizens ‘the persons who arrived in the MSSR after 28 June 1940 and who, on the day of the entry into force of the Law on Citizenship, were residing permanently on the territory of the republic for at least five years [or in the third version, ten years], had there a permanent place of work or other legal source of existence and submitted an official request to acquire the citizenship of the Republic of Moldova within the period of one year after the adoption of the citizenship law’.¹¹

The MPs opted for ‘version zero’, so as to not violate the rights of citizens based on their citizenship, and agreed that following groups of persons were classed as citizens of the Republic of Moldova:

- Persons who, before 28 June 1940, were living in Bassarabia, Northern Bucovina, the Herța district or in the MSSAR, and their descendants, if on the day of the adoption of the citizenship law they were residing on the territory of the Republic of Moldova;¹²
- Persons born on the territory of the Republic or those who had at least one parent or grandparent who was born on the territory of the Republic of Moldova and were not citizens of another state;
- Persons married before 23 June 1990 to Moldovan citizens or their descendants, and persons who returned to the country at the invitation of the president or of the government of the Republic of Moldova. This point, however, was introduced later, in 1993;¹³
- Other persons who, before 23 June 1990 and on the day of the adoption of the Declaration of Sovereignty of the Republic of Moldova, were

⁹ Law No. 596-XII of 5 June 1991 on the citizenship of the Republic of Moldova, *Moldova Suverana* No. 138 of 4 July 1991.

¹⁰ Governmental newspaper *Moldova Suverana*, 22 November 1990.

¹¹ Governmental newspaper *Moldova Suverana*, 22 November 1990.

¹² This point has been modified by law as the amendment of art. 2 of the Law on the Citizenship of the Republic of Moldova, No. 1462-XII of 26 May 1993.

¹³ Law on the addition and amendment of art. 2 of the Law on the Citizenship of the Republic of Moldova, No. 1474-XII of 8 June 1993.

residing permanently on the territory of the republic and had there a permanent place of work or other legal source of existence. These persons had the liberty to decide up on their citizenship within the period of one year from the day of entry into force of the law on citizenship. They were considered citizens of the Republic of Moldova from the moment they submitted the relevant application for Moldovan citizenship.¹⁴ Later, this period was extended until 1 September 1993.¹⁵

The parliament of the newly independent and sovereign Republic of Moldova adopted quite an inclusive and broad approach to citizenship policy. According to official data, up until September 1993, around 4,000 persons took advantage of the right to decide on their status as citizens of the Republic of Moldova during the prescribed period of one year (Arseni & Suholitco 2002: 20). However, this democratic regulation of citizenship in Moldova did not guarantee a problem-free situation with regard to the status of national minorities. The long-lasting issue regarding the substantial Russian-speaking population which resides in the disputed region of Transnistria remains open.¹⁶ Moreover, art. 6 of the citizenship law stipulated that a citizen of the Republic of Moldova could not hold the citizenship of another state, except in the cases provided for in bilateral treaties to which Moldova was a state party. Foreign citizens could acquire the citizenship of the Republic of Moldova without losing their own only in the interests of the Republic and in exceptional cases by a special decision of the Moldovan President.¹⁷ This last provision is included within the 2000 Law on Citizenship as a case of multiple citizenships (art. 24, para. 2).

The institution of citizenship of the Republic of Moldova was further reinforced by the Constitution of the Republic of Moldova, adopted on 29 July 1994, which explicitly states the legal basis for citizenship in art. 17. This article also stipulates that no one can be arbitrarily deprived of citizenship and protects the right to change citizenship by acquiring the citizenship of another state. Moldovan citizens cannot be extradited or expelled from their country. However, until 2002, the Constitution legally restricted the citizens of the Republic of Moldova from holding the citizenship of other states, unless in the cases provided for by international agreements in which the Republic of Moldova is a state party.¹⁸ Despite some public discussions about possible negotiations for a bilateral agreement on dual citizenship with Romania, Moldova has not signed any such treaties.

2.3 The New Millennium and Multiple Citizenship

Further legal changes signalling the development of the Republic of Moldova towards a fully democratic state are evident in the ratification of various international instruments of the UN and the Council of Europe, including the ratification on 14 October 1999¹⁹ of the Council of

¹⁴ Art. 2 'Belonging to the citizenship of the Republic of Moldova', Law No. 596-XII of 5 June 1991 on the citizenship of the Republic of Moldova, in force on 4 July 1991.

¹⁵ Decision of the Parliament of the Republic of Moldova on certain measures to solve the problems relating to the implementation of the Law on the citizenship of the Republic of Moldova, No. 1477-XII of 9 June 1993.

¹⁶ See, for example, Vahl, M. & M. Emerson, 'Moldova and Transnistrian Conflict' in Coppieters, B., M. Emerson, M. Huyseune, T. Kovziridze, G. Noutcheva, N. Tocci & M. Vahl, *Europeanization and conflict resolution: case studies from the European periphery*, 149-190, Ghent: Academia Press, 2004.

¹⁷ Art. 6, Law No. 596-XII of 5 June 1991 on the citizenship of the Republic of Moldova, in force on 4 July 1991.

¹⁸ Arts. 17-18, Constitution of the Republic of Moldova of 29 July 1994, *Official Monitor* No. 1 of 12 August 1994. Law No. 1469-XV of 21 November 2002, *Official Monitor of the Republic of Moldova* of 12 December 2002.

¹⁹ Decision of the Parliament of the Republic of Moldova on the ratification of the European Convention on Nationality, No. 621-XIV of 14 October 1999.

Europe's European Convention on Nationality.²⁰ Among the innovative features of this internationally agreed convention are its provisions for multiple citizenships.²¹

At the time of these legal transformations, Moldova was increasingly confronted with the dilemma of the *de jure* prohibition of dual citizenship and the *de facto* increase in the number of Moldovan citizens applying for the restitution (re-acquisition) of Romanian citizenship. The Romanian citizenship law allows dual citizenship in the case of re-acquisition of Romanian citizenship by former Romanian citizens and their first, second and third generation descendants who, before 22 December 1989, lost Romanian citizenship for reasons not imputable to them.²²

Subsequently, the parliament of the Republic of Moldova adopted a new Law on Citizenship on 2 July 2000 which translated into domestic legislation its international commitment to respect the principles of non-discrimination and avoidance of statelessness, and to recognise certain exceptional cases of multiple citizenships for its citizens, including in some cases of naturalisation.²³ Nevertheless, the constitutional provisions on the citizenship of the Republic of Moldova and the legal status of foreign citizens and stateless persons (arts. 17-19 of the Constitution of the Republic) were amended only in 2002.²⁴ According to this constitutional amendment, the legal restriction on citizens of the Republic of Moldova from holding the citizenship of other states was excluded from the Moldovan Constitution. The following year, the Law on the Citizenship of the Republic of Moldova was finally amended to allow its nationals, who had acquired citizenship of the Republic of Moldova either by birth or through recognition or restitution, to possess the citizenship of another state, without losing their Moldovan citizenship.²⁵

3 The Current Citizenship Regime

The main legal framework regulating the citizenship of the Republic of Moldova is comprised of the provisions of the Moldovan Constitution, the European Convention on Nationality and the Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession,²⁶ and the 2000 Law on the Citizenship of the Republic of Moldova.

²⁰ European Convention on Nationality, No. 166, Strasbourg, 6 November 1997.

²¹ Arts. 14-17 and arts. 21-22, European Convention on Nationality, No. 166, Strasbourg, 6 November 1997.

²² Law No. 21 on Romanian citizenship of 1 March 1991, *Official Monitor* No. 44 of 6 March 1991, republished in *Official Monitor* No. 98 of 6 March 2000, namely Art. 10¹.

²³ Law No. 1024-XIV of 2 June 2000 on the citizenship of the Republic of Moldova, *Official Monitor of the Republic of Moldova* Nos. 98-101 of 10 August 2000.

²⁴ Law No. 1469-XV of 21 November 2002, *Official Monitor of the Republic of Moldova* of 12 December 2002.

²⁵ Law on the amendment and addition to the Law on Citizenship of the Republic of Moldova, No. 232-XV of 5 June 2003, *Official Monitor of the Republic of Moldova* No. 149-152/600 of 18 July 2003.

²⁶ Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession No. 200, Strasbourg, 19 May 2006, entered into force on 1 May 2009. This convention has been ratified by Hungary, Moldova and Norway, and signed by Montenegro and Ukraine.

Table 1: Resident population of the Republic of Moldova by citizenship, situation of 1 August 2012²⁷

	Citizenship	Number
1	Republic of Moldova	3822860
2	Russian Federation	7386
3	Ukraine	6094
4	Romania	409
5	Turkey	320
6	Belarus	231
7	Arabic Republic of Syria	176
8	Israel	170
9	Azerbaijan	158
10	Kazakhstan	157
11	Armenia	153
12	Jordan	94
13	Italy	85
14	United States of America	75
15	Uzbekistan	71
16	Germany	64
17	Georgia	55
18	Other (88 countries)	758
19	Stateless persons	9492

3.1 Main Modes of Acquisition and Loss of Moldovan Citizenship

Acquisition by ius sanguinis and ius soli

The citizenship of the Republic of Moldova establishes permanent political and legal links between the citizen and the state which generate a set of mutual rights and obligations. These are regulated on the basis of the following main principles: (i) the right of each person to citizenship; (ii) non-discrimination of citizens, without distinction as to the basis of acquiring citizenship; (iii) inadmissibility of arbitrary deprivation of a person's citizenship or of one's right to change citizenships by acquiring the citizenship of another country; (iv) avoidance of statelessness; (v) the change of citizenship of one spouse does not generate effects upon the citizenship of the other spouse or upon the citizenship of the child, unless there is a written request for this made by both parents.²⁸

The acquisition of the citizenship of the Republic of Moldova is based on the following three principles: *ius sanguinis*, *ius soli*, and naturalisation. According to Moldovan law, the citizenship can be acquired by: birth; adoption; recognition; reacquisition; naturalisation; and on the basis of international agreements to which the Republic of Moldova is a state party.²⁹ Between 1992 and September 2012, citizenship of the Republic of Moldova was acquired by 8,823 persons. Of these, 6,138 acquisitions were through recognition, 2,300

²⁷ http://www.mtic.gov.md/statistica_eng/. However, these statistics do not portray the situation of the population of the Republic of Moldova based on the criteria of dual or multiple citizenships. There are no official data on how many Moldovan citizens, resident or not on the territory of the Republic of Moldova, hold the citizenship of another state. Mass media and political analysts estimate that around 300,000 Moldovans acquired the citizenship of Romania by 2001, while another 800,000 applications of Moldovans for Romanian citizenship were pending in 2007. Additionally, around 120,000 Moldovans hold also Russian citizenship.

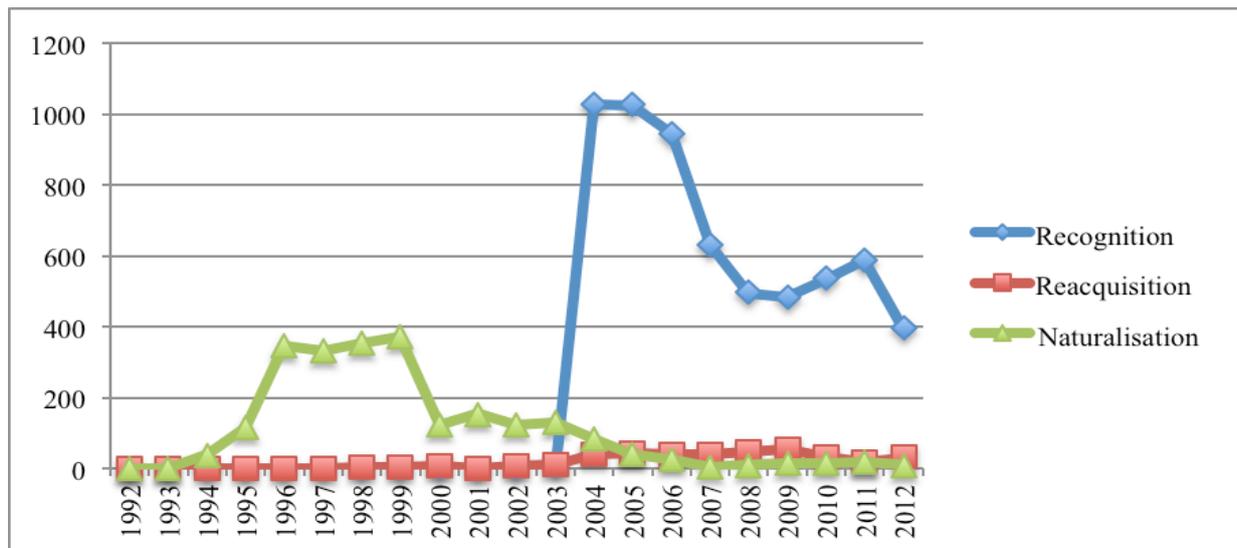
²⁸ Arts. 3 and 7, Law No. 1024-XIV of 2 June 2000 on the citizenship of the Republic of Moldova, *Official Monitor of the Republic of Moldova* No. 98-101 of 10 August 2000.

²⁹ Art. 10, Law No. 1024-XIV of 2 June 2000 on the citizenship of the Republic of Moldova, *Official Monitor of the Republic of Moldova* Nos. 98-101 of 10 August 2000.

were through naturalisation and 385 were through re-acquisition. Since 2000 the Ministry of Information Technology and Communications (MITC) has examined statistical information on the acquisition of Moldovan citizenship according to the criterion of ethnic origin. Thus, during the years 2000-2012, the citizenship of the Republic was acquired by 6,840 persons. Of these, the main ethnic groups were comprised of Romanians/Moldovans (2,901), Russians (1,449), Ukrainians (1,217), Jews (485), Gagauzs (194), Bulgarians (147), Armenians (76), Belarusians (69), Azerbaijanis (52) and others.

A child acquires the citizenship of the Republic of Moldova if (a) at least one of the parents possesses Moldovan citizenship at the time of the child's birth, or (b) the child is born on the territory of the Republic of Moldova of stateless parents or (c) the child is born on the territory of Moldova of foreign citizens or one of his or her parents is a foreign citizen and the other is a stateless person. In order to comply with the principle of avoidance of statelessness, any child found on the territory of the Republic of Moldova is considered a Moldovan citizen, as long as the contrary is not proven, until the child reaches the age of eighteen years (when, for instance, under certain conditions provided for in legislation, the person can acquire the citizenship of another state through naturalisation).³⁰ A stateless child adopted by citizens of the Republic of Moldova acquires Moldovan citizenship automatically. When one of the adopting parents is a Moldovan citizen and the other is a foreign citizen, the citizenship of the child is decided by an agreement made by both of the parents.³¹

Figure 2: Acquisition of the citizenship of the Republic of Moldova (1992-2012, September)



Source: The Ministry of Information Technology and Communications of the Republic of Moldova, October 2012

³⁰ Art. 11, Law No. 1024-XIV of 2 June 2000 on the citizenship of the Republic of Moldova, *Official Monitor of the Republic of Moldova* Nos. 98-101 of 10 August 2000.

³¹ Arts. 13-15 and 19, Law No. 1024-XIV of 2 June 2000 on the citizenship of the Republic of Moldova, *Official Monitor of the Republic of Moldova* Nos. 98-101 of 10 August 2000.

Acquisition through Naturalisation

By following democratic traditions and complying with the European Convention on Nationality, the domestic law provides for the possibility of naturalisation for persons lawfully and habitually residing on the territory of the Republic of Moldova. Consequently, those who reach the age of eighteen years can acquire citizenship of the Republic of Moldova upon request, if:

- a) Although not born on the territory, he or she has been lawfully and habitually residing in the Republic of Moldova for at least ten years, or has been married to a Moldovan citizen for at least three years, or has been lawfully and habitually residing at least for the last three years with parents or children (including in the case of adoption) who are citizens of the Republic of Moldova; or
- b) he or she has been lawfully and habitually residing on the territory of the Republic of Moldova for a period of five years beginning before the age of eighteen years; or
- c) he or she is a stateless person or a legally recognised refugee and has been lawfully and habitually residing on the territory of the Republic of Moldova for at least eight years.

Under the citizenship law, all persons acquiring citizenship of the Republic of Moldova through naturalisation must fulfil the following conditions: (i) knowledge of and respect for the Constitution of the Republic of Moldova; (ii) sufficient knowledge of the state language to integrate into social life; (iii) legal sources of subsistence; and (iv) loss or renunciation of foreign citizenship, except when the loss or the renunciation is not possible or cannot be reasonably requested or when multiple citizenship is permitted by international agreements to which the Republic of Moldova is a state party.³² Knowledge of the Moldovan Constitution and of the state language is not a mandatory condition for retired persons (on grounds of age) and for disabled persons whose disability is established for an indeterminate period. According to art. 18(1) of the citizenship law, all other applicants for Moldovan citizenship through naturalisation are considered to possess an adequate level of knowledge of the state language if they sufficiently understand the spoken language and official information, and can discuss and respond to questions about everyday life. They must also be able to read and understand sufficiently any text on a social topic, any law or other normative act and be able to write an essay on a topic about everyday life.³³

Notwithstanding the right of naturalisation, the state reserves its sovereign right to refuse to grant citizenship of the Republic of Moldova in explicitly and legally stipulated cases: (a) when the person has committed international or military crimes, or crimes against humanity; (b) when the person has been involved in terrorist activity; (c) when the person has been sentenced to deprivation of freedom for premeditated offences and has criminal record, or at the moment of examining the request is under criminal investigation (except when the person is recognised as a citizen of the Republic of Moldova under art. 12(2) of the citizenship law and is not a citizen of another state); (d) when the person practises an activity

³² Art. 17 and art. 24 (1)(d), Law No. 1024-XIV 2 June 2000 on the citizenship of the Republic of Moldova, *Official Monitor of the Republic of Moldova* Nos. 98-101 of 10 August 2000.

³³ Art. 18, Law No. 1024-XIV of 2 June 2000 on the citizenship of the Republic of Moldova, *Official Monitor of the Republic of Moldova* Nos. 98-101 of 10 August 2000.

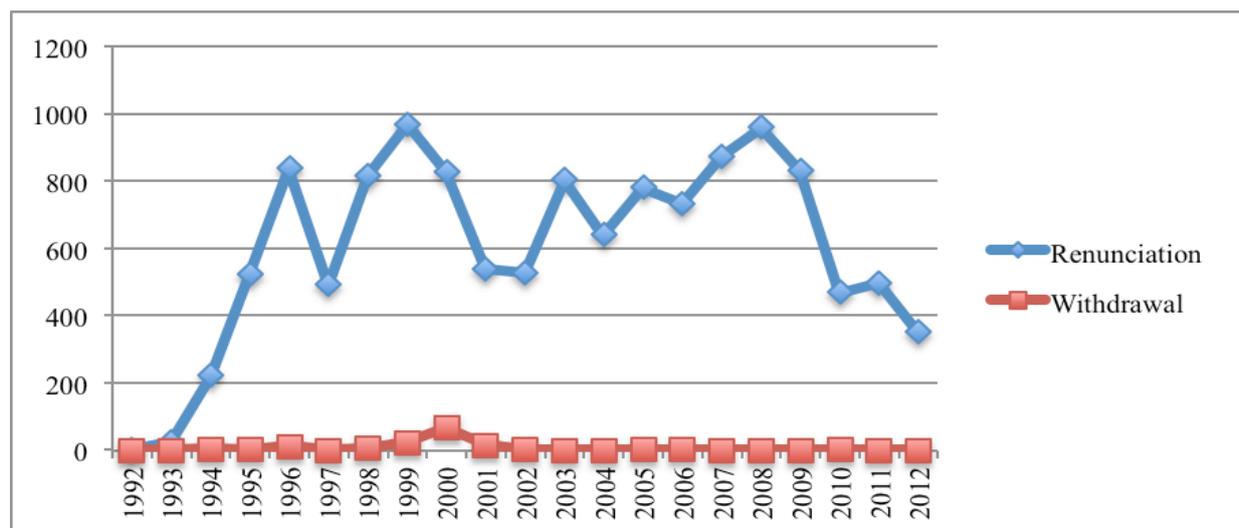
which endangers state security, public order, or the health and morality of the population; (e) when the person is citizen of a state with which the Republic of Moldova has not signed an agreement on dual citizenship, except where the loss or renunciation of foreign citizenship is not possible, or cannot be reasonably requested, when citizenship is acquired by recognition under art. 12(2) of the citizenship law or when the Moldovan citizenship is granted by presidential decree in the interests of the Republic and in other exceptional cases.³⁴

The statistical data on the acquisition of Moldovan citizenship show that the adoption of the 2000 Law on Citizenship impacted negatively on the number of applications for naturalisation. This fact can be explained by the more detailed provision of the naturalisation conditions, especially the required level of knowledge of the state language. The constitutional amendment in 2002 and the subsequent amendment of the Law on Citizenship in 2003 finally allowing Moldovan citizens to possess the citizenship of other state have triggered an important increase in the number of requests to acquire Moldovan citizenship through recognition. However, since 2005, the number of persons acquiring the citizenship of the republic through naturalisation has decreased significantly.

Loss of Moldovan Citizenship

Loss of citizenship of the Republic of Moldova can occur through: (i) renunciation by the citizen; (ii) withdrawal by the state or (c) on the basis of international agreements to which the Republic of Moldova is a state party. During the period 1992-2012, 12,856 people lost Moldovan citizenship. Of these 12,728 were at the initiative of the person and 128 were at the initiative of the state. Since 2000 the MITC has kept statistics on the loss of Moldovan citizenship by ethnic origin. During the years 2000-2012, 8,079 people renounced the citizenship of the Republic of Moldova. Of these 2,849 were Ukrainians, 2,283 were Romanians/Moldovans, 1,707 were Russians, 372 were Belarusians, 337 were Jews, 212 were Bulgarians, 147 were Gagauzs, 70 were Germans, and the rest were from other backgrounds.

Figure 3: Loss of the citizenship of the Republic of Moldova (1992-2012, September)



Source: The Ministry of Information Technology and Communications of the Republic of Moldova, October 2012

³⁴ Art. 20, Law No. 1024-XIV of 2 June 2000 on the citizenship of the Republic of Moldova, *Official Monitor of the Republic of Moldova* Nos. 98-101 of 10 August 2000.

Loss at the Initiative of the Person

Only persons who have reached the age of eighteen years can renounce their Moldovan citizenship. The renunciation of citizenship is not approved if the person concerned does not prove the possession or impending acquisition, or the guarantee of acquisition, of a foreign citizenship.

On 18 December 2008, the Moldovan Parliament amended the procedure of citizenship renunciation, introducing for the first time stricter requirements.³⁵ According to these amendments, the request for the renunciation of the citizenship of the Republic of Moldova can be submitted only by persons residing lawfully and habitually in a foreign country. On this occasion, the Minister of Information Technology and Communications of the Republic of Moldova explained that these changes were necessary because of the increasing number of persons requesting the renunciation of Moldovan citizenship while continuing to reside in the country as foreign citizens. He stressed that there were approximately ten thousand applications to renounce Moldovan citizenship and only six thousand approved requests to acquire citizenship.³⁶

An interesting phenomenon is noticeable when analysing the data on the loss of Moldovan citizenship. In the first half of the 1990s, the number of persons who renounced Moldovan citizenship raised dramatically. The lifting of the constitutional prohibition on possessing dual citizenship in 2002 did not restrain the general trend. In 2008 alone there were 960 persons who lost the citizenship of the Republic of Moldova at their own initiative. This phenomenon explains the 2008 amendment to the Law on Citizenship of the Republic of Moldova which allows the renunciation of Moldovan citizenship only to persons lawfully and habitually residing in foreign countries.³⁷ As the above figure shows, the 2008 legislative reform and subsequent policy changes to the citizenship renunciation procedure have yielded positive and sizable results in the government's efforts to tackle the increasing number of renunciations of Moldovan citizenship.

Loss at the Initiative of the State

As mentioned above, the Republic of Moldova has aligned itself with the regulatory principles of guaranteeing everyone the right to a citizenship, avoiding statelessness and arbitrary deprivation of citizenship. After several amendments in 2001 and 2003, and in accordance with the provisions of the European Convention on Nationality (*i.e.* art. 7 'Loss of citizenship *ex lege* or at the initiative of a State Party'), domestic legislation explicitly provides for strict procedures and exhaustive cases of withdrawal of Moldovan citizenship as an exception.

The citizenship of the Republic of Moldova is withdrawn when: (i) the person acquired Moldovan citizenship by means of fraudulent conduct, false information or concealment of any relevant fact; or (ii) the person voluntary enrolled in the service of a foreign military force; or (iii) the applicant committed serious acts which were prejudicial to the vital interests of the state. The withdrawal of citizenship is not permitted if the person

³⁵ Law No. 275-XVI of 18 December 2008 on the amendment and addition of the Law on Citizenship of the Republic of Moldova, *Official Monitor of the Republic of Moldova* No. 237-240/876 of 31 December 2008.

³⁶ *Moldpres* news of 4 December 2008, at: http://www.mdi.gov.md/news_mdi_2008_md/160290/.

³⁷ Law No. 275-XVI of 18 December 2008 on the amendment and addition of the Law on Citizenship of the Republic of Moldova, *Official Monitor of the Republic of Moldova* No. 237-240/876 of 31 December 2008. See also, *Moldpres* news of 4 December 2008, at: http://www.mdi.gov.md/news_mdi_2008_md/160290/. See also, <http://www.parlament.md/lawprocess/drafts/>.

concerned would thereby become stateless, with the exception of above-mentioned first case. Moreover, the withdrawal of Moldovan citizenship can take effect only through the decree of the President of the Republic of Moldova. This does not affect the citizenship of a spouse or children.³⁸

In conclusion, the citizenship regime in Moldova and its challenges can be exemplified by the following data. At the beginning of 2008, presidential decrees approving the renunciation of Moldovan citizenship by 289 persons entered into force on 1 April 2008. During the same period, citizenship of the Republic of Moldova was acquired by only three persons (from Azerbaijan, Georgia and Turkmenistan), each of whom was permanently residing on the territory of the Republic of Moldova. In addition, the president granted to only nine former Moldovan citizens the possibility of re-acquiring the citizenship of the Republic of Moldova.

3.2 Special Rules on Citizenship

The Recognition of Moldovan Citizenship

The current Law on Citizenship continues the legal approach to the acquisition of citizenship by way of recognition which was first stipulated in the law of 1991 and subsequently amended in 2003 and 2004.

Thus, all the persons who acquired and retained Moldovan citizenship according to the previous legislation, as well as persons who acquired citizenship according to the new law are citizens of the Republic of Moldova, even if they possess the citizenship of another state. The recognition of Moldovan citizenship extends to all persons who have expressed their intention to become citizens of the Republic of Moldova and who fulfil the following conditions:

- Persons who were born on the territory of the Republic of Moldova or persons who have one parent or grandparent who was born in the territory of the Republic of Moldova;
- Persons who before 28 June 1940 were living in Bessarabia, Northern Bucovina, the Hertza district or in the MSSAR and their descendants. The current citizenship law no longer requires the condition for ‘permanent work or other legal source of income’ previously provided for in the 1991 citizenship law and, after the amendment introduced by Law No. 137 of 1 July 2010, also does not stipulate the requirement for lawful and habitual residence on the territory of the Republic of Moldova;
- Deported persons and refugees from the territory of the Republic of Moldova since 28 June 1940 and their descendants;³⁹
- Persons who on 23 June 1990 were lawfully and habitually residing and continue to reside on the territory of the Republic of Moldova. This last point, provided for in the 1991 law on the citizenship of the Republic of Moldova with a one-year registration period further extended till 1 September 1993,⁴⁰ was added to the

³⁸ Arts. 21-23, Law No. 1024-XIV of 2 June 2000 on the citizenship of the Republic of Moldova, *Official Monitor of the Republic of Moldova* No. 98-101 of 10 August 2000.

³⁹ Art. 12, Law No. 1024-XIV 2 June 2000 on the citizenship of the Republic of Moldova, *Official Monitor of the Republic of Moldova* Nos. 98-101 of 10 August 2000.

⁴⁰ Decision of the Parliament of the Republic of Moldova No. 1477-XII of 9 June 1993 on certain measures to resolve the problems related to the implementation of the law on the citizenship of the Republic of Moldova.

new law in 2004.⁴¹ This measure acknowledges the pending problem with the recognition of Moldovan citizenship to persons living on the left side of the river Nistru, most of whom still have internal passports issued by the former USSR. Consequently, it leaves open a window for persons residing in the Transnistrian region and meeting the conditions of the 2000 citizenship law (art. 12) to confirm their Moldovan citizenship.

In accordance with the amendments introduced in 2003, the domestic legislation stipulates that any person who in the past held citizenship of the Republic of Moldova can re-acquire it upon request (restitution of citizenship), retaining the foreign citizenship if he or she so desires, except when Moldovan citizenship has been withdrawn for committing serious acts causing substantial damage to the state.⁴²

Multiple Citizenships

One of the most debated and innovative issues regarding the 2000 Law on the Citizenship of the Republic of Moldova has concerned a new chapter on multiple citizenships (chapter IV). Although, de facto many Moldovan citizens have been applying for the citizenship of another state (e.g. Romania, Russia, Ukraine, Bulgaria, or Turkey) since the beginning of the 1990s, the Parliament of the Republic of Moldova took the ratification of the European Convention on Nationality in 1999 as the trigger to start adjusting the domestic legislation on citizenship to the realities of the state. After introducing the constitutional amendment in 2002, the Parliament amended the citizenship law in 2003 and repealed the provisions prohibiting Moldovan citizens from possessing the citizenship of other state.

Presently, after several amendments, the legal provisions explicitly, but not exhaustively, allow for citizens of the Republic of Moldova to possess dual citizenship in the following circumstances:

- (i) children who have automatically acquired at birth the citizenship of the Republic of Moldova and the citizenship of another state;
- (ii) citizens of the Republic of Moldova who possess concomitantly the citizenship of another state automatically acquired through marriage;
- (iii) children, who are citizens of the Republic of Moldova and who have acquired the citizenship of another state as a result of adoption;
- (iv) multiple citizenship is provided for in the international agreements to which the Republic of Moldova is a signatory state;
- (v) renunciation or loss of the citizenship of another state is not possible or cannot be reasonably requested.

The President of the Republic of Moldova can grant also citizenship of the Republic of Moldova to citizens of other states in exceptional cases and in the interests of the Republic by presidential decree.

⁴¹ Law No. 222-XV of 1 July 2004 on addition to the Law on the citizenship of the Republic of Moldova, *Official Monitor of the Republic of Moldova* Nos. 108-111/586 of 9 July 2004.

⁴² Art. 16, Law No. 1024-XIV of 2 June 2000 on the citizenship of the Republic of Moldova, *Official Monitor of the Republic of Moldova* Nos. 98-101 of 10 August 2000.

An important and unprecedented legal provision, added to the Law on the Citizenship of the Republic of Moldova in 2003, states explicitly that the acquisition of another citizenship by a Moldovan citizen does not lead to the loss of Moldovan citizenship.⁴³ However, the acquisition by a foreign national of the citizenship of the Republic of Moldova through naturalisation is subject to the renunciation or loss of any previous nationalities, except where such renunciation or loss is not possible or cannot reasonably be required. This provision (*i.e.* art. 17(1) (g) of the Law on Citizenship) is in accordance with art. 16 of the European Convention on Nationality on conservation of previous citizenship, the general wording of which leaves room for subjective interpretation by the domestic authorities. Consequently, the regulation of multiple citizenships in the Republic of Moldova creates an 'asymmetric' situation for Moldovan citizens acquiring or possessing the citizenship of another state and for foreign nationals acquiring the Moldovan citizenship.

Moldovan citizens who lawfully and habitually reside in the territory of the Republic of Moldova and who lawfully possess the citizenship of another state have the same rights and duties as other citizens of the Republic of Moldova. A Moldovan citizen who holds multiple citizenships is subject to a military obligation towards the Republic of Moldova if lawfully and habitually residing within the territory, even if he or she is exempted from military service in relation to the other state. However, the fulfilment of military obligations can be required only in relation to one state, therefore the Moldovan citizens who have fulfilled their military service in relation to the Republic of Moldova are deemed to have fulfilled their military obligations in relation to any other state of which they are also citizens.

The continuous evolution of the domestic legal framework on citizenship was taking place within vast and controversial public discourses and political debates. On the one hand, some politicians and scholars argued that the Republic of Moldova was pressured by the international community to legally recognise and regulate the holding of multiple citizenship, namely in order to contribute to the resolution of the Transnistrian conflict (Bogatu 2002).

On the other hand, following the adoption of a Romanian law on citizenship in 1991 which made special provisions for the re-acquisition of Romanian citizenship, an increasing number of Moldovan citizens had started applying for Romanian citizenship.

There is no official data, but different estimates show that in the year 2000 there were around 200,000 applications by Moldovan citizens for the re-acquisition of Romanian citizenship. This increased to more than 500,000 applications in 2006. At present this number fluctuates between 800,000 and 1.5 million applicants out of a total population of the Republic of Moldova of 3.8 million.⁴⁴ In the period 1991-2001, it is estimated that between 95,000 and 300,000 Moldovans re-acquired Romanian citizenship.⁴⁵ However, since 2002 the number of Moldovan citizens who actually re-acquired their Romanian citizenship has decreased significantly due to temporary freeze of the reacquisition procedure by Romanian authorities.⁴⁶ Moreover, statistical data indicated that the applications of Moldovan citizens for re-acquisition of Romanian citizenship took an average of 46 months to process. By contrast, in the case of citizens of Western European states or stateless persons, the process

⁴³ Law on the amendment and addition to the Law on the citizenship of the Republic of Moldova, No. 232-XV of 5 June 2003, *Official Monitor of the Republic of Moldova* Nos. 149-152/600 of 18 July 2003.

⁴⁴ *Infotag* news of 6 February 2007 at <http://www.azi.md/news?ID=43064>; *Migration News*, Russia, Eastern Europe, vol. 13(2), April 2007.

⁴⁵ *Reporter.md* news of 1 February 2006 at <http://www.azi.md/news?!D=37843>.

⁴⁶ In 2003 only 6 Moldovans were granted Romanian citizenship, in 2004 this increased to 257 and in 2005 to 1317. *Reporter.md* news of 1 February 2006 at <http://www.azi.md/news?!D=37843>. In addition, according to a recent statement by the Russian ambassador to Moldova, there are approximately 120,000 Moldovans who hold Russian passports. More on the actions taken by Romanian authorities, read the Country Report on Romania.

took around eighteen months.⁴⁷ Many Moldovans were dissatisfied that the examination of citizenship applications took so long and some of them had filed a lawsuit in the Romanian court against the Ministry of Justice of Romania. Since then Romania has simplified the procedure for the re-acquisition of citizenship by Moldovans, but it still faces a deficit in its institutional capacities to deal with the large quantity of citizenship applications it receives.

This situation has raised major concerns amongst politicians and experts regarding the risks entailed for Moldova (specifically for the labour market) by the increasing number of Moldovan citizens applying for re-acquisition of Romanian citizenship. However, independent analysts argue that the acquisition of dual citizenship does not make Moldovan citizens less patriotic.⁴⁸ Moreover, in the case of re-acquisition of Romanian or Bulgarian citizenship by Moldovans and subsequent access to the status of EU citizen, this situation fosters the European aspirations of the country. The sensitive issue of Moldovans applying for Romanian citizenship has been highlighted recently in debates surrounding the introduction of a legal prohibition upon persons with dual citizenship from holding public positions. This initiative, which was proposed and adopted by a communist parliamentary majority, is discussed in Section 4.

3.3 Institutional Arrangements

Decisions concerning the acquisition, restitution, renunciation and withdrawal of Moldovan citizenship fall within the competence of the President of the Republic, who determines the matter in accordance with domestic legislation before issuing a decree or presenting written argumentation of any decision to refuse a grant of citizenship

Applications regarding the acquisition or loss of citizenship are addressed to the President of the Republic of Moldova and submitted to the appropriate territorial department of the Ministry of Information Technology and Communications, if the person is lawfully and habitually residing on the territory of the Republic of Moldova, and to the embassy, consulate and the Ministry of Foreign Affairs and European Integration if the person is lawfully and habitually residing abroad. The relevant authority then collects data about the applicant and within one month (or three months, if the person resides outside of the territory of the Republic of Moldova) must give a reasoned opinion on the case. This opinion, together with the information presented by the Intelligence and Security Service and the Ministry of Internal Affairs, is submitted in to the President of the Republic of Moldova for a final examination and a decision. Since the condition of a court order was excluded in 2001, the same process of deliberation is followed for the withdrawal of Moldovan citizenship. The applications for the acquisition or loss of Moldovan citizenship are examined for up to one year. On citizenship matters, the President of the Republic of Moldova is assisted by a special Commission for Problems on Citizenship and Granting of Political Asylum that deals mainly with preliminary examinations of citizenship applications.

Following ratification of the European Convention on Nationality, the legislation regulating the citizenship of the Republic of Moldova has undergone developments essential to the implementation of the right to hold multiple citizenships as secured in the Convention. As we have seen above, the Republic of Moldova adopted a new Law on Citizenship in 2000 which, after its amendment in 2003, allowed Moldovan citizens for the first time to legally possess the citizenship of another state without exception. A year later, the communist

⁴⁷ *Infotag* news of 20 July 2007 at <http://www.azi.md/news?!D=45277>.

⁴⁸ *DECA-press* news of 1 October 2007 (interview with independent analyst Igor Gutan) at <http://www.deca.md/>.

parliamentary majority amended this law in order to give the President of the Republic of Moldova the right to withdraw Moldovan citizenship without the necessity of a court order.⁴⁹ The parliamentary opposition has accused the governing Communist party of monopolising and abusing this power in violation of the legal guarantee against arbitrary deprivation of citizenship (a guarantee provided for in art. 4 of the European Convention on Nationality, art. 15 of the Universal Declaration of Human Rights and art. 17(2) of the Moldovan Constitution), as well of the constitutional principle of presumption of innocence. On 19 March 2002, the Constitutional Court of the Republic of Moldova adopted a decision recognising the constitutionality of this amendment, with a dissenting opinion in favour of the necessity of court order to withdraw Moldovan citizenship.⁵⁰

An example of the problems arising from the exercise of such wide presidential discretion is illustrated by the withdrawal on 19 October 2001 of the Moldovan citizenship of the former honorary consul of Lebanon to Chisinau by decree of President Voronin. His presence in the country was considered to be undesirable because of certain accusations levelled against him. These accusations included connections to a terrorist organisation and involvement in drug and human trafficking. This case was widely reported in the media. The former honorary consul denied the accusations and stated his intention to appeal the decision of the Moldovan authority to withdraw his Moldovan citizenship in court.⁵¹ Finally, in June 2003 President Voronin issued a decree on the restitution of Moldovan citizenship to the former honorary consul of Lebanon and the annulment of his previous withdrawal decree, thus bowing to political pressure, according to some analysts.⁵²

Currently, if a person does not agree with the decision of the President of the Republic of Moldova, he or she can appeal to the Supreme Court of Justice within a period of six months from the day on which the decision entered into force. In case of other complaints against the decisions and actions of the public authorities (*e.g.* refusal to accept the application for citizenship, violation of the period or the procedure to examine the application for citizenship and to apply the decisions on citizenship issues, refusal to grant citizenship, etc.), the person can file a lawsuit under domestic legislation.

According to art. 28(e) of the Law on Citizenship, the Ministry of Information Technology and Communications of the Republic of Moldova is responsible for keeping records of all persons who acquire or lose Moldovan citizenship. A subdivision of this ministry, namely the State Information Resources Centre (*Registru*), has been compiling and analysing statistical data on the citizenship of the Republic of Moldova since 1992.⁵³

The National Bureau of Statistics of the Republic of Moldova provides general data on the composition and structure of the population, as well as demographic processes.⁵⁴

⁴⁹ Law No. 551-XV of 18 October 2001.

⁵⁰ Decision of the Constitutional Court on the constitutionality of Law No. 551-XV of 18 October 2001 'on amendment art. 23 of the Law on the Citizenship of the Republic of Moldova No. 1024-XIV of 2 June 2000', No. 14 of 19 March 2002, *Official Monitor of the Republic of Moldova* Nos. 46-48/9 of 4 April 2002.

⁵¹ *Flux* news of 19 October 2001 at <http://www.azi.md/news?!D=14294>; *Infotag* news of 30 October 2001 at <http://www.azi.md/news?!D=14471>.

⁵² *Infotag* news of 23 June 2003 at <http://www.azi.md/news?!D=24582>.

⁵³ See <http://www.mdi.gov.md/> and http://www.mdi.gov.md/main_registru_md/.

⁵⁴ See <http://www.statistica.md/>.

4 Current Political Debates and Reforms

A Land of Political and Legislative Paradoxes

During the period 2008-2012, the country was seized by a political crisis caused by several failed attempts of the newly elected parliament to elect the President of the Republic. These events dominated and influenced most political debates, legal and judicial reforms and developments. As a result of parliamentary election held on 5 April 2009, the Communist Party won the majority of votes again. Violent public protests followed the election and the opposition parties alleged that the parliamentary election results were rigged by the governing party. After the newly elected parliament failed to elect the President of the Republic of Moldova according to the constitutionally stipulated procedure, on 15 June 2009 the acting President of the Republic of Moldova issued a decree on the dissolution of the Parliament and the holding of early parliamentary election. On 29 July 2009 the citizens of Moldova elected the new parliament. The election resulted in slightly more votes in favour of the coalition of opposition parties, thus ending the eight-year governmental majority of the Communist Party. The winning party coalition, called the Alliance for European Integration, won a parliamentary majority and formed a new government. Finally, on 23 December 2009 the parliament amended the legislation prohibiting Moldovans with dual citizenship from holding public positions and removed the requirement to hold exclusively the Moldovan citizenship when exercising certain public functions. Unfortunately, the newly elected parliament was also unsuccessful in electing the President of the Republic of Moldova, which triggered its dissolution and the organisation of another early parliamentary election. Since Moldova became independent in 1991, its political arena has never witnessed such a marathon of three parliamentary elections within two years. The exhaustion of the Moldovan electorate was particularly felt on 5 September 2010, when the first ever constitutional referendum was carried out. After receiving the green light from the Constitutional Court on the amendment initiative, the voters had to express their political will regarding the constitutional amendment to reinstate the election procedure of the President of the Republic by direct, general, secret and equal vote of the Moldovan people. Although an overwhelming majority (87.83 per cent) voted in favour of the constitutional amendment, the results of the national referendum were not validated because of low voter turnout (around 30.07 per cent, not reaching the required minimum of 1/3 out of registered voters). On 28 November 2010 the Moldovan electorate voted for the new parliament with a political majority for the Alliance for European Integration, a government coalition between the Liberal-Democratic Party (32 seats), the Democratic Party (15 seats) and the Liberal Party (12 seats), and a political minority for the Communist Party (42 seats). After a political uncertainty of almost three years, on 16 March 2012 the parliament elected the fourth President of the Republic of Moldova, Mr. Nicolae Timofti, a former president of the Superior Council of Magistrates, with 62 votes out of 101 members of the parliament (thus barely meeting the 50+1 simple majority threshold of 61 votes).

Meanwhile, the law and policy on citizenship of the Republic of Moldova has experienced only a few minor adjustments. These amendments did not capture or incite public discussions or political debate. To this day, the adoption of legal provisions banning Moldovans with multiple citizenship from holding public office, including taking a seat in parliament, although already repealed, remains one of the most disputed political and legal developments on citizenship matters in the last decade.

In 2008 the Moldovan Parliament amended domestic legislation relating to dual citizenship by prohibiting those possessing both Moldovan citizenship and the citizenship of another state from holding certain public positions. Law No. 273-XVI on amendments covers members of the government, police (positions having access to state secrets), the Court of Accounts, the Constitutional Court, the Public Service (positions having access to state secrets), judges, members of the Board of Directors of the National Bank of Moldova, members of the Central Electoral Commission, MPs, state guards, members of the Board of Directors of the National Commission of Financial Markets, Intelligence and Security Service officers, customs authorities (positions having access to state secrets), the President of the Republic of Moldova, the diplomatic Service, the Centre for Combating Economic Crimes and Corruption (positions having access to state secrets), the Prosecutor's office, the State Service of Special Couriers, mayors and presidents of local public administration.⁵⁵

These amendments have been the focus of many deliberations and controversial debates, both before and after their adoption.⁵⁶ The draft of Law No. 273-XVI was elaborated at the beginning of 2007, shortly after Romania joined the European Union. On 11 October 2007 the parliament, by vote of the Communist parliamentary majority, adopted the draft law in first reading. Agreement over the final reading of the law on amendments was reached by the parliament on 7 December 2007. According to the communist MPs and the government, this law is necessary to ensure national security, to strengthen the statehood of the Republic and to prevent possible conflict of interests. However, President Voronin refused to promulgate this law and the Parliament had to re-vote on this draft law on 10 April 2008.

The amendments introduced by Law No. 273-XVI were heavily criticised by the political opposition for not complying with constitutional principles and European standards, *e.g.* the principle of non-discrimination and the provisions of art. 17 of the European Convention on Nationality, stipulating that 'nationals of a State Party in possession of another citizenship shall have, in the territory of that State Party in which they reside, the same rights and duties as other nationals of that State Party'. Curiously enough, Law No. 273-XVI also amended the domestic implementation of art. 17 of the European Convention on Nationality by adding the qualification 'except the cases provided for by the law' to the right contained in art. 17. Furthermore, the provisions of Law No. 273-XVI leave room for differential treatment of Moldovan citizens possessing dual citizenship, because the prohibition from holding certain public positions applies to persons residing on the left side of the river Nistru only in so far as it will be stipulated in the foreseen legislation regulating the special legal status of the Transnistrian region.

Some experts contend that the deliberation of the draft law did not satisfy the requirements and conditions of legislative procedure. For example, the deliberation was characterised by a lack of scientific and practical arguments for the need to adopt such amendments, a failure to conduct impact assessments and an absence of evaluation of the number of persons who would be affected.⁵⁷ Furthermore, it has been argued that the provisions contained within Law No. 273-XVI are contrary to the Constitutional guarantees of equality before the law, equality of rights of Moldovan citizens and especially the right to equal access to public positions. The parliamentary opposition has clearly stated that this law only delays the resolution of the Transnistrian conflict because the majority of the population

⁵⁵ Law on the amendment and addition to certain legislative acts No. 273-XVI of 7 December 2007, *Official Monitor* Nos. 84-85/288 of 13 May 2008.

⁵⁶ See records of the plenary sessions of 11 October 2007, 7 December 2007, and 10 April 2008, <http://www.parlament.md/news/plenaryrecords/>.

⁵⁷ Report No. 228 of 5 June 2007 on the corruption proofing of the draft-law, <http://www.capc.md/>.

on the left bank of the river Nistru possesses dual citizenship (around 60,000 residents have Ukrainian citizenship while another 90,000 have Russian passports).⁵⁸

The justification advanced by the communist parliamentary majority for the amendments contained in Law No. 273-XVI was that dual citizenship infringes upon the issues of loyalty and sovereignty. There is a concern that people in sensitive public positions who possess dual citizenship might be politically and legally responsible towards different countries. However, Law No. 273-XVI on amendments does not provide a mechanism to check the dual citizenship of candidates for public positions or to guarantee the rights of Moldovan citizens who already hold public positions and who possess dual citizenship (Grosu 2007). Political analysts contend that, although dual citizenship was legalised in 2003, the communist parliamentary majority proposed and adopted the law prohibiting certain categories of public officials from possessing dual citizenship only in 2007 (entered into force in 2008) as an attempt to gain leverage in the forthcoming 2009 parliamentary election.⁵⁹ Therefore, those who hold dual citizenship could participate as electoral candidates in the parliament, but they would have to renounce the foreign citizenship if elected as MPs.

Shortly after the parliament passed the law on amendments in its final reading, a political party came forward with a statement claiming that the President of the Republic of Moldova, Mr. Vladimir Voronin, possessed the citizenship of the Russian Federation. On the following day, the presidency issued an official declaration that President Voronin did not possess and had never possessed Russian citizenship.⁶⁰

The adoption by the Republic of Moldova of these legislative amendments has triggered a response in the international arena. The European Commission against Racism and Intolerance of the Council of Europe and the Venice Commission have criticised the prohibition on certain categories of public servants possessing dual citizenship, emphasising the incompatibility between these provisions and the commitments Moldova had undertaken when ratifying the European Convention on Nationality.⁶¹ On 11 September 2008 a member of the Social-Democratic Party of Romania and MEP addressed the Council and the European Commission with the request to examine the conformity of the interdiction of dual citizenship for holders of public positions in the Republic of Moldova with European democratic norms.⁶²

Complaints were also lodged before the European Court of Human Rights by the vice-president of the Liberal-Democratic Party of Moldova, Mr. Alexandru Tanase, and the mayor of Chisinau municipality, vice-president of the Liberal Party of Moldova, Mr. Dorin Chirtoaca, on the grounds that the Government of the Republic of Moldova limits the rights of persons possessing dual citizenship.⁶³ Both the government of the Republic of Moldova and the Government of Romania submitted pleadings to the European Court of Human Rights, as the applicants possessed both Moldovan and Romanian citizenship.⁶⁴ On 18 November 2008 the European Court of Human Rights issued its Chamber judgment in the case *Tanase and Chirtoaca vs. Moldova*, holding unanimously that the amendments adopted by the Moldovan

⁵⁸ *DECA-press* news of 7 December 2007, at <http://www.deca.md/>.

⁵⁹ For example, by implementing Law No. 273-XVI, the governing Communist Party clearly intended to avoid defeats like those it had in the 2007 local election. During this election, the Communist party was defeated when the Liberal Party candidate, Mr. Dorin Chirtoaca, was elected as the General Mayor of Chisinau municipality. Mr. Chirtoaca publicly recognised that he holds dual citizenship of the Republic of Moldova and Romania.

⁶⁰ *DECA-press* news of 12 and 13 December 2007, at <http://www.deca.md/>.

⁶¹ *Reporter.md* News of 6 May 2008 at <http://www.azi.md/news?ID=49158>.

⁶² *DECA-press* news of 11 September 2008, at <http://www.deca.md/>.

⁶³ *Infotag* news of 20 June 2008, at <http://www.azi.md/news?ID=49826>.

⁶⁴ *DECA-press* news of 14 August 2008, at <http://www.deca.md/>.

Government ‘had been disproportionate, in violation of art. 3 of Protocol No. 1 [right to free elections] to the European Convention on Human Rights’.⁶⁵ This case was developed around the political rights of Moldovans with dual citizenship in the light of the forthcoming 2009 parliamentary elections in Moldova. The applicants argued a breach of their right to stand as candidates in free elections and to take their seats in Parliament if elected, thus ensuring the free expression of the opinion of the people in the choice of legislature as guaranteed by art. 3 of Protocol No. 1 to the Convention. Here, the Court emphasised the importance of interpreting the electoral legislation in the light of the political evolution of Moldova and the historical and political factors specific to it. The Court considered that the provisions of Law No. 273-XVI satisfied the requirements of lawfulness and pursued the legitimate aim of ensuring the loyalty of MPs to the state of Moldova. However, it noticed the evident incompatibility between these provisions and art. 17(1) of the European Convention on Nationality, *i.e.* ‘nationals of a State Party in possession of another citizenship shall have, in the territory of that State Party in which they reside, the same rights and duties as other nationals of that State Party’. Moldova is the only Member State of the Council of Europe which, being subject to the obligations undertaken under art. 17(1) of the European Convention on Nationality, allows dual citizenship while at the same time prohibiting persons who possess multiple citizenship from being elected to parliament. When, the Moldovan Parliament amended the legal framework on citizenship in 2002 and 2003 to allow Moldovans to possess multiple citizenships, it did not include any limitations to the political rights and the loyalty of persons acquiring another citizenship. Moreover, the Court stressed that ‘in a democracy, loyalty to a State does not necessarily mean loyalty to the actual government of that State or to a certain political party...that there are other methods available to the Moldovan Government to secure the loyalty of MPs to the nation’.⁶⁶ The Court concluded that Law No. 273-XVI was not justified and thus disproportionate in its effect to the aim pursued. On 6 April 2009, at the request of the Government of the Republic of Moldova, the case was accepted for referral to the Grand Chamber of the European Court of Human Rights and the hearing took place on 16 September 2009. The Grand Chamber delivered its judgment on 27 April 2010 and held unanimously that the ban on members of parliament possessing two or more citizenships was disproportionate and unjustified, and thus infringed the right guaranteed in art. 3 of Protocol No. 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Meanwhile, the Constitutional Court of the Republic of Moldova issued its decision on the constitutionality of the provisions of Law No. 273-XVI which banned Moldovan citizens who possess dual citizenship from holding certain public positions, such as MPs, on 26 May 2009. The Court found that this prohibition did not contravene the Constitution of the Republic of Moldova or the international principles and rules on citizenship, non-discrimination, equality of rights and the right to free elections, as guaranteed by art. 3 of Protocol No. 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Convention on Nationality.⁶⁷

⁶⁵ Chamber Judgment of the European Court of Human Rights on the case *Tanase and Chirtoaca vs. Moldova*, 18 November 2008, Strasbourg.

⁶⁶ Para. 109, Chamber Judgment of the European Court of Human Rights on the case *Tanase and Chirtoaca vs. Moldova*, 18 November 2008, Strasbourg.

⁶⁷ Decision No. 9 of 26 May 2009 of the Constitutional Court of the Republic of Moldova on the control of the constitutionality of certain provisions of Law No. 273-XVI of 7 December 2007 ‘on the amendment and addition to certain legislative acts’ and Law No. 76-XVI of 10 April 2008 ‘on the amendment and addition to the Electoral Code No. 1381-XIII of 21 November 1997’, *Official Monitor* Nos. 99-100/9 of 5 June 2009.

5 Conclusion

With the declaration of its independence in 1991, the Republic of Moldova has faced many political and legal challenges in building a sovereign, independent and democratic state, including the initial determination of its citizenry and the regulation of citizenship policy. Over twenty years of Moldovan statehood, its domestic citizenship regime has transited through several distinct phases.

First, as any newly born state, Moldova could not avoid the path of an initial difficult and clumsy period of setting up a wholly new constitutional and legislative framework. The main focus of the first law on citizenship adopted in 1991 was the formulation and agreement on the legal rules determining who were the citizens of the new republic. The eagerness of the young republic to be recognised as full member of the international community has led to Moldova joining different international forums, namely the United Nations Organisation and the Council of Europe, and assuming international commitments by signing and ratifying international and regional instruments. The many amendments of the 1991 citizenship law were a clear indication that the policy was flawed and more radical changes were needed. The second phase in the development of the Moldovan citizenship law and policy started with the adoption in 2000 of a new law on citizenship. The legislature tried to bring the national norms on citizenship in line with the international and European principles and standards to which Moldova subscribed. It also aimed to adjust these rules to the reality where many Moldovans were applying for citizenship acquisition of other countries, such as Russia, Romania, Bulgaria, Ukraine, Turkey, etc. This time around the main legal challenge and novelty of the new citizenship law was the regulation of multiple citizenships. The efforts of domestic authorities to broaden the scope of the citizenship policy and to make it more inclusive and open continued during the years 2002 and 2003 when the constitutional and legislative prohibitions for Moldovans to acquire dual citizenship was scrapped. Since 2007, thus marking the beginning of another and more mature phase, the domestic citizenship regime has been dealing mainly with implementation issues, for example, whether dual citizenship posed any problems for public service or elected government positions, or how to tackle the increasing number renunciations of Moldovan citizenship, especially when compared to the number of citizenship acquisitions since 1992.

On a final note, it should be concluded that the Moldovan citizenship regime has been often used as a political tool, being caught in the middle of internal political clashes between parliamentary majority and opposition parties that were triggered by external factors such as the citizenship policy of neighbouring countries and the external border of the EU arriving on the doorstep of the Republic of Moldova. Explanations for such instrumental uses can be found in Moldova being a young democracy and a net emigrant country with a particular geopolitical location.

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