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From Restitution to Privileged Re-naturalisation: The Expansive Politics of Dual Citizenship in Romania after 1989

The transformations engendered by the fall of the communist regimes and the dismantling of multinational federations in Central and Eastern Europe opened a momentous space for state reinvention. Alongside new constitutions pledging loyalty to universal human values and democracy in the name of their constitutive communities, the states, old and new, introduced citizenship laws, establishing the rules of *aptness for membership*. Invoking diverse historically formed principles of legal continuity and nation protection, they tended to follow a double logic. On the one hand, as states of and for a nation[1], they made inclusionary moves towards their external kin-population, through privileged naturalisation and specific kin-state legislation. On the other hand, they took an exclusionary stance towards their internal ethnic minority population, and restrictionist measures of territorial access to foreigners. In terms of dual citizenship regulations, this materialized in significantly asymmetric approaches to naturalisation practices, which favoured ethnic selectivity and citizenship by birth-right.

In what follows I will first discuss dual citizenship as an institutional instance of the changes in, and challenges to, nation states. It reflects the tensions of globalized fluxes of capital and commodities and controlled movement of people across borders, universality of human rights discourse, and particularism of nation state territorialisation. Then I will examine the course of dual citizenship legislation in post-communist Romania, emphasizing state rationality behind its transformation. I will focus on its most debated provision, the restitution of citizenship to former citizens, unwillingly or abusively stripped of their citizenship, and I will discuss its shift towards privileged (re-)naturalisation during the past two decades. As a form of kin-state policies, I will relate it to similar legislation by Hungary, as they have continuously interacted within a multifaceted field of political, symbolic, economic, and social relations. The context in which these legislations unfolded was notably determined by mass interna-

[1] Brubaker, Rogers. 1994. "Nationhood and the National Question in the Soviet Union and Post-Soviet Eurasia: An Institutionalist Account." Theory and Society 23(1): 47-78.

tional labour migration, and supra-statal integration throughout the European Union.

Dual citizenship and the paradox of democratic legitimacy

The occurrence of dual nationality is now considerably higher than four decades ago, when it used to be rather uncommon. The metaphor of bigamy, the famous depiction given to the relation between states and dual citizens by the American Minister at the British Court, George Bancroft, in 1849, has been since used to express the historic aversion towards dual nationality, and the precept of indivisible loyalty.[2] The 1963 Council of Europe's *Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality* was based on the principle that dual nationality is undesirable and should therefore be avoided.[3] Only in 1993 a *Second Protocol* to the convention recommended the retention of the nationality of origin for persons acquiring a second nationality through permanent migration or mixed marriage. Dual nationals used to be perceived as a security threat, not in the guise of cunning spies, saboteurs, or electoral fifth column,[4] but by the instability provoked through conflict over states' rights to regulate persons. This has since changed, as now state power resides much less in military strength understood as manpower, and persons are shielded by internationally guaranteed human rights.

The 1997 *European Convention on Nationality* recommends states to allow multiple nationalities in the case of acquisition at birth or through marriage (Art. 14).[5] But is also affirms the unlimited right of states to strip persons of their nationality if they acquired or possess the nationality of another state, and to require the renunciation of another nationality in order to obtain or retain its own. The *Universal Declaration of Human Rights* (1948) is equally elliptic on the issue of multiple nationalities (Art. 15), as it is on that of mobility rights. It affirms the right to freedom of movement and residence

[2] Great Britain, Foreign Office. 1868. *British and foreign state papers,* Volume 53, 1862-3. London: William Ridgway, 169, Piccadilly. Mr. Bancroft to Lord Palmerston, London, January 26, 1849. pp. 639-646. Also, see the *Convention on Certain Questions relating to the Conflict of Nationality Laws,* 12 April 1930.

[3] The convention was signed by Moldova, but never ratified. Romania and Hungary did not sign it.

[4] Faist, Thomas. 2007. "The Fixed and Porous Boundaries of Dual Citizenship." In Faist, Thomas (ed.), Dual Citizenship in Europe. From Nationhood to Societal Integration. Aldershot: Ashgate, pp. 5.

[5] The convention was signed, ratified, and entered into force in Romania, Moldova, and Hungary.

within one's state, the right to leave any country, and to return to one's own (Art. 13); it also asserts the right to seek and enjoy asylum from persecution in other countries (Art. 14). But it is silent with respect to the right to receive leave of entry in other country than one's own, or the right to temporary sojourn. This stands witness to the continuing force of the international system of states' modern template, organized around notions of exclusive jurisdiction and bounded communities, and the lack of cross-border embeddedness of universal human rights.[6]

Dual citizenship resulted, in general, out of the expansion of individual rights versus state prerogatives in liberal democracies[7], supported by the independent work of the judiciary, and the influence of economic and social interest groups over party politics.[8] This entailed processes of de-gendering, de-racializing, and socializing of citizenship rights, and the multiplication of forms of immigrant denizenship and belonging. States of residence acknowledged that allowing the retention of original nationality for naturalizing immigrants will foster their social inclusion, political participation, and attachment. States of origin started to capitalize on the remittances and economic investments of co-nationals abroad. By promoting their security and welfare as foreign labourers, as well as through their mobilisation, they gained a foothold in the politics of the states of residence.

If dual nationality in the West responded to massive immigration ensuing from its colonial past and its version of modernity, in Central and Eastern Europe political struggles over dual citizenship structured along moving borders: the redrawing of nation-state boundaries, the creation of multi-national federations, and their dismantling. At the fall of communist regimes in 1989, and the breakup of the Soviet Union in 1991 and Yugoslavia (as well as Czechoslovakia) in 1992, the states faced a double structure of challenges. On the one hand, most of them "hosted" historical national minorities, which held a legitimate claim over the territory as their historic native land, and to ethno-cultural recognition. They were supported by external

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[6] For a discussion of Hannah Arendt's "right to have rights" see Benhabib 2004. For the understanding of citizenship as the right to have rights see Somers 2007.

[7] Spiro, Peter, 2002. "Embracing Dual Nationality", in Randall Hansen & Patrick Weil eds. Dual Nationality, Social Rights and Federal Citizenship in the U.S. and Europe. Berghahn Books 2002

[8] Freeman, Gary. 1995. "Modes of Immigration Politics in Liberal Democratic States." International Migration Review 29(4): 881-902.
Joppke, Christian. 1998. "Why Liberal States Accept Unwanted Immigration." World Politics 50(2): 266-93.

national "homelands," for which they constitute ethno-national kin abroad or transborder national minorities. On the other hand, they contained ethnic groups created through internal migration within political federations, whose claim and right to inclusion is based on ties created through extended residence and/or birth on the territory.[9]

As a political concept, modern citizenship comprises [at least] three dimensions. First, *democratic self-governance* conceives a community of individuals enjoying equal freedom, who have the right to rule and to be ruled. Citizens are not only subjects of the law, but also its authors. This requires congruence between the resident population and the political community. Second, citizens enjoy *social inclusion*, through substantive participation in the social life on the territory. All individuals are recognized by others as moral equals, and due "the same level of respect and dignity as all other members".[10] This requires that they have and are able to enjoy full rights and entitlements – civil, political, social, cultural etc. Third, they claim a *collective identity* through membership, which gives them a status and a sense of belonging.

The historical processes of nation state formation merged two ideals: the civic-republican ideal of self-governance, through the exercise of freedom among equals in the public space, manifested in the practice of public autonomy; and the ideal of territorially circumscribed nation states, providing the administrative framework for citizens' equal enjoyment of rights and entitlements, manifested in the practice of private autonomy.[11] Transborder mobility and the emergence of an international regime of human rights now challenge this model of nation states, by bringing on the question of the *rights of others*. This is at the core of what Benhabib calls the paradox of democratic legitimacy. While the legitimacy of the democratic sovereign arises from the act of its constitution, it also follows from the universal principles of human rights that the sovereign binds itself through this act. "'We, the people' refers to a particular human community, circumscribed in space and time, sharing a particular culture, history, and legacy; yet this people establishes itself as a democratic body by acting in the name of the 'universal'."[12] The ques-

[9] Will Kymlicka (1995) proposed this distinction between national minorities and ethnic groups.

[10] Somers, Margaret. 2007. Genealogies of Citizenship. Markets, Statelessness, and the Right to Have Rights. Cambridge: Cambridge University Press. pp.6.

[11] Benhabib, Seyla. 2005. "Borders, Boundaries, and Citizenship". PS: Political Science and Politics 38(4): 673.

[12] Benhabib, Seyla. 2004. The Rights of Others. Aliens, Residents, and Citizens. Cambridge: Cambridge University Press. pp.44.

tions of justice, moral worth, freedom, participation, and equality are raised in the space of this tension, when non-members cross the porous borders of the community. Noting that every act of self-legislation is also an act of self-constitution, and that democratic rule is exercised by and through a specific constituency alone, Benhabib confronts this tension with the imperative of democratic iterations: through moral and political interlocking dialogues, constituencies of all sorts reassert and give shape to universal principles.[13]

How are to be reconciled states' human rights declarations and their sovereign claims to control access to their territory? Should states give the right to temporary sojourn universally, and accompanied by what citizenship rights? Does extended residence on a territory creates the right to membership? What acts can determine, if any, the loss of birth-right membership in a democratically self-governed community? What sort of borders and how far/close can they be built through acts of self-legislation qua self-constitution by communities entangled in complex ties with other self-governing communities? The politics of immigration and the politics of citizenship are major arenas where this tension is played out, and where a reconstruction of the relation between public and private autonomy takes place. They concern immigration states, settler states, and post-colonial states constellations, as much as they concern the diaspora or kin-state constellations.[14] To borrow again Benhabib's words, "the international system of peoples and states is characterized by such extensive interdependencies and the historical crisscrossing of fates and fortunes, that the scope of special as well as generalized moral obligations to our fellow human beings far transcends the perspective of the territorially bounded state-centric system."[15]

Specific arguments regarding dual citizenship are usually shaped by the democratic theory traditions from within which they are formulated, and accentuate aspects of one or other of the three dimensions of political citizenship outlined.[16] States arrive at embracing dual citizenship for nationals, co-ethnics, or foreign residents through a process where multiple actors interact in specific social and insti-

[13] Benhabib, Seyla. 2004. The Rights of Others. Aliens, Residents, and Citizens. Cambridge: Cambridge University Press. pp.113.

[14] The constellation terminology belongs to Joppke 2005.

[15] Benhabib, Seyla. 2004. The Rights of Others. Aliens, Residents, and Citizens. Cambridge: Cambridge University Press. pp.37.

[16] For example see Blatter 2010 for a brief rehearsal of arguments carried out from various democratic theory perspectives, regarding Hungary's 2010 decision to grant external citizenship to Hungarian ethnics abroad, and Slovakia's retort by banning dual citizenship.

tutional contexts, and where the meaning of community, identity, rights, equality, participation, and citizenship are object and result of political struggles. Giving an account of the dual citizenship politics of a state requires a narrative approach that relates these relational moves, and the discursive regimes that shaped it.

In the following part of the paper I will relate the course of policy-making and the debates around the issue of dual citizenship in Romania. I will not attempt to inventory all changes to the citizenship law, and the relational context that brought them about.[17] I will instead engage the prevalent interpretation of the central provision of the law, the restitution of citizenship to former citizens abroad, and to their descendants. My version is sceptical about the common understanding, formulated in nationalist terms, that along with the aim to correct past injustice, the provision also intended to restore symbolically the interwar political community of Greater Romania, and that its successive changes introduced an ethnic filter.[18] I too understand it as a policy addressing World Wars' and communist regime's legacies of unwilled and abusive loss of citizenship, but I suggest that the policy has retained its original statist and expansive scope. I see its modification in the past two decades, from restitution to privileged(re-)naturalisation, as an expected and desired result, expressive of past and present historical-political processes: global neoliberal capitalism, European integration, and mass labour international migration.

In what follows I will use interchangeably the terms "citizenship" and "nationality," that will refer to the legal relation of citizenship pertaining to the rights and obligations between a state and a person. It links the person to the registered population of a state, and makes

[17] For a detailed and historically contextualized account see Iordachi 2012 and 2009.

[18] Iordachi, Constantin. 2009. "Politics of citizenship in post-communist Romania: Legal traditions, restitution of nationality and multiple memberships." In Bauböck, Rainer, Bernhard Perchinig, Wiebke Sievers (eds), Citizenship Policies in the New Europe, 2nd enlarged edition. Amsterdam: Amsterdam University Press, pp. 177-209.
Iordachi, Constantin. 2012. "Redobândirea cetăţeniei române în perspectivă istorică: de la restituirea drepturilor cetăţeneşti la primatul cetăţeniei de origine." In Iordachi, Constantin (ed.), Redobândirea cetăţeniei române. Bucureşti: Curtea Veche, pp. 67-151. English version of the chapter, pp. 311-395.
Dumbrava, Costica. 2010. "Five Comments on Citizenship Policies in CEE Countries." In Bauböck, R. And Liebich A. (eds), Is There (Still) an East-West Divide in the Conception of Citizenship in Europe? EUI Working Paper RSCAS 2010/19. Badia Fiesolana: European University Institute, pp. 17-18.

her subject to the state sovereign jurisdiction.[19] I will also use the term citizenship as a political concept, when the relevant analytical dimension is in question: self-governance, exercise of rights, or identity.

Dual citizenship in the Romanian law

The acquisition of Romanian citizenship is regulated by the *Romanian Citizenship Law* (Law 21/1991),[20] introduced in 1991, republished in 2000 and 2010, and changed several times in 1999, 2001, 2002, 2003, 2007, 2008, 2009, 2010, and 2013.According to Law 21/1991, Romanian born citizens can become dual or multiple citizens. The law does not explicitly allow or prohibit dual citizenship. It does, however, permit dual citizenship implicitly. In the case of restitution of citizenship or re-naturalisation, the right to dual nationality is explicitly granted. Dual citizenship may arise in several situations: by birth; by foreign naturalisation of Romanian citizens; by naturalisation of foreigners as Romanian citizens; and by restitution of Romanian citizenship or re-naturalisation of former Romanian citizens who hold a foreign nationality.[21]

First, Romanian legislation interacts with other states' legislation regarding ascription of citizenship at birth, which in Romania is based solely on the *jus sanguinis* principle. Children born in mixed marriages may acquire the foreign citizenship of the foreign parent *and* the Romanian citizenship of their Romanian parent, whether they are born on Romanian territory or not. Children born of a Romanian parent outside the territory of Romania, in a country that grants citizenship according to the *jus soli* principle, may acquire the foreign citizenship of that country *together with* the Romanian citizenship of the Romanian parent(s). Romanian citizenship can be passed endlessly intergenerationally and extraterritorially, thus allowing for multiple combinations of possible citizenships, based on the mixing of the descent and the territorial rules for birth-right citizenship.

Second, Romanian citizens may acquire any number of foreign nationalities *and* maintain Romanian citizenship. The Romanian law has no provision with regard to the acquisition of foreign nationali-

[19] The Romanian term for the legal relationship of nationality is *cetățenie. Naționalitate* is used to denote ethnic belonging. For the social career of the legal terms of *cetățenie and naționalitate* see Iordachi 2009: 207, ft.1.

[20] Law 21, 1 March 1991, of Romanian citizenship. Published in the Official Gazette 44/6 March 1991.

[21] Here and in the following dual citizenship will reference also possible situations of more than two citizenships.

ties. In 1999, an addition to the law stipulates that Romanian citizenship cannot be withdrawn from Romanian-born citizens.[22] The procedure for individual renunciation of citizenship is difficult, and requires the provision of extensive proof of lack of penal and financial liability in Romania.[23]

Third, foreign nationals who have their domicile in Romania, and have been legal residents for at least eight years, may acquire Romanian citizenship, without renouncing their foreign nationality, if they meet a number of requirements. These include: proof of adequate means for decent living; "acknowledged good behaviour," and clean criminal record; loyalty towards the Romanian state, proved through "behaviour, actions, and attitude," and no record of acts against the state of law or national security; knowledge of the Romanian language, and possession of elementary notions of Romanian culture and civilisation, necessary to integrate into the social life; knowledge of the Romanian Constitution and of the national anthem.[24]

Finally, former Romanian citizens and their descendants, who also hold a foreign citizenship, may re-naturalise or have their Romanian citizenship restored, by repatriation or by maintaining their domicile abroad. Restitution of Romanian citizenship was present during the communist period, when the Romanian state regularized the situation of citizens denaturalized during the Second World War, displaced persons, or residents who had not been able to naturalize under previous legislation.[25] On the last day of the December 1989, the Council of the National Salvation Front, the revolutionary provisional power emerged after the demise of communist leader Nicolae Ceaușescu's regime, granted the right to repatriate to all Romanians living abroad, and to reacquire Romanian citizenship by request,

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[22] Law 192, 10 December 1999, to modify and complete the Law of Romanian citizenship 21/1991. Published in the Official Gazette 611/14 December 1999. Law 21/1991, Art. 25, para. 2.

[23] See Government Urgency Ordinance (OUG) 87/2007, and Law 70/2008 for latest changes in this regard.

[24] Law 21/1991, Art. 8, para. 1. In case of spouses of Romanian nationals, the length of the residence is reduced to a minimum of five years. It can also be shortened to half for applicants who are renown personalities, citizens of European Union countries, refugees, or investors of 1 million Euros of more (Art. 8, para 2). All translations from official documents are mine.

[25] Iordachi, Constantin. 2009. "Politics of citizenship in post-communist Romania: Legal traditions, restitution of nationality and multiple memberships." In Bauböck, Rainer, Bernhard Perchinig, Wiebke Sievers (eds), Citizenship Policies in the New Europe, 2nd enlarged edition. Amsterdam: Amsterdam University Press, pp. 187-188.

through repatriation, to those who have lost it.[26] In 1990, the Provisional Council of National Unity passed a decree which gave Romanian expatriates who had lost their citizenship before 22 December 1989the right to reacquire Romanian citizenship, *and* retain their foreign citizenship and domicile abroad.[27] Iordachi notes that "the decree *explicitly* allowed certain categories of citizens to hold dual nationality for the first time in Romania's legal history."

Restitution of Romanian citizenship to former citizens living abroad

The new Romanian Citizenship Law, Law 21/ 1991,set the frame for reacquiring Romanian nationality by former Romanian citizens. It stipulated three possible paths to be reinstated into citizenship: first, through *repatriation* (Art. 8);second, through *simplified re-naturalisation*, by request, with the option to maintain residence abroad (Art. 11); third, through *restitution*, by notarised declaration, to former citizens who before 22 December 1989 lost their nationality because of "various reasons", "even if they have another nationality and do not establish their domicile in Romania" (Art. 37, para. 1), and also to those who "were stripped of their Romanian nationality against their will or for other reasons that cannot be imputed to them, and to their descendants (Art. 37, para. 2)."[28]

Restitution of Romanian citizenship, provided by Article 37 of Law 21/ 1997, represents the most debated provision of the law, and has been subject to several revisions during the past decade. It had been intended as an act of redress of past injustice, within the larger politics of restitution that characterized early post-communist political reform in the majority of countries of the former Soviet bloc.

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[26] Decree-Law 7, 31 December 1989, concerning the repatriation of Romanian citizens and former Romanian citizens.

[27] Decree-Law 137, 11 May 1990, concerning several resolutions on Romanian citizenship. Published in the Official Gazette 75/21 mai. 1990. Iordachi, Constantin. 2009. "Politics of citizenship in post-communist Romania: Legal traditions, restitution of nationality and multiple memberships." In Bauböck, Rainer, Bernhard Perchinig, Wiebke Sievers (eds), Citizenship Policies in the New Europe, 2nd enlarged edition. Amsterdam: Amsterdam University Press, pp. 188.

[28] Law 21/1991, Art. 37. (1) Foştii cetăţeni români care, înainte de data de 22 decembrie 1989, au pierdut cetăţenia româna din diferite motive, o pot redobândi la cerere, în baza unei declaraţii autentificate, în străinatate, la misiunile diplomatice sau oficiile consulare ale Romaniei, iar în ţară, la Notariatul de Stat al municipiului Bucureşti, chiar dacă au altă cetăţenie şi nu-şi stabilesc domiciliul în România. (2) Beneficiază de dispoziţiile aliniatului 1 şi cei cărora li s-a ridicat cetăţenia română fără voia lor sau din alte motive neimputabile lor, precum şi descendenţii acestora.

It simply repeated the text of the Decree-Law 137/1990, followed by an additional second paragraph which appears to be a clarification: the recipients of the article comprised both former Romanian citizens who lost their nationality as a result of *individual* actions taken unilaterally against the Romanian state, and former citizens who lost their citizenship *en masse* as a result of territorial changes, and their descendants.[29]

The inclusion of Article 37 in the concluding Chapter 7 of the law, "Final and transitory dispositions," indicates that it had been intended as a temporary provision, and a transitional one. The first paragraph talked of Romanians who had been stripped of Romanian citizenship during the communist regime, because of various acts of disloyalty against the communist state (political dissenters, opponents, refugees, asylum seekers, exiles), or who were forced to, or chose to renounce it for other reasons.[30] The second paragraph addressed former Romanian citizens comprising population lost along with territories handed over by the Romanian state.[31] The majority of them were Soviet citizens of the Soviet Socialist Republic of Moldova,[32] now the Republic of Moldova (from hereon the RM), and of the Ukrainian Soviet Socialist Republic, now Ukraine. As a transitory and transitional provision, this form of citizenship acquisition is usually limited to a period of time deemed reasonable for its recipients, former citizens and their descendants, to meet the conditions and apply. In the European countries that maintain a policy of citizenship restitution as a means to remedy wrongs of the past (Austria, Bulgaria, the Czech Republic, Germany, Greece, Hungary, Lithuania, Poland, Slovenia, and Spain), it takes the form of privileged (re-)naturalisation or facilitated (re-)acquisition of citizenship.

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[29] Iordachi, Constantin. 2009. "Politics of citizenship in post-communist Romania: Legal traditions, restitution of nationality and multiple memberships." In Bauböck, Rainer, Bernhard Perchinig, Wiebke Sievers (eds), Citizenship Policies in the New Europe, 2nd enlarged edition. Amsterdam: Amsterdam University Press, pp. 189.

[30] Among these may be the requirement to renounce former citizenship, in order to naturalize in the state of residence, or to discontinue links or obligations related to holding the citizenship of the country of origin.

[31] This is the case of Bessarabia and Northern Bukovina, handed over to USSR by the effect of the Molotov-Ribbentrop Pact. All post-1989 Romanian presidents have repudiated the Pact. The law also refers to Southern Dobrudja, which belonged to Romania between 1913 and 1940. Under the Treaty of Craiova, which restored Southern Dobrudja to Bulgaria, a mandatory population exchange took place. Almost 95% of Romanians who settled in the territory after 1913 returned to Romania.

[32] Called the Moldavian Soviet Socialist Republic until the *Declaration of Sovereignty* on June 23, 1990.

Article 37 of Law 21/ 1991 has been interpreted by many analysts and certain politicians in a nationalist, revisionist, and imperialist key. It was seen as "a means of recreating the pre-communist citizenry and national community and [as] a means for the restoration of national identity, allegedly lost under communist rule, which was defined as a regime of Soviet occupation"[33] or "hidden nationalism".[34] However, this seems like a rather retrospective, tendentious interpretation of the law, resulted out of the row between Hungary and its neighbours with regard to its (not so) pioneering *Act LXII on Hungarians Living in Neighbouring Countries*(known as the Status Law, 2001);[35] the intermittent tension at top level between Romania and the RM, peaking in the mid-2000s with several rebukes by Moldovan President Vladimir Voronin, at the time of Romania's belated efforts, initiated by President Traian Băsescu, to speed up the tarrying process of citizenship restoration;[36] and the very late concern expressed by the European Union at the possible huge migration of Moldovans into the EU via acquisition of Romanian citizenship.[37]

Kin-state policies

The Status Law episode drew attention to the existence and functioning of similar kin-state policies in Hungary's neighbouring coun-

[33] Iordachi, Constantin. 2009. "Politics of citizenship in post-communist Romania: Legal traditions, restitution of nationality and multiple memberships." In Bauböck, Rainer, Bernhard Perchinig, Wiebke Sievers (eds), Citizenship Policies in the New Europe, 2nd enlarged edition. Amsterdam: Amsterdam University Press, pp. 178; see also Iordachi, Constantin. 2012. "Redobândirea cetăţeniei române în perspectivă istorică: de la restituirea drepturilor cetăţeneşti la primatul cetăţeniei de origine." In Iordachi, Constantin (ed.), Redobândirea cetăţeniei române. Bucureşti: Curtea Veche, pp. 67-151. English version of the chapter, pp. 69,313 English version

[34] Dumbrava, Costica. 2010. "Five Comments on Citizenship Policies in CEE Countries." In Bauböck, R. And Liebich A. (eds), Is There (Still) an East-West Divide in the Conception of Citizenship in Europe? EUI Working Paper RSCAS 2010/19. Badia Fiesolana: European University Institute, pp. 17-18.

[35] For the most comprehensive collection of texts discussing the Status Law see Kántor et al. 2004.

[36] Culic, Irina. 2009a. "Dual Citizenship Policies in Central and Eastern Europe." WP 15, Romanian Institute for Research on National Minorities, Government of Romania.http://www.ispmn.gov.ro/uploads/culic31.pdf Culic, Irina. 2009b. "The 'Romanianness' of Moldovans: History, Practices, and Institutions." Paper presented at the ASN 14th Annual World Convention, Columbia University, New York, 23-25 April 2009.

[37] Bidder, Benjamin. 2010. "Romanian Passports For Moldovans: Entering the EU through the Back Door." Spiegel Online International, 13 July 2010. http://www.spiegel.de/international/europe/romanian-passports-for-moldovans-entering-the-eu-through-the-back-door-a-706338.html (last accessed on July 4, 2013)

tries, as well as in other Western European countries.[38] Through the Department for Romanians Abroad (Departamentul pentru Românii de Pretutindeni, DRP) Romania enacts its foreign policy objective of "maintaining and asserting the ethnic, cultural, linguistic, and religious identity of Romanians in the neighbouring countries and the emigration, according to the specific international standards, and of strengthening the relations between Romania and the Romanian communities across borders."[39] Perhaps the most important element of this strategy is the scholarship program, which has been supporting, for the past two decades, thousands of secondary, undergraduate, and graduate students to pursue studies in Romanian high schools and universities. For the academic year 2012-2013, the Romanian state offered 3,000fully funded scholarships, and 3727 tuition free places for Romanian autochthonous ethnics living in the neighbouring countries, and for Romanian citizens residing abroad. Most of them were specifically allocated to the RM (see Table 1. for detailed figures).

Table 1. Romania's education support for Romanians outside the borders. Data for academic year 2012-2013.

	Republic of Moldova		Other countries	
	Full scholarship	**Tuition only**	**Full scholarship**	**Tuition only**
High school – 9th form	800	700	150	150
Undergraduate studies (Licență)	1,000 (700 high school graduates from the RM, 300 from Romania)	1,800	500	405
Master studies	250	300	113	270
Medical professional stage (Rezidențiat)	25	-	112	-
Doctoral studies	25	100	25	2

Total full scholarships: 3,000. Total tuition only: 3,727. Full total: 6,727.
Source: Data compiled by author from Annex 9A of the Order of the Ministry of Education, Research, Youth, and Sports Nr. 4559, 25 June 2012, following Government Decision Nr. 549, 23 May 2012, concerning the approval of places for secondary and university state education in the academic year 2012-2013. "Other countries" are: Albania, Bulgaria, Macedonia, Serbia, Ukraine, Hungary, and "the Diaspora".

[38] Council of Europe. 2001. "Report on the Preferential Treatment of National Minorities by their Kin-State", adopted by the Venice Commission at its 48th Plenary Meeting, Venice, October 19-20, 2001. Published in Strasbourg, October 22, as document CDL-INF (2001) 19.

[39] See the website of DRP, http://www.dprp.gov.ro/

Related discussions regarding the possibility of granting fast-track extraterritorial citizenship to Hungarian ethnics living in neighbouring countries also pointed to the fact that, since the change of regime in 1989, Romania had been restoring non-resident citizenship to former Romanian citizens and their descendants. In 2010, Hungary passed an amendment to the citizenship law that introduced the possibility of simplified acquisition of citizenship by Hungarians living abroad.[40] Except for the language proficiency requirement, the new form of naturalisation copies the Romanian present restitution procedure as facilitated (re-)naturalisation.

Comparisons drawn between the kin-state politics of Romania and Hungary tended to underscore resemblances. Romania's firm reaction to the Status Law was deemed in tension with its own concern for co-ethnics abroad. Analysts and politicians equally pointed to the dual behaviour of Romania as "nationalizing state" with respect to its internal national minorities, in particular to its most numerous and politically mobilized Hungarian minority; and as external "homeland" with respect to ethnic Romanians in Bessarabia and Bukovina.[41] In my understanding, both the historical-political contexts in which the policies were carried out and their form do not hold comparison.

As a starting point I take issue with the terms commonly used to depict the relational setting of nation-states and ethnic/ national minorities, in which kin-state policies are articulated. Here, and earlier in the text, I used inverted commas for the designations "host" and "homeland," because they misrepresent the situation of the actors involved. Individuals belonging to national minorities cannot be "hosted" by the states in which they were born, and which they recognize as their historical native land. They are not guests in their origin country, even less so in their state of birth-right citizenship. Similarly, the ethnic kin-state abroad is not their "homeland", until they move their residence there and start to feel "at home." For

[40] For a collection of position-takings with respect to this move, and Slovakia's reaction, see Bauböck 2010.

[41] Iordachi, Constantin. 2004. "Dual Citizenship and Policies toward Kin-Minorities in East-Central Europe: A Comparison between Hungary, Romania, and the Republic of Moldova." In Kántor, Zoltán et al. (eds), The Hungarian Status Law: Nation Building and/or Minority Protection. Sapporo: Slavic Research Center, Hokkaido University, pp. 239-269.
Iordachi, Constantin. 2009. "Politics of citizenship in post-communist Romania: Legal traditions, restitution of nationality and multiple memberships." In Bauböck, Rainer, Bernhard Perchinig, Wiebke Sievers (eds), Citizenship Policies in the New Europe, 2nd enlarged edition. Amsterdam: Amsterdam University Press, pp. 177-209.

all practical purposes, their homeland is the country in which they were born and live. At the 2000 *Ehtnobarometer* survey carried out by the Research Center for Interethnic Relations, 53% of Hungarians declared that in the first place they consider themselves Transylvanian Hungarians, 15.8% Hungarians with Romanian citizenship, 15.2% Romanian Hungarians, 12.9% Szeklers, and 3.1% other (answering alternatives given). Similarly, at the 1997 *Interethnic relations in the Carpathian Basin* survey carried out by the Department of Sociology at Babeş-Bolyai University in Cluj-Napoca, at the open ended question "What do you consider your native land?" 57% of Hungarians answered Transylvania, and 17.7% Romania. At the question "What do you consider your home?" a massive 68.4 of Hungarians answered Romania, followed by Transylvania with 20.4%.[42]

Similar questions have a different meaning for the citizens of the RM, and for ethnic Romanians in particular,[43] who belong to a different moment of the world time of nations and of nation-states. In brief: Hungarians in Romania were part of Hungarian nineteenth century assimilationist nationalism, Romanians in Bessarabia missed out the process of Romanian nation and state building between 1859 and 1918; Romanian communist authorities repressed Hungarian national identity, Moldovans were created as a titular nationality by the Soviet regime; Romanians in the RM experience a situation of statehood in a recognized "Romanian" state,[44] whereas Hungarians in Romania that of a national minority in a nation state; present Hungarian identity is founded on the trauma of Trianon, present Romanian identity is founded on the triumph of the Great Union of 1918.[45]

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[42] Author's calculations based on original data held as co-author of the surveys.

[43] By ethnic Romanians I refer to the majority ethnic group in the RM. It comprises Moldovans, by the census category system, as well as the designated category of Romanians. According to the Constitution, the official language of Moldova is the Moldovan language with Latin script. In his 2007 attacks against Romania, triggered by discontent with Romania's policy of citizenship restitution, President Voronin declared Moldovans in Romania an unrecognized 10 million minority (BBC 2007).

[44] The official policy of Romania towards the RM is one of moral obligation and material and symbolic support, expressed by the syntagm "one nation, two states". The predominant approach of the RM is that of a specific Moldovan people, and of Moldova as a polyethnic, multicultural space. While Moldovans in the RM may claim a separate identity, they also claim to speak Romanian.

[45] On the history, cultural identity and nationhood of Moldovans and the RM see Caşu 2000, Cărăuş 2000, Ciscel 2006, Ionescu 2002, King 1999 and 2003, van Meurs 1994 and 1998. For Moldovanist history see works by Victor Stepaniuc and Vasile Stati.

The essential difference between Romanian and Hungarian kin-state policies, including the acquisition of external citizenship through facilitated (re-)naturalisation, resides in what borders they build and how they do it. Hungary aims at a "unified Hungarian nation" that traverses state borders and encompasses Hungarians abroad.[46] Its policy was devised through a process of multiparty consultation and reflects both the demands of Hungarians abroad and the political divisions inside Hungary.[47] Romania seeks "brotherly states" relations with the RM, and supports energetically RM's effort to access the European Union.[48] Its unification moves were rather practical than symbolical, such as granting passport free travel between the two countries.[49] A political unification with the RM had only marginal appeal in electoral politics in Romania.[50] In a commonly used analytical parlance, the difference between Romanian and Hungarian kin-state policies is that between an ethnic and a statist approach.

The citizenship legislation has never been an issue of public discussion in Romania. The figures of the 2010 Soros Foundation's survey on Romanians' representations about Moldovans display a dominant perception of cultural unity: "Half of the population (51%) stress the cultural unity without reservation, and about one third (34%) mark both similarities and differences between the two populations. [...] [This] minor discourse (which is not dominant and is less articulate at the level of public discourse) [...] does not contest the central thesis (of cultural unity) of the dominant discourse, but rather supports it."[51] There is a general support for political unity

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[46] In Hungarian, "egységes magyar nemzet". See Kántor 2006 for an analysis of the concept of nation in Hungary's Status Law.

[47] See Culic 2006 for an account of the genesis of the Status Law and of related discussions about external citizenship.

[48] Romania never questioned the stateness of the RM, and was the first to recognize RM's declaration of independence in 1991. Romanian leaders have continuously affirmed the sovereignty of the RM. Individually and through EU framework Romania has continuously supported the RM economically and strategically. While the language of brotherhood evolved as the siblings grew up in a Eurocentric neighbourhood, Romania does appear as the big brother in this relationship.

[49] At EU pressure, in 2001 Romania introduced the requirement of international passports for Moldovans. At its accession to the EU in 2007, Romania introduced a visa regime for Moldovans, which provides maximum facilities allowed by Schengen requirements.

[50] The political union with Bessarabia has been historically less important than the issue of Transylvania, before and after 1918. Similarly, the efforts of political and cultural integration of Transylvania far surpassed those deployed for Bessarabia.

[51] Horváth, István. 2011. "Percepţia şi raportarea la diferenţele culturale." In Ghinea, Cristian et al., Republica Moldova în conştiinţa publică românească. Bucureşti: Fundaţia Soros România, pp. 78-9.

as an objective for both Romania (52% of all respondents strongly agree and agree) and the RM (60% of all respondents strongly agree and agree), as well as a congruence between the official position and Romanians' view on unification via common belonging to the EU.[52] All these seem to unfold on a background of confusion about what the RM is about and little interest towards it.[53]

The Romanian Citizenship Law introduced in 1991 offered Romanian citizenship through restitution as of right to *all former Romanian citizens who lost it before 22 December 1989*, without the requirement to establish residence in Romania, and *irrespective of their ethnic belonging*. This provision was conceived as an interim disposition, and, as a result of huge internal, bilateral, and suprastate structural transformation, it was later redefined, through a series of somewhat confused moves, as a right to privileged re-naturalisation (according to Articles 10 and 11, Law 21/1991 republished in 2010).[54] The right to privileged re-naturalisation for citizens who lost their citizenship and for their descendants, irrespective of their ethnicity and residence, of the mode of loss of citizenship, and of the mode of original acquisition of Romanian citizenship, *has been a constant of Romanian citizenship law throughout*.

The Hungarian legislators defined the scope of the Status Law (2001) first by restricting its application to countries awarded territories lost by Hungary as a result of the 1920 Treaty of Trianon now part of the neighbouring countries (Croatia, Slovenia, Yugoslavia – at that time still, Slovakia, Romania, and Ukraine; Austria is missing from the set), and second by defining the recipients of the law as ethnic Hungarians in these countries. The 2010 amendment to the citizenship law, while offering a very similar mode of fast-track naturalisation as the Romanian privileged (re-)naturalisation provision, as by the 2010 version of the republished Law 21/ 1991, differs by introducing Hungarian ethnicity as a fundamental condition.[55] On

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[52] "Republica Moldova în conştiinţa publică românească" (The RM in the Romanian public consciousness). For data and analysis see Ghinea 2011, available at http://www.soros.ro/ro/publicatii (last accessed August 4, 2013). Quoted figures are from page 194. See Liliana Popescu's chapter on knowledge about Moldova and attitudes about unification.

[53] Popescu, Liliana. 2011. "Informarea cetăţenilor români cu privire la Republica Moldova şi atitudini faţă de unire." In Ghinea, Cristian et al., Republica Moldova în conştiinţa publică românească. Bucureşti: Fundaţia Soros România, pp. 83-93.

[54] For the trajectory of the law see its official page on the website of the Romanian Parliament Chamber of Deputies. http://www.cdep.ro/pls/legis/legis_pck.htp_act?ida=1293 (last accessed on July 4, 2013).

[55] The following answer was given by Tamás Wetzel, Hungarian ministerial commissioner for simplified naturalization, in a recent interview (Somogyi 2013), when

another note, the symbolic and ethnic character of the citizenship amendment is reflected also in the fact that citizens naturalized under its provisions were not initially granted political rights, such as the right to vote in national elections. Under the new Electoral Law voted by the Hungarian Parliament on December 23, 2011, non-resident citizens were granted the right to vote for party lists, but not for candidates running in single seat constituencies. In contrast, Romanian (re-)naturalized citizens residing abroad and/or dual citizens were granted the right to vote in Romanian national elections, and all rights and entitlements entailed by legal citizenship, except for those that pertain to residence on the territory. In 2003, the amended Constitution removed the requirement of exclusive Romanian citizenship for holding public office, a modification that took account of the rise in the number of dual citizens, the interest in political participation of Romanians living or working abroad, and the involvement of dual citizens in formal political activities. Only citizenship and residence in Romania have since been conditions of access to public office, including the offices of the President and of Members of Parliament.

Romania criticized the ethnic approach of the Hungarian Law from a statist position, claiming that the relationship between Hungary and Hungarians in the neighbouring countries, envisioned by the Status Law, challenged the sovereignty of the home state, its exclusive citizenship relationship with its own citizens, the territoriality principle, and the assumption of a single basis of loyalty and identity for the citizens of a state.[56] It rebuked the institution of distinctions and advantage differentials among citizens, on its territory, based on ethnicity. The Romanian government considered that the requirement of the declaration to belong to the unified Hungarian nation could not stand for a manifestation of the principle of free choice of national identity, since the Certificate of Hungarian Nationality obtained upon such a declaration would bring the person advantages, including social-economic benefits. Awareness of belonging charac-

asked about whether "Magyarabs [people understood to have Hungarian descent from the 16th century and living in Sudan and Egypt] submitted applications for naturalization": "We got an application from a Sudanese man who lived in Oradea (Nagyvárad) in Romania. Although he spoke good Hungarian, *he could not produce documents about Hungarian ancestors* so we turned down his application, and we follow the same policy with other similar cases." (emphasis mine)

[56] Government of Romania. 2001. "The Official Position of the Romanian Government on the Law on Hungarians Living in the Neighbouring Countries. Commentary Concerning the Position Document of the Hungarian Government on the Law on Hungarians Living in the Neighbouring Countries." Submitted to the Venice Commission.

terizes free choice, which "does not suppose supplementary confirmation from any organization or authority" (p. 5). Through the *Memorandum of Understanding* signed between Hungary and Romania on 22 December 2001, with respect to the implementation of the Status Law, Romania obtained that: "All Romanian citizens, notwithstanding their ethnic origin, will enjoy the same conditions and treatment in the field of employment on the basis of a work permit on the territory of the Republic of Hungary." (Article I.2); the name of the certificate would be "Hungarian Certificate" rather than "Certificate of Hungarian Nationality" (Article I.6); "The Hungarian representative organisations or other entity on the territory of Romania shall not issue any recommendations concerning the ethnic origin or other criteria. (Article I.5);

On its own front, similarly departing from Hungary's ethnic approach, Romania's policies of cultural support for its kin, as displayed in the study scholarship program for example, defines two categories of recipients. First, the policies apply to persons belonging to Romanian national minorities, linguistic minorities, and autochthonous ethnic groups living in the neighbouring countries (Albania, Bulgaria,[57] Macedonia, Serbia, and Hungary), who were never part of the Romanian state. These persons do not hold, and never held Romanian citizenship, so they are not entitled to restitution or re-naturalisation. Second, the policy applies to Romanians understood in a statist sense: Romanian emigrants and their descendants, whether they kept or not their Romanian citizenship, and whether they emigrated before December 22, 1989, or after this date; and Romanian citizens living abroad, who had their citizenship restored or (re-)naturalized by keeping their domicile abroad. While Aromanians in Albania or Timok Vlachs are requested to present proof of Romanian ethnicity, Moldovan and Ukrainian students, considered part of the latter category according to the policies, are not. Their entitlement resides in their status of citizens, former citizens, or their descendants.[58]

[57] Southern Dobrudja or Quadrilater was awarded to Romania in 1913 under the Treaty of Bucharest, and returned to Bulgaria in 1940 under the Treaty of Craiova. Almost all Romanians who settled in the area during this period, and the Bulgarians who settled in Northern Dobrudja, returned to Romania and Bulgaria respectively through a mandatory exchange of population.

[58] See for example the guide to the scholarship program for the academic year 2012-2013: *Metodologia de şcolarizare a tinerilor de origine etnică română şi a cetăţenilor români cu domiciliul în străinătate, în învăţământul din România, în anul şcolar/ universitar* 2012 – 2013, MECTS 4559/2012.

From restitution to privileged (re-)naturalisation

Given the transitory character of the restitution right set by Article 37 of Law 21/ 1991, I favour a lesser reading than do other analysts[59] to its transformation into a right to privileged re-naturalisation, in the context of Romania's accession to the political structures, social space, and labour market of the EU. The move was triggered by administrative failure to deal with the surge in applications for citizenship restitution by Moldovans, after the introduction of passport controls for Moldovans, as Romanians were granted visa free travel in the Schengen space. Government Urgency Ordinance (OUG) 167/ 2001 suspended the article for a period of six months. The law which passed the ordinance provided the following explanation: "Taking into account the fact that, based on existing evidence, the restitutory character of dispositions in Article 35, Law 21/1991 has greatly diminished in time, the application of this article is suspended, following that, for the time being, the respective persons (re-)gain their Romanian citizenship based on Article 10 of the law, by Government decision. During the suspension there will be analysed the modalities to achieve a unitary provision for all former Romanian citizens who lost Romanian citizenship because of various reasons, taking into account also the new context created by the abolition of visa requirements for Romanian citizens who travel in the Schengen space."[60]

Ensuing OUG 68/ 2002 abrogated the restitution article, and moved all restitutions under the same provisions as privileged (re-) naturalisation. The explanation to the ordinance repeated the fact that "existing evidence shows that the reparatory character of dispositions in Article 35, Law 21/1991 has greatly diminished in time, as the applicants most often seek to benefit of its patrimonial effects."[61] A new ordinance introduced in November 2002 suspended privileged (re-)naturalisation for former applicants for restitution for another six months. The explanation for the suspension now stated that it

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[59] Iordachi, Constantin. 2012. "Redobândirea cetăţeniei române în perspectivă istorică: de la restituirea drepturilor cetăţeneşti la primatul cetăţeniei de origine." In Iordachi, Constantin (ed.), Redobândirea cetăţeniei române. Bucureşti: Curtea Veche, pp. 67-151. English version of the chapter, pp. 311-395. Dumbrava, Costica. 2010. "Five Comments on Citizenship Policies in CEE Countries." In Bauböck, R. And Liebich A. (eds), Is There (Still) an East-West Divide in the Conception of Citizenship in Europe? EUI Working Paper RSCAS 2010/19. Badia Fiesolana: European University Institute, pp. 17-18.

[60] Exposition of motives for Law 225/ 2002 to pass OUG 167/ 2001. Emphasis in original.

[61] Exposition of motives for Law 542/2002 to pass OUG 68/ 2002. Almost the same words were used to justify passing Law 165/2003, which suspended restoration of citizenship for six months for the second time.

wanted: "[I]n this period, based on a thorough analysis of the applications made so far and unsolved, to set clear regulations, which will distinguish between the procedure of granting citizenship to former citizens who lost the citizenship in the conditions mentioned above, and their adult descendants, so that there will be removed the grant of citizenship for reasons that are foreign to the aim of the law." The ordinance thus indicated the Romanian government's intention to examine the rightfulness of giving restitution rights to the descendants of former Romanian citizens, who themselves did not suffer unwillful or abusive loss of Romanian citizenship.

The ordinance following the period of suspension, OUG 43/ 2003, finally effected, after more than a decade of steady application of citizenship restitution as reparation, the move from unconditional restitution to privileged (re-)naturalisation. It provided the modes of privileged re-naturalisation, all in the same section in the body of the law. First, citizenship could be granted to former citizens by request, with the option to maintain domicile abroad, and keep the foreign citizenship (Article 10, paragraph one). The applicants were exempted from the requirements to speak the language, have elementary notions of Romanian culture and civilisation, know the Romanian Constitution, and the national anthem. Second, citizenship could be granted to former citizens who lost their citizenship before December 22, 1989, unwillingly or because of reasons that could not be imputed to them, and to their descendants to the second-degree (new Article 10^1). They too could maintain domicile abroad, and keep the foreign citizenship. They were exempted from the requirement to know the Romanian Constitution, and the national anthem, but they had to prove knowledge of Romanian language and elements of Romanian culture and civilisation. A second new Article 10^2, rather bizarrely, allowed the applicants mentioned in Article 10^1 who have been legally residing in Romania for four years (half of the legal residency requirement for regular naturalisation at the time) to apply for re-naturalisation. Another bizarre provision of OUG 43/ 2003 (Article 37^1, abrogated in 2007 by OUG 87/ 2007) restricted the right to free travel abroad on the Romanian passport for citizens (re-)naturalized based on Article 10^1. All these suggest the Romanian government was trying out measures to deter a wave of applications for citizenship restitution from the part of Moldovan citizens on the eve of Romania's access to the EU; the increased recognition of the magnitude and gravity of the phenomenon of mass emigration, which visa free travel to the Schengen space re-enforced; the lack of political will to assign the law the required administrative direction.

Finally, after various trials and rehearsals determined by mobilisation of Moldovan groups, active involvement of the president

of Romania, and increased concern for the situation of Romanian migrants abroad, OUG 147/ 2008 expanded the scope of Article 10, which provides "regular" restitution of citizenship as privileged (re-) naturalisation, to any former citizen who lost Romanian citizenship, *and* to their descendants to the second degree. OUG 36/ 2009 modified the restitution article, so that the basic recipients of restitution as privileged (re-)naturalisation are now "former Romanian citizens who obtained their citizenship by birth or by adoption," instead of "former Romanian citizens who lost their citizenship before 22 December 1989 because of various reasons, or against their will or for other reasons that cannot be imputed to them." Iordachi[62] rightfully notes that this change can be understood as a shift from a "statist" approach to a "descent" approach (thus ethnic) for citizenship restitution. But this can also be interpreted as an alignment of provisions to the fundamental way of acquisition of Romanian citizenship by birthright, through jus sanguinis. Moreover, with the 2008 extension of the right to regular privileged (re-)naturalisation to the descendants to the second-degree, all former Romanian citizens who were not born into Romanian citizenship but became Romanian citizens through the formation of Greater Romania in 1918, and their descendants may apply for privileged (re-)naturalisation under Article 10, instead of Article 10^1. The joint modification of these two articles seems to respond to the generational transformations brought by the passing of time.

OUG 36/ 2009 also extended the scope of Article 10^1 to the descendants of former citizens to the third degree, and eliminated the requirement of knowledge of the Romanian language and basic familiarity with Romanian culture and civilisation. Most analysts interpreted the latter requirement as a sign of ethnicisation of the restitution character of Romanian citizenship law. But the fact that it was required, during 2003-2009, only from persons who had not lived in Romania and do not plan to establish domicile on the territory, and has never been asked at any time from any other category of privileged (re-)naturalisation might also be interpreted differently, from the point of view of citizenship as a political concept. Among all requirements states claim from persons who express the wish to become citizens, functional knowledge of the language is perhaps the only justified requirement necessary to ensure citizen's capacity and

[62] Iordachi, Constantin. 2012. "Redobândirea cetăţeniei române în perspectivă istorică: de la restituirea drepturilor cetăţeneşti la primatul cetăţeniei de origine." In Iordachi, Constantin (ed.), Redobândirea cetăţeniei române. Bucureşti: Curtea Veche, pp. 128. English version of the chapter, pp. 373.

willingness to take part in the act of self-rule and in being ruled. Self-governance is defined by its public character, and by its effect of re-shaping the demos. Being able to express oneself in the official language of the country is the qualifying condition for this. There is also a particular situation in the Romanian case. The Romanian language is also the official language of the country where the vast majority of the recipients of the restitution provision live, the RM.

The position against the ethnicisation was underscored once more in 2012, when ten Romanian MPs advanced a proposal to amend the law so that access to privileged naturalisation is extended to all members of the Romanian Diaspora, as defined by Law 299/2006 concerning the assistance provided to Romanians everywhere. The proposal was rejected because it removed from the claim to privileged naturalisation any objective element of Romanian cultural identity and any form of previous legal link with the Romanian state.

The last years of the 2000s saw not only the stabilisation of restitution as privileged (re-)naturalisation in its most expansive form, culminated with the re-publication of the law in 2010, but also the fluidisation of the administration of the law. Successive ordinances, starting with 2007, simplified the application procedures, set deadline for processing the files, and increased the number of personnel at the Citizenship Commission. By OUG 5/2010 the National Authority for Citizenship (ANC) is set up, dedicated exclusively to the enactment of the citizenship law. As a result, naturalisation figures, which have been stalled at the beginning of the 2000s, took off in 2008 and peaked in 2011 with about 100,000 files admitted and almost 70,000 processed.[63] Based on data provided by the ANC on processed file, the most likely figure for (re-)naturalisations is around 400,000 between 1991 and 2012. The figures are far lower than those circulated by analysts and politicians on the eve of the full liberalisation of EU labour market for Romanian citizens. The scare of "backdoor" entry for Moldovans via Romanian citizenship,[64] which triggered almost "farcical" campaigns to deter Romanian and Bulgarian migrants in

[63] For most recent statistics on naturalisation see Panainte 2013. The study also assesses the administration of the law and points to overlapping activities in the processing of the law and various dysfunctions.

[64] Bidder, Benjamin. 2010. "Romanian Passports For Moldovans: Entering the EU through the Back Door." Spiegel Online International, 13 July 2010. http://www.spiegel.de/international/europe/romanian-passports-for-moldovans-entering-the-eu-through-the-back-door-a-706338.html (last accessed on July 4, 2013)

the UK[65] and the negative reaction of other EU countries,[66] remains unfounded. One may also notice that the figures for privileged naturalisation by Hungary of ethnic Hungarians abroad, both before and after the 2010 amendment allowing external acquisition of citizenship, are much larger than those for privileged (re-)naturalisation by Romania.[67] In 2011 and 2012 there were 370,000 applications for fast-track citizenship (external citizenship for ethnic Hungarians living abroad), and over 320,000 citizenships awarded.[68]

Conclusion

The perusal of the modifications brought to the Romanian Citizenship Law with respect to the restitution provision, since the fall of the communist regime in 1989, inevitably pointed to the main global fluxes that traversed the country, and to its response. The re-making of the political community through a new citizenship law re-settled the country's links with its past, and the premises of its future. Initially, the law and its preceding acts served to redress past injustice. The Romanian state took an inclusive and expansive position, allowing all former Romanian citizens to regain their citizenship, through various ways. Re-naturalisation through repatriation was offered in the first days of the transition, in the name of social justice, democracy, and respect for human rights and liberties. All Romanians who left the country during the communist regime were welcomed home and reinstituted into citizenship rights. The provisional power then introduced the right to re-naturalisation with maintaining the foreign citizenship and the domicile abroad. The 1991 law introduced a transitional and transitory right to citizenship restitution to all former citizens who lost their citizenship against their will and for reasons that could not

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[65] Travis, Alan and Syal, Rajeev. 2013. "Campaign to deter Romanian and Bulgarian immigrants ‚farcical'." The Guardian, January 28, 2013. http://www.theguardian.com/uk/2013/jan/28/campaign-deter-romanian-bulgarian-immigrants-farcical (last accessed August 9, 2013)

[66] Silverman, Rosa. 2013. "German warning over Romanian and Bulgarian migration." The Telegraph, February 6, 2013. http://www.telegraph.co.uk/news/uknews/immigration/9851577/German-warning-over-Romanian-and-Bulgarian-migration.html (last accessed August 9, 2013)

[67] Data presented by Kovács and Tóth (2009: 167) show that between 1998 and 2008 Hungary granted 75,089 naturalisations and re-naturalisations. Naturalisations peaked in 1992 and 1993, with over 13,000, according to OECD data (SOPEMI 2002: 192). Figures citing official data show that between 1991 and 2005, a number of 96,496 Moldovans received Romanian citizenship (Culic 2009b).

[68] According to the declaration of Deputy Prime Minister Zsolt Semjén on January 3, 2013.

be imputed to them, and to their descendants, with the possibility to maintain the foreign citizenship and the domicile abroad. Romania thus devised an institutional closure for its political community that expanded beyond territorial borders, carving its citizenry along generational and historical links, to its modern national foundation.

The reading I gave to the restitution provisions questioned the ethno-national dimension commonly attributed to it. I also hesitated to see an ethnic filter in the modifications it suffered during the past two decades. The Romanian Citizenship Law has never been the object of public debates, and it rarely caused public interrogation.[69] The changes in the law were brought solely through governmental decision by Urgency Ordinances, later approved by the Parliament, and were mainly reactions to contextual pressure or demand, by the EU, the Romanian President, or by mobilized groups of applicants for citizenship restitution. To ascribe to it other master rationale than its original intent of historical redress for past injustice, and the continuous inclusiveness towards all former citizens, has to be cautiously articulated, documented, and contextualized.

What I would like to note in the final paragraph is the consequence of Romania's policy of dual nationality, and of citizenship restitution. Since 1990 Romania has allowed dual citizenship for all its birth-right citizens, and has granted constantly throughout the right to privileged re-naturalisation to former citizens who lost their citizenship, irrespective of their ethnicity, residence, mode of de-nationalisation, and original acquisition of Romanian citizenship. The main beneficiaries of this policy consist of two categories. First, there are the Romanian expatriates, emigrants, and labour migrants. The majority of these, protagonists of the mass international migration generated by global neo-liberal capitalism and human rights' expansion, have suffered loneliness, hardship, discrimination, illegal existence, abuse, separation from their families. The way towards the regularisation of their situation was long and arduous, and mirrored Romania's road to European integration. Second, there are the descendants of former Romanian citi-

[69] The most important of them is related to the 2012 impeachment referendum organized against President Traian Băsescu, echoing the strife between the President and Prime Minister Victor Ponta. The validity of the referendum was questioned following confusion about what represented the base population to establish if quorum had been met: the permanent electoral lists (which comprised only registered voters, who had their domicile in Romania), or the population of all eligible voters, including Romanian citizens with their domicile abroad, who were not included in the permanent electoral lists, and would be added on the supplementary lists compiled at voting centres abroad. This raised the question whether they should be entitled to vote in national elections and referenda, with the majority opinion that they should have the same rights as all other Romanian citizens.

zens who lost their citizenship with the loss of territories. The majority of these were part of the former Soviet Union, and actors in the drama unfolded after its demise. They too suffered dislocation, loss, and all the trials of post-communist transformation. Like the former, many of them are at work abroad, separated from their homes and families.

I argue that the Romanian dual citizenship policy has reflected the porosity of borders that characterises this phase of globalisation, and the rescaling of institutions and processes driven by dominant political and economic interests. It rightfully maintained its expansive scope, by allowing both birth-right citizens, and (re-)naturalised citizens, to obtain regular status in the countries where historical junctions enabled and determined them to arrive. By this, they are effecting one of the stated goals of the European Union: the enactment of European citizenship through movement across national borders. Presently, as of right. To give voice to one of them: "If all of our citizens obtained the possibility to cross freely the EU border tomorrow, I assure you that the number of legal or illegal Moldovans in the EU would stabilize. Confident that they can leave and come at home anytime, many Moldovans will return to their children, aging parents, will invest the money they have earned in small businesses that would allow them to avoid having to leave abroad for many years, thus endangering the existence of their families."[70]

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[70] This comment was left on the internet discussion forum of acum.tv on August 1, 2010, to an article discussing the warning against "backdoor" entry into the EU of Moldovans via Romanian citizenship.

http://www.spiegel.de/international/europe/romanian-passports-for-moldovans-entering-the-eu-through-the-back-door-a-706338.html (last accessed on July 4, 2013)

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