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THE HISTORICAL PATH TOWARDS CITIZENSHIP: IMMIGRANTS' NATURALIZATION IN ROMANIA AND FRANCE

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ABSTRACT:
A FUNDAMENTAL ISSUE IN THE TRAJECTORY OF IMMIGRATION IS THE ACT OF ESTABLISHING A MORAL AND LEGAL BOND OF THE INDIVIDUAL WITH HIS NEW SOCIETY, THROUGH THE PROCESS OF NATURALIZATION. THIS PAPER AIMS TO IDENTIFY AND ANALYZE TWO PARTICULAR NATIONALITY LEGISLATION MODELS OF TWO HISTORICALLY DIFFERENT, YET SIMILAR CULTURAL SPHERES: ROMANIA AND FRANCE. SIGNIFICANT IMPORTANCE IS GIVEN TO THE CULTURAL MEANING OF THE TRADITIONAL EUROPEAN LEGAL PRINCIPLE OF "JUS SANGUINIS", OPPOSED TO THE AMERICAN BIRTHRIGHT CITIZENSHIP ("JUS SOLI"), PARTLY PRESENT IN THE FRENCH LEGISLATION CONCERNING CITIZENSHIP. ALONG WITH THE HISTORICAL TRENDS, THE OUTCOME OF THE LEGISLATION'S EVOLUTION WILL BE PRESENTED FROM A LEGAL POINT OF VIEW, WITH REFERENCES TO THEORETICAL MODELS AND JURISTIC OPINIONS. THE ROLE OF THIS ARTICLE IS TO DETAIL THE CULTURAL PECULIARITIES THAT SHAPED THE ROMANIAN AND FRENCH NATIONALITY LAWS AND ALSO DEMONSTRATE THEIR INTERCONNECTEDNESS AS PART OF A UNIFIED EUROPEAN CONTINENTAL NATIONALITY TRADITION.

KEYWORDS: CITIZENSHIP, NATURALIZATION, IMMIGRATION, ROMANIA, FRANCE

INTRODUCTION

In the last two hundred years, the European political scheme, largely sketched by the modern concept of *nation-state* saw radical transformations, yet a constant variable of this political community was the legal institution of citizenship, widely seen as an organic link between the state and the individual. But citizenship is more than simply a judicial relationship. It also signals an emotional bond that arouses feelings of national loyalty and belonging in a politically bounded space[2]. Migration, as Anna Lindley suggests, is a spatial phenomenon involving movement between distinct places, locations imbued with power and significance[3]. In the dynamic trajectory of immigration, individuals who form its social substance often find themselves in a continuous, hitherto, social disparity. Upon leaving his native area, the

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[2] Mabel Berezin, Martin Schain, *Europe without Borders: Remapping Territory, Citizenship and Identity in a Transnational Age* (Baltimore: The John Hopkins University Press, 2003), 13
[3] Anna Lindley apud Cresswell, *Crisis and Migration: Critical perspectives* (London: Routledge, 2016), 7

immigrant becomes a cross-border element, having not only a precarious economic and social condition, but also a limited legal status with insufficient attributes meant to protect and integrate him in his hosting society. Even though under the circumstances of an incremental liberal-oriented evolution of their human rights immigrants have the possibility to wield fundamental liberties on the basis of residence, the state itself is the critical mechanism in advancing human rights[4]. Therefore, the quintessential prerequisite of integration and the preamble of unitary, consistent rights is the very institution of citizenship. Citizenship, writes Fukuyama, can be granted at birth on the basis of *jus soli* or *jus sanguinis*, or it can be acquired after birth through naturalization[5]. Consequently, the article seeks to analyze the historical trends of nationality acquisition in two similar, yet divergent European cultures.

In the European continental tradition, naturalization consists of embracing the local structure of the state through respecting the legislation, the customs, proving loyalty to the nation, but also establishing a moral bond with the wider community in which the migrant lives. The modern process of naturalization is constructed on the Athenian principle stated by Barbu B. Berceanu, *Naturalisatur itaque fictione iuris habetur pro nato ex parentibus civibus sau indigins*[6]. The definition stands opposed to the custom practiced in Sparta and in the early Roman society, that of *Adversus hostem aeterna auctoritas, (Against the foreigner, dominance shall be eternal)* according to which naturalization was not possible, but allowed the migrant to hold an inferior citizenship status, which could eventually be recognized over time[7]. Usually, states Berceanu, only the children born afterwards had the possibility of being acknowledged as true *cuius et indigeni*[8]. This latter form of naturalization, carrying the burdens of ancient times when belonging to an organic community was enshrined in the biological nature of its people was largely forgotten since, as Roger Brubaker shows, for modern states, citizenship is an inherently egalitarian ideal[9]. In the present, there are no second-class citizens, for citizenship is considered a sacred concept, common for all of its subjects. During the history of some modern states, however, it took a relatively long time until citizenship would be recognized in its universal, Athenian dimension, since immigrants' path towards complete assimilation was hindered by legally acknowledged privileges, such as *ius imperii*, the right to hold public office, reserved merely to the native born population of these states.

In his study[10], Harald Bauder sketches a diorama between two distinct national archetypes: the "new world" settler nation (Canada) and the European organic community (Germany). Correspondingly, nations falling under these categories are predominantly distinguished by their historically different ways of endowing their members with citizenship. The vast majority of the new world countries grant citizenship upon birthright (*jus soli*), since their recent history has been shaped by large immigration movements. The ethnic diversity of these societies cannot be found in the traditional European nationhood scheme, where modern states were romantically built upon ethnic unity and cohesion. In such states, citizenship is

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[4] Berezin and Schain apud Jacobson, *Europe without Borders…*, 43-5
[5] Francis Fukuyama, *Identity* (London: Profile Books, 2018), 149
[6] See Barbu B. Berceanu, *Cetățenia: O monografie juridică,* (București: All Beck, 1999), 128. The principle conveys a legal fiction according to which the individual willing to naturalize is given the same status as the descendent of parents, natives of the land.
[7] Berceanu, *Cetățenia…*, 137
[8] Berceanu, *Cetățenia…*, 137
[9] William Rogers Brubaker, *Immigration and the politics of citizenship in Europe and North America* (Lanham: Md: America University Press, 1989), 17
[10] Harald Bauder, *Re-Imagining the Nation*. *Comparative Migration Studies* [online] 2(1)(2014), 9-27, Available at: https://www.imiscoe.org/journal-cms-2/2014-1/27-cms-20141-full-issue/file, accessed May 1, 2019

restricted to those who follow the blood lineage of their parents, citizens of the same nation (*jus sanguinis*). But the societal needs (labor shortage, natality decline) of these ethnically homogenous societies ultimately led to a reconfiguration of their naturalization policies and citizenship laws. While some traditional European societies (France) embraced elements of birthright citizenship and liberalized their naturalization policies, others (Romania) conserve their historical approaches. Notwithstanding the cultural similarities between these two countries, the ultimate reality of their national history led to divergent evolutions of their nationality laws. If France pioneered the modern concept of citizenship as an egalitarian ideal under the utopian circumstances of the 1789 Revolution, Romania, although considering the former as a civilizational model of development, accustomed its legal infrastructure to its peculiar national reality. The following article seeks to briefly analyze the dynamic of citizenship legislations in France and Romania, emphasizing the *jus soli-jus sanguinis* antithesis in the economy of these laws and the naturalization criteria for the to-be citizens.

I ROMANIA

A country with a fluctuating history of mimetic openness to foreign cultures and hermetic political closure, Romania centers its nationality law solely on the basis of *jus sanguinis*. The history of the Romanian nationality law follows a linear path until the Second World War, which saw the beginning of an influx of totalitarian upheavals reversing the nation's organic modernization process. Unlike France, Romania was not a model of nationhood, but a peripheral state, with a rather poor national culture, prior to its first attempts of westernization. During this process, Romania adopted a French cultural orientation. As a result, the native intellectual elite engineered social, architectural, literal, political and legal patterns following a French model. The most intricate legal work, the first Romanian Civil Code of 1865, was heavily inspired from Napoleon's code, enacted more than half a century earlier. But the abrupt modernization was soon ingrained with a nativist substance. One year after the Code was passed, the Constitution restricted citizenship by possessing a strict religious (Orthodox) identity[11]. Naturalized Jewish communities, living on the Romanian territory for centuries were denied citizenship until 1879[12], yet the naturalization of Jews, excepting those who took part in the 1877 Independence War, was officially recognized only at the end of the First World War[13]. After the First World War, the new 1923 Constitution liberalized the legal condition of citizenship, stating at article 5 that Romanians have access to equal rights, regardless of ethnic origin or religious beliefs. The same legal document emphasized that naturalization was the only accepted method through which foreigners would acquire citizenship. An important peculiarity of naturalization in this timeline was the automatic acquisition of citizenship based on marriage and descent on paternal line (the wife and children of the naturalized foreigner profit from the naturalization[14]) since the legal status of women was still subordinated, the universal suffrage being also restricted to men. Perhaps the most innovative legal documents of the interwar period were developed in the rather eccentric dictatorship of Carol the Second. Although largely rhetorical and cosmetic, the de facto royal dictatorship didn't subject the Romanian citizenry to tyrannical despotism,but drafted truly

[11] 1866 Romanian Constitution; art. 7 states that naturalization is restricted to foreigners of Christian faith (*Numai streinii de rituri creștine pot dobîndi împămentenirea)*

[12] Constantin Iordachi, *Country Report: Romania*, *EUDO Citizenship Observatory*, European University Institute(2009, revisited in 2010), 2, available at http://eudo-citizenship.eu/docs/CountryReports/Romania.pdf, accessed May 10, 2019

[13] Berceanu, *Cetățenia*..., 71

[14] 1923 Romanian Constitution, art. 7

avant-garde laws compared to the general European interwar judicial imagery. Among the legal changes was the right of women to vote from the age of 30 and the eligibility to hold public office posts six years after naturalization. High ranking public roles such as ministries were, however, restricted solely to the native citizen as a genuine *primus inter partes*.

However, the new laws had the achievement of being adopted by the later regimes as a legal framework for new amendments in regards to nationality. After a short-lived military junta, replacing an already existing fascist regime which oriented Romania's participation in the Second World War as an Axis member, a coalition of democratic forces, led by King Michael I, turned the political dynamic of Romania by joining the Allied Powers against Nazi Germany. Until 1948, Carol's nationality law preserved the main features of naturalization. It was only after the communist regime was installed in Romania that dramatic changes were engineered in all sectors of every-day life, including the legal conditions of nationality. The communist regime can be reduced to 2 main phases: the period of social imitation of Soviet institutions and the period of internal closure and cultural nationalism. Relating to the evolution of the legal institution of citizenship, these periods underline two tendencies. The first stage resulted in a swift elimination of the old legislation under the revolutionary effervescence of the proletarian dictatorship while the latter developed a strong nationalistic sentiment linked to Ceaușescu's cult of personality, trends remarkable in the formula of the new laws. Therefore, in 1952, Decree 33 abolished all the previous laws concerning citizenship, replacing the whimsical naturalization criteria with three cumulative conditions aimed at stateless persons who have been living in Romania since 1920 and an ambiguous disposition stating that foreigners may become Romanian citizens by request to the centralizing authority (The Presidium of the Great National Assembly). *Jus soli*, however, was still absent from the newly enacted legislation, partly due to the lack of a national precedent, but also by the lack of similar Soviet laws.

Historically wise, there was no *jus soli-jus sanguinis* debate in Romania, *jus sanguinis* being always the legal axiom of citizenship. Whether elements of jus soli could be adopted by the 1952 Decree is debatable, but since the social aim of this act was to reclassify the social stratification of the Romanian society by creating a discretionary power to strip natives of their citizenship and endow formerly discriminated categories with legal attributes, the premise of birthright citizenship was not taken into account, but simply ignored. The second phase of communist development saw the emergence of a more intricate citizenship legislation which emphasized the nationalistic nature of the regime. Drafted in 1971, the new Decree enshrined modern standards for naturalization, 5 of which are still present in the Romanian Citizenship Law. *Jus sanguinis* was yet the dominant part, the first article emphasizing the organic continuity of Romanian people's generations, almost paradoxically continued by an article stating that all the citizens were to be equal regardless of their nationality, religion, sex or way of obtaining citizenship. The addition is indirectly hinting towards Bauder's concept of modern citizenship, whereas state authority makes no difference between the native-born individual and the naturalized foreigner. This *veil of ignorance* plays an important role in endowing immigrants' with the institutional ropes to hold public office indiscriminately. Notably, the state retained its power to strip Romanians off their citizenship, but this power was largely limited to specific cases which at some point might seem legitimate (acts committed abroad which stain the honor of the RSR), while others stand as a clear proof of the hermetic,

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authoritarian regime (leaving the country by fraudulently crossing the border). While imbued with totalitarian nuances and expressed in a flatulent linguistic style, the 1971 Decree managed to draw a somewhat realistic vision of a modern citizenship legislation.

Shortly after the fall of communism, Law 21/1992 reformulated the former citizenship laws, retaining the essence of naturalization and sketching a plan to repair the mistakes of the totalitarian rule[15].

Nowadays, *jus sanguinis* is the unique principle upon Romanian citizenship is attributed at birth. Therefore, children of at least one citizen are considered Romanian citizens[16]. What might seem at first glance an exception of the *jus sanguinis* rule is the statement of art. 5(3), according to which *the child found on Romanian territory is considered a Romanian citizen, unless otherwise proven, if none of the parents is known.* This, however, does not mean a direct application of *jus soli*, but rather an assumption of *jus sanguinis*. Although an identical disposition is mentioned by the French Civil Code as an application of jus soli[17], Romanian legal doctrine interpreted this case as a relative assumption, *iuris tantum*, that since a child was found on Romanian territory, he might be a descendent of Romanian citizens[18]. Law 21/1991, republished in 2013 describes the criteria of naturalization for foreign citizens (or stateless persons), conditioning the acquisition of citizenship on the grounds of 7 pillars:

- ✓ legal residence in Romania for at least 8 years, or 5 years provided the person is married to a Romanian citizen;
- ✓ loyalty towards the Romanian state, proved through civil obedience and behavior;
- ✓ legal age of 18;
- ✓ legal means of carrying a decent existence in Romania;
- ✓ general good behavior in Romania, as well as the lack of criminal charges outside the Romanian state;
- ✓ basic knowledge of Romanian culture and civilization;
- ✓ knowledge of the Romanian anthem and constitution.

The Law also stipulates the possibility of halving the legal period of 8 and 5 years respectively provided the person requesting the acquisition of citizenship is either a European citizen (i.e. one of the EU's member countries' citizen), a famous personality, recognized at an international level, someone who legally obtained the refugee status, or someone who invested at least one million Euros in the national economy.

Insofar, the Romanian law favors European citizens by halving the required residence periods. However, it does not provide an advantage to third-state or stateless persons. The admission criteria are therefore, rather harsh. It is now questionable what prospects the

[15] Art. 11 of Law 21/1991 states that persons who were Romanian citizens, but lost their citizens as a result of the state forfeiting their citizenship without their consent (primarily referring to the abusive acts of the communist regime which retracted the citizenship of persons deemed as "enemies of the state"), are eligible to automatically regain Romanian nationality with the option of keeping their current citizenship.

[16] Law 21/1991, art.5(1)

[17] Art. 19 of Section II entitled *Being French by birth in France*, stating that *a child born in France of unknown parents is French*, clearly hints towards an application of jus soli. Moreover, the text is found outside the jus sangunis directed panel, present in Section I: *Being French by filiation*

[18] Ion Deleanu, *Instituții și Proceduri Constituționale -în dreptul român și în dreptul comparat* (Bucuresti: C.H. BECK, 2006), 352

immigrants who wish to naturalize have. A possible answer was offered through the national strategy for immigration, initiated in 2004. Prior to Romania's adherence to the EU, the government had to adopt a part of the European acquis (EU's legislative heritage) into the national legal framework. Henceforth, a realistic and moral plan to integrate immigrants in the Romanian society (and implicitly on the labor market) had to be debated. Along with the outcome of Romania's integration in the EU, the implementation of the National Strategy concerning migration resulted in an abrupt shift of naturalization rates: in 2008, more than 5500 persons acquired Romanian citizenship, compared to merely 31 a year before[19]. The statistic brings about an abrupt change of naturalization rates following Romania's commitment to the European project. The strategy outlined 5 main objectives, one of which is also the social integration of foreigners. Consequently, the measures taken in this direction follow the integration of immigrants on the labor market, their access to social insurance, healthcare and education, as well as their possibility to become active members in their local communities with the potential of conserving their cultural identity[20]. As the citizenship law foresees, there is massive difference between the perspectives of European and non-EU citizens. While the former do have several rights in regards to the labor market, citizenship acquisition and even political and electoral activity, the latter found themselves into a rather fragile situation.

II FRANCE

A historically revolutionary and republican society, France is the birthplace of the modern concept of citizenship. Originating from the Declaration of the Rights of Man and of the Citizen, the right to hold citizenship was initially sketched as a universal attribute to the exercise of power. The 1793 Constitution briefly confirmed the rather idealistic vision, stating that *every man born and living in France, of twenty-one years of age, and every alien, who has attained the age of twenty-one, and has been domiciled in France one year, and lives from his labor […] and finally every alien whom the legislative body has declared as one well deserving of the human race, are admitted to exercise the rights of a French citizen.*[21]. Therefore, the Jacobin Constitution made virtually no distinction between foreigners and French nationals[22]. However, the French Revolution, centered not merely on aspirations of bourgeois modernity and anticlerical effervescence, but also on the mythical content of nationality, drew the architecture of the early romantic nationalism. The idea of the Nation itself was enshrined in the Declaration and subsequently, nationality became a leitmotif of the French societal structure. The strong connection between the idea of citizenship and the Jacobin conception of an indivisible national sovereignty has made dissociation between citizenship and nationality impossible[23], therefore, the modern definition of citizenship as a legal and emotional link of the citizen with the state. All nowadays states have a strong national dimension since they constitute the legal and political superstructure of particular cultures and peoples.

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[19] Iris Alexe, Bogdan Păunescu, *Studiu asupra fenomenului imigraţiei în România. integrarea străinilor în societatea românească (ediţie electronica, 2011),* 43.
[20] Strategie Naţională din 21 aprilie 2004 privind migraţia, Capitolul 2, 2.4 Politica privind integrarea socială a străinilor
[21] French Republic Constitution of 1793
[22] Cristophe Bertossi, *Country Report: France*, *EUDO Citizenship Observatory*, European University Institute (2010), 1, available at http://cadmus.eui.eu/bitstream/handle/1814/19613/France.pdf?sequence=1&isAllowed=y, accessed May, 14, 2019
[23] Bertossi, *Country Report…*, 1

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The French national debate regarding the method which should be applied when endowing persons with citizenship stretched over the following two centuries and is propelled by two main principles: *jus soli* and *jus sanguinis*. The former has been practiced by the French state in feudal times and has been exported to the new world, where recently founded nations defined allegiance as independent to hindrance and the ethnical background of their to-be citizens. European societies, on the other side, were already heirs of rich histories of cultural and political upheavals and were characterized by an already existing ethnical bond connecting generations. Highly emphasized through the early romanticist rhetoric, the European concept of nationality has underwent a process of ethnicization, superimposing the genetic community (*Gemeinschaft*) over the substantial sociality of modern statecraft (*Gesellschaft*). France has always been an intellectual space where various interpretations of these two concepts collided. Napoleon, on one side, argued that it could only serve France's interest to grant citizenship to the children of immigrants who settled in its territory as an aftermath of the wars which embroiled France[24]. Children born in France of settled foreign parents have, he suggested, *the French way of thinking, French habits and the natural attachment that everyone has for the country in which he was born*[25]. The opposition he faced came from the enacting organs, according to which the French citizenship should not be attributed in the same way as England.

The English way of attributing citizenship, carrying feudal connotations was perceived as an anti-model. Therefore, the first law introducing elements of *jus sanguinis* was enacted in 1851 and provided the opportunity of 2nd and 3rd generation immigrants to be naturalized instantly (children of parents born in France had the possibility to declare their allegiance at the age of majority, thus obtaining citizenship). The period in which the law was debated was characterized by heated debates concerning the *jus soli/jus sanguinis* dichotomy. Following Napoleon and the mythological legacy of the French Revolution, which sketched France as a *midwife of liberty for the world*, a true refuge for those fleeing despotism[26], the advocates of the former suggested an assimilationist approach: since the national self-understanding of France was stripped of its ethno-religious meaning, the French understanding of nationality would enable a vocation of universality. In other words, France, as a vehicle of political membership, identity and belonging, moved the epistemological (citizenship as a category) towards the ontological (citizenship as felt identity)[27]. The opposing side, criticized *jus soli* for its cultural relativism. In this sense, Camille See argued that *Nationality must depend on blood, on descent, not on the accidental fact of birth in our territory*, stating that, as a consequence of the continuous technological advancement, it will soon be possible to travel across Europe in a matter of hours, rendering citizenship useless from an emotional perspective. These attacks on *jus soli*, as Brubaker suggests, were foreshadowing a mere rhetorical assault. The practical reason for the introduction, preservation and later development of *jus soli* elements, would be the lack of military manpower after the wars which engulfed France in the 19th century, a social necessity acknowledged by the French legislator, regardless of its ideological color. But the 19th century was not the only period in France's history which demanded a large citizenry. World War I was also an important material source of law. Following the large casualties of the Great War, in 1927 a new law was passed, liberalizing the conditions for naturalizations by reducing the required legal age of application from 21 to 18 and demanding merely 3 years of

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[24] Rogers Brubaker, *Citizenship and nationhood in France and Germany* (Cambridge: Harvard University Press, 2009), 95
[25] Brubaker, *Citizenship…*, apud Napoleon, 88
[26] Brubaker, *Citizenship…*, 91
[27] Berezin and Schain, *Citizenship…*, 52

residence on French territory compared to 10 as the previous law stated[28]. As a result, between 1927 and 1930, 170,000 foreigners acquired French nationality through naturalisation compared with 45,000 in the preceding five years[29]. The 1927 ammendment had the nationality law introduced in a separate legal document, shifting from the traditional contractualist view of citizenship[30]. After the Second World War, a similar perspective, outlined by General de Gaulle who acknowledged the precarious nature of the national demographic growth, led to a new nationality code. Moresoever, after the War, the decolonization period played a vital role in reshaping the citizenship acquisition criteria. 1961 saw new ammendments to the existing nationality law, creating a special case for the former territories held under French jurisdiction. Residence on French territory, an otherwise essential pre-requsite for obtaining citizenship was replaced with a mere declaration of acceptance of the French Republic[31]. However, as the same author notes, the law did little to bring the former Algerian subjects under French nationality since, presumably under the impact of anti-colonial nationalism, few Algerians wished to follow the path of reintegration. Nevertheless, in an effort to promote the re-integration of its former colonial subjects, France retained the right to hold dual citizenship. Another key element of the institutional evolution of citizenship is the 1973 Law, which officially recognized the egalitarian nature of citizenship through eliminating previous discriminations between men and women; citizenship would now be automatically attributed to children born in France of parents who had been born in the former colonies or overseas territories[32]. In 1993, the legislator incorporated the nationality law into the Civil Code.

The present citizenship law is grounded primarily on the basis of *jus sanguinis* (a French child is one who has at least one French parent[33]), suplimented by *jus soli* (a child is French if born in France of stateless parents or of alien parents and to whom the transmission of the nationality of either parent is by no means allowed by foreign Nationality Acts[34]). Quintessentially, *jus soli* is meant to avoid statelesness, being applied whenever the child's parents are either stateless, either are citizens of a state which does not recognize *jus sanguinis*, in which case their citizenship cannot be transmitted through descent. In regards to obtaining citizenship after birth, the Civil Code mentions several methods, one of which is also naturalization. Therefore, article 21-14-1 states that the acquisition of the French nationality by a decision of the Government results from a naturalization granted by decree at the request of the alien[35]. Subject to the exceptions laid down in Articles 21-18, 21-19 and 21-20, naturalization may be granted only to an alien who proves a habitual residence in France during the five years preceding the submission of the request[36]. The probationary period referred to in Article 21-17 shall be reduced to two years:

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[28] Paul Lawrence, *Naturalisations In France, 1927-1939: The Example Of The Alpes De Haute Provence* (Royal Holloway, University of London, 1997), 1, available at https://core.ac.uk/download/pdf/9047077.pdf, accessed June 28, 2019

[29] Bertossi, *Country Report…*, 4

[30] Starting from Napoleon's Code, up until 1927, French nationality law was enshrined into the Civil Code, hence being formal part of private law. While the continental doctrine has divergent opinions on the legal nature of citizenship, nationality is widely regarded as an attribute of the state, therefore the reasons used by the French legislator to shift its texts to a separate law, integrated into the legal public realm. In Romania, the new Civil Code contains no dispositions related to citizenship, proposing instead a separate organic law.

[31] Bertossi, *Country Report…*, 6

[32] Bertossi, *Country Report…*, 7

[33] article 18, French Civil Code

[34] article 19, French Civil Code

[35] article 21-14-1, French Civil Code

[36] article 21-17, French Civil Code

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- ✓ As regards the alien who has successfully completed two years of university education in view of getting a diploma conferred by a French university or establishment of higher education;
- ✓ As regards the alien who gave or can give significant services to France owing to his competences and talents;
- ✓ For the alien who manifests an unusual record of integration, judged by his actions or accomplishments in the civic, scientific, economic, cultural, or athletic realm[37]

The following article excludes foreign voluntary military personnel, meritous persons whose naturalization is of exceptional interest for France and persons who have legally obtained the refugee status. The realistic and accesible conditions, marked by a long lasting legislative stability enabled more than 55000 immigrants to obtain citizenship every year since 2000[38]. Once obtained, citizenship can be retracted by the State Council, may the citizen have done acts of treachery abroad and quintessentially, any acts that render his loyalty to the state uneffective[39]. These acts which for native French citizens constitute high criminal offences are considered compromising for the quality of the naturalized person's citizenship. Therefore, although supposed to be egalitarian and universal, the institution still suffers some mitigated social inequalities. However, the legislator adds the impossibility of forfeiture may these acts occur 10 years after the person has obtained citizenship. This disposition, absent from the Romanian nationality law underlines an asimilationist national mentality. Consequently, even though the immigrant has obtained citizenship, may he carry acts which stain his honor as a French, the state would rather forfeit his nationality than judge him in accordance to the criminal law. Only 10 years afterwards, the immigrant has the prospects of being entirely integrated in the French society.

III COMPARISON

In the present, Romania and France have modern and realistic nationality laws, yet the legal process of naturalization is differently regulated and suffers substantial differences. While Romania uses solely *jus sanguinis*, France applies *jus soli* in subsidiarity in order to avoid statelesness. Romania's nationality law suffered great changes in the last 100 years, being marked by abrupt regime changes, while France, excepting the short lived Vichy Regime's actions, faced more than a century of legislative stability. As a result, its naturalization rates are constant, while Romania's acquistitions of nationality began to skyrocket after the country's integration in the European Union. In regards to access to nationality, the main parameter for measuring the quality of the naturalization and citizenship-acquisition process, MIPEX[40] is ranking France on the 11th place, scoring lower than other western democracies such as Sweden, Germany and Luxembourg. Romania is sharing the 27th position with Malta, Greece and Turkey. Remarkably, Romania scores better than other Eastern European countries such as Hungary, Bulgaria and Slovakia.

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[37] article 21-18, French Civil Code
[38] The highest number of naturalizations between 2000 and 2006 was recorded in 2005 (89100). These statistics have been extracted from Bertossi, *Country Report…*, 14
[39] A complete list of these acts is present at art. 25
[40] MIPEX (Migrant Integration Policy Index) is an international, open source forum, which analyzes official data from 38 countries (as of 2019) in regards to state policy concerning migration. The following charts have been created by using the available 2014 data for Romania and France using the "play with the data" function. MIPEX is accessible via http://www.mipex.eu/

1) Access to nationality: Romania and France exhibit a universal vocation of endowing individuals with the quality of citizenship. Therefore, every person can apply for citizenship from the legal age of majority. Also, children of naturalized parents have the possibility to instantly gain the citizenship of their parents. In this case, France offers some nuances, allowing residing children of foreign born parents who didn't acquire French citizenship to automatically recieve French nationality, *iure domicilii*, by personal declaration at the age of 14.
2) Eligibility: While the standard period of residence on French teritorry is of 5 years, the Romanian law-maker increased the necessary period to 8 years. These periods, however, can be halved (generally for refugees and meritous individuals; European citizens are also benefiting from a reduction in Romania's case)
3) Conditions for acquisition: Generally, both Romania and France require their to-be citizens a sufficient level of language and national culture knowledge, suplimented by good civil conduct and economic self-sufficiency;
4) Security of status: Both states retain the same discretionary power to approve, reject and forfeit citizenship of newly naturalized immigrants. France, however, cannot forfeit citizenship after 10 (and in some cases, 15) years after the individual has obtained citizenship;
5) In the present, both Romania and France recognize the right to hold dual citizenship

Figure 1[41]

[41] Chart created by MIPEX 2015

ISSN-P: 2247-4455 / ISSN-E: 2285-9632

INDICATOR	YEAR	COUNTRY	VALUE
ELIGIBILITY	2014	France	79
		Romania	29
CONDITIONS FOR ACQUISITION	2014	France	25
		Romania	15
SECURITY OF STATUS	2014	France	40
		Romania	40
DUAL NATIONALITY	2014	France	100
		Romania	50
ACCESS TO NATIONALITY	2014	France	61
		Romania	34

Figure 2[42]

CONCLUSION

Intrinsically correlated to the political apparatus of the nation-state, citizenship is a modern legal institution, essential for exercising fundamental rights and liberties. As we have seen in the introduction, although incremental progress has been made in the sphere of universal human rights, states offer the most powerful preamble to stability and social perspectives. States also retain a discretionary power in deciding who shall be a citizen and, therefore, who is to benefit from the legal compound of rights and liberties. Some states, like France, have a rich past of ethnocultural exchange, nuanced by colonial interactions and shaped by early Enlightenment ideas, while others, like Romania, even though encountering modernization with sheer enthusiasm, retained a doubtful spirit of hermetic conservatism. Historical factors such as the reluctance of the French legislator to enshrine birthright citizenship in the 1804 Code, paradoxically ignoring Napoleon strong support for it, led to an absence of *jus soli* in the first fundamental Romanian legal document, enacted in a mimetic effervescence of steadfast modernization.

Nevertheless, the Romanian law-makers didn't hesitate to amend nationality laws by stricter dispositions, underlining a strong, but initially concealed sense of national identity, opposed to the social and political openness of the pioneering elite. But it was precisely the strong national feeling which enabled France to reconfigure its understanding of statecraft in order to universalize the quality of citizenship. Without its revolutionary experience and political singularity in a traditional European picture of authoritarian monarchies, France couldn't perhaps re-imagine its nationality as an all-encompassing attribute of power, the vocation of which is universal. 'Frenchness' would play as a catalyst of integration, whereas the Romanian nationality card would be played in the favor of the native born population. However, modernization is natural and even nations like Romania gradually abolished the privileges of the natives (such as the exclusive right to hold public office), slowly sketching the idea of a modern, universal citizenship. In the present, citizenship is a tool of integration, of absorbing the individual inside a cultural space, indifferent to ethnicity.

Though modern and egalitarian, the institution is still prudently limited by the legislator, conserving a mitigated suspicion since both Romania and France retain the right to

[42] Chart created by MIPEX 2015

retract the earned citizenship under certain circumstances. While at first glance intriguing, the fundamental argument lies in the very process of naturalization. Upon arriving in a new culture and willing to integrate, the foreigner would employ his inner talents and qualities to advance on the path of naturalization. After proving a sufficiently advanced stage in this path, the state might reward the foreigner by linking him to its social and axiological dimension through citizenship. Yet, if the foreigner deems the trust of the state futile and engages in unworthy acts, his progress towards integration is reversed, henceforth his path has failed and the political community which forms the state repeals him. If France limits the capacity to forfeit citizenship to a period of 10 years, Romania shows a higher instability by not mentioning a similar term, a flaw which might be, *de lege ferenda*, repaired. While both Romania and France establish different criteria for the acquisition of citizenship, the fundamental premise of their nationality laws outline an identical mental configuration of European nationality according to which the universality of political membership to a state is equally attributed through social conventions, in our case, through citizenship.

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