

LOSS OF ROMANIAN CITIZENSHIP

Viorica-Mihaela FRÎNTU¹

ABSTRACT: *THE WAYS OF LOSING THE ROMANIAN CITIZENSHIP ARE: A) THE WITHDRAWAL OF THE ROMANIAN CITIZENSHIP, B) APPROVAL OF THE RENUNCIATION OF THE ROMANIAN CITIZENSHIP, C) IN OTHER CASES PROVIDED BY LAW (ART. 24 OF LAW NO. 21/1991).*

KEYWORDS: *LOSS OF ROMANIAN CITIZENSHIP, WITHDRAWAL OF ROMANIAN CITIZENSHIP, APPROVAL OF RENUNCIATION OF ROMANIAN CITIZENSHIP*

In the specialty literature, citizenship has been defined as the permanent political and legal link between the natural person and the state, proving the natural person's affiliation to that state and assigning to him the possibility to be the holder of the rights and duties provided by the Constitution and state laws.²

According to art. 1 of Law no. 21/1991 of the Romanian citizenship, republished³, modified and completed⁴, the Romanian citizenship represents the connection and the affiliation of a natural person to the Romanian state.

The ways of losing the Romanian citizenship, according to art. 24 of Law no. 21/1991 of the Romanian citizenship, republished, modified and completed, are:

- a) withdrawal of Romanian citizenship;
- b) approval of the renunciation of the Romanian citizenship;
- c) in other cases, provided by law.

1. *Withdrawal of Romanian citizenship*

Withdrawal of Romanian citizenship appears as a sanction, which occurs in certain cases provided by law. It should be mentioned that, according to art. 5 para. (2) of the Constitution, Romanian citizenship cannot be withdrawn from the person who acquired it by birth.⁵

According to art. 25 of Law no. 21/1991, the Romanian citizenship can be withdrawn to the person who:

- a) abroad, commits particularly serious acts by which the interests of the Romanian state or Romania's prestige are harmed;
- b) abroad, enlists in the armed forces of a state with which Romania has severed diplomatic relations or with which it is at war;
- c) obtained Romanian citizenship by fraudulent means;
- d) is known to have links with terrorist groups or has supported them, in any form, or has committed other acts that endanger national security.

¹ Lecturer PhD, Faculty of Education Sciences, Law and Public Administration "Constantin Brâncuși" University of Târgu-Jiu

² Marieta Safta, *Drept constituțional și instituții politice, vol. I, Teoria generală a dreptului constituțional. Drepturi și libertăți*, 6th Edition, revised, Hamangiu Publishing House, Bucharest, 2020, p. 185.

³ Published in the Official Gazette no. 44 of March 6, 1991, republished in the Official Gazette no. 576 of 13 August 2010.

⁴ Law no. 21/1991 republished was amended and supplemented by: Law no. 2/2013 regarding some measures for the relief of the courts, as well as for the preparation of the implementation of Law no. 134/2010 on the Code of Civil Procedure, published in the Official Gazette. no. 89 of February 12, 2013; Law no. 44/2013 for the amendment of the Romanian Citizenship Law no. 21/1991, published in the Official Gazette. no. 148 of March 20, 2013; Government Emergency Ordinance no. 37/2015 for the amendment and completion of the Romanian Citizenship Law no. 21/1991, published in the Official Gazette. no. 697 of September 15, 2015; Law no. 1/2017 regarding the elimination of some taxes and tariffs, as well as for the modification and completion of some normative acts, published in the Official Gazette. no. 15 of January 6, 2017; Government Emergency Ordinance no. 65/2017 for the amendment and completion of the Romanian Citizenship Law no. 21/1991, published in the Official Gazette. no. 760 of September 25, 2017; Government Emergency Ordinance no. 82/2021 for the completion of the Romanian Citizenship Law no. 21/1991, published in the Official Gazette. no. 731 of July 26, 2021.

⁵ Marieta Safta, *op. cit.*, p. 197.

Withdrawal of citizenship, being a sanction, is strictly personal. It produces effects only with regard to the person guilty of committing any of the deeds provided in art. 25, and not in respect of the spouse or children of that person.⁶

1.1. *Procedure for withdrawing Romanian citizenship*

According to art. 32 para. (1) of Law no. 21/1991, any authority or person who is aware of the existence of a reason for the withdrawal of Romanian citizenship may notify, in writing, the Commission for Citizenship, having the obligation to present the evidence at its disposal.

The President of the Commission establishes, according to art. 32 para. (2) of the law, by resolution, the term at which the withdrawal notification will be debated, ordering at the same time:

a) requesting the point of view of the competent authorities regarding the fulfillment of the legal conditions regarding the withdrawal of citizenship;

b) inviting the person who filed the complaint, as well as any person who could provide useful information to resolve the request;

c) summoning the person in question to the known domicile or, if it is not known, by publishing the summons in the Official Gazette of Romania, Part III. The summoning of the person takes place at least 6 months before the deadline set for the debate of the notification.

At the deadline set for the debate of the notification, the Commission verifies the fulfillment of the necessary conditions for the withdrawal of the Romanian citizenship. It hears the persons summoned according to par. (2) lit. b), as well as the person concerned. The absence of the legally cited person does not prevent the development of the procedures for withdrawal of Romanian citizenship [art. 32 para. (3)]. If it finds that the legal conditions for withdrawal of Romanian citizenship are met or, as the case may be, the Commission will propose to the President of the National Authority for Citizenship, through a reasoned report, to approve the withdrawal of Romanian citizenship or, as the case may be, to reject the notification [art. 32 para. (4)]. The President of the National Authority for Citizenship, finding that the conditions provided by law are met, issues the order for withdrawal of Romanian citizenship, respectively for rejecting the notification of withdrawal of citizenship, if he finds that the conditions provided by law are not met [art. 32 para. (5)].

The order of the president of the National Authority for Citizenship for admitting or rejecting the notification of withdrawal of citizenship is communicated to the person concerned, as well as to the person who made the notification, by registered letter with acknowledgment of receipt [art. 32 para. (6)]. The order may be challenged, within 15 days from the date of communication, at the administrative and fiscal contentious section of the court of the domicile or, as the case may be, the residence of the applicant. If the applicant does not have his domicile or residence in Romania, the order can be challenged, within the same term, at the Administrative and Fiscal Litigation Section of the Bucharest Tribunal. The decision of the tribunal is final and irrevocable [art. 32 para. (7)].

The loss of the Romanian citizenship by withdrawal takes place on the date of issuing the order of the president of the National Authority for Citizenship approving the withdrawal of the Romanian citizenship [art. 32 para. (8)].

2. *Approval of the renunciation of the Romanian citizenship*

Giving up Romanian citizenship is an amicable way to resolve issues related to a person's legal status.⁷

For good reasons, according to art. 27 of Law no. 21/1991, it is possible to approve the renunciation of the Romanian citizenship to the person who has reached the age of 18 and who:

⁶ Bianca Selejan-Guțan, *Drept constituțional și instituții politice, vol. I*, 4th Edition, revised and added, Hamangiu Publishing House, Bucharest, 2020, p. 207.

⁷ See Ioan Muraru, Elena Simina Tănăsescu, *Drept constituțional și instituții politice, vol. I*, 14th Edition, C.H. Beck, Bucharest, 2011, p. 128.

- a) is not a culprit or accused in a criminal case or does not have to execute a criminal punishment;
- b) is not pursued for debts to the state, natural or legal persons from the country or, having such debts, pays them or presents appropriate guarantees for their payment;
- c) has acquired or applied for and has the assurance that he will acquire another citizenship.

According to art. 28 para. (1) of Law no. 21/1991, the loss of Romanian citizenship by approving the renunciation does not produce any effect on the citizenship of the spouse or minor children. In par. (2) of the same article stipulates that, however, if both parents obtain approval to renounce Romanian citizenship and the minor child is with them abroad or leaves the country with them, the minor loses Romanian citizenship together with his parents, and if they lost their Romanian citizenship on different dates, on the last of these dates. The minor child who, in order to reside abroad, leaves the country after both parents have lost their Romanian citizenship, loses their Romanian citizenship on the date of their departure from the country.

The minor child, entrusted by court decision to the parent who resides abroad and renounces citizenship, loses Romanian citizenship on the same date as the parent to whom he was entrusted and where he lives, provided the consent of the other parent, Romanian citizen [art. 28 para. (4) of Law no. 21/1991].

For children who have reached the age of 14, their consent is required.

2.1. The procedure for approving the renunciation of Romanian citizenship

According to art. 31 paragraph (1) of Law no. 21/1991, the application for renunciation of Romanian citizenship, accompanied by the proving documents provided in art. 27, shall be submitted to the technical secretariat of the Commission or to the diplomatic missions or consular offices of Romania in the country where the applicant has his domicile or residence.

In par. (2) of the same article stipulates that, if he finds that the documents necessary to resolve the request are missing, the President of the Commission shall, by resolution, request that the file be completed. If, within 6 months of the communication, the necessary documents are not submitted, the application shall be rejected as unsupported.

If the file contains all the documents necessary to resolve the request for renunciation of Romanian citizenship, the President of the Commission, by resolution, orders the request for relations from any authorities regarding the fulfillment of the condition provided, as the case may be, in art. 27 lit. a) and b) of the law, according to art. 31 para. (3) of Law no. 21/1991.

The President of the National Authority for Citizenship orders, by order, the approval or, as the case may be, the rejection of the request for renunciation of the Romanian citizenship, based on the report of the Commission, by which it finds the fulfillment or non-fulfillment of the conditions provided in art. 27 of the law [art. 31 para. (4)]. The order of the president of the National Authority for Citizenship to approve or, as the case may be, to reject the application for renunciation of Romanian citizenship is communicated to the applicant, by registered letter with acknowledgment of receipt [art. 31 para. (5)].

The order to reject the application for renunciation of Romanian citizenship can be appealed, within 15 days from the date of communication, to the Bucharest Tribunal. The decision of the tribunal can be appealed to the Administrative and Fiscal Litigation Section of the Bucharest Court of Appeal [art. 31 para. (6)].

The loss of Romanian citizenship by renunciation takes place on the date of issuing the certificate of renunciation of Romanian citizenship [art. 31 para. (7)]. Proof of renunciation of Romanian citizenship is made by a certificate issued by the secretariat of the Commission, for persons domiciled in Romania, or by diplomatic missions or consular offices of Romania, for persons domiciled or residing abroad, based on the order of the President of the National Authority for Citizenship [art. 31 para. (8)].

Failure to present the certificate of renunciation of Romanian citizenship, within 6 months from the date of communication of the order of the President of the National Authority for Citizenship approving the application for renunciation of Romanian citizenship, entails the termination of the order of the person concerned [art. 31 para. (9)]. The finding of the cessation of the effects of the order approving the

renunciation of the Romanian citizenship towards the persons who did not appear in order to issue the certificate of renunciation of the Romanian citizenship within the term provided in par. (9) shall be made by the president of the National Authority for Citizenship, upon notification of the specialized directorate within the authority or, as the case may be, by the head of the diplomatic mission or of the consular office [art. 31 para. (10)].

3. *Loss of Romanian citizenship in other cases provided by law*

3.1. *The minor child, a Romanian citizen, adopted by a foreign citizen*

In accordance with art. 29 of Law no. 21/1991, the minor child, Romanian citizen, adopted by a foreign citizen, loses the Romanian citizenship, if, at the request of the adopter or, as the case may be, of the adopters, he acquires their citizenship under the conditions provided by the foreign law. A minor who has reached the age of 14 is required to give consent. The date of loss of Romanian citizenship is the date of the minor's acquisition of the adopter's citizenship. In case of declaration of nullity or cancellation of the adoption, the child who has not reached the age of 18 is considered to have never lost his Romanian citizenship.

3.2. *Establishing the parentage of the child found on the Romanian territory*

Law no. 21/1991 provides, in art. 30, that in the situation provided in art. 5 para. (3)⁸ the found child loses the Romanian citizenship, if before the age of 18 his filiation was established towards both parents, and they are foreign citizens [para. (1)]. Romanian citizenship is also lost if the affiliation has been established only with respect to a parent of a foreign citizen, the other parent remaining unknown [para. (2)]. Date of loss of Romanian citizenship under the conditions of par. (1) and (2) is the date of establishing the filiation of the child [para. (3)].

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⁸ According to art. 5 para. (3) of Law no. 21/1991, the child found on the territory of the Romanian state is considered a Romanian citizen, until proven otherwise, if none of the parents is known.