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**DARI Victoria**

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NATIONAL REGULATIONS AND COMPARATIVE LAW**

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**Scientific coordinator:**

1. ZAPOROJAN Veaceslav, PhD in law, associate professor

**Official references:**

1. AVORNIC Gheorghe, dr. habil. in law, university professor, University of European Political and Economic Studies “C. Stere”
2. BALAN Oleg, dr. habil. in law, university professor, Academy of Public Administration
3. CÂRNAȚ Teodor, dr. habil. in constitutional law, university professor, State University of Moldova
4. GUCEAC Ion, academician, dr. habil. in law, university professor, The Academy of Science of Moldova

**Composition of the Commission for public defense of the doctoral thesis:**

1. AVORNIC Gheorghe, dr. habil. in law, university professor, University of European Political and Economic Studies “C. Stere”
2. ZAPOROJAN Veaceslav, PhD in law, associate professor, scientific coordinator

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**Scientific Secretary of the Public Defense Commission of the Doctoral Thesis,**  
ZAPOROJAN Veaceslav, PhD in law, associate professor

**Scientific coordinator,**  
ZAPOROJAN Veaceslav, PhD in law, associate professor

**Author:** DARI Victoria

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## CONCEPTUAL GUIDELINES OF RESEARCH

**The actuality and the importance of the approached topic.** The transition from the ideology of human rights to the legal change of the rules of their protection called for finding legal solutions for an effective guarantee of human rights, in the interest of the particularities of the right to citizenship, the need to link national legislation to international standards in this field, which produce an imminent impact of constitutionalizing the right to citizenship, through the need to rethink the legal nature, which is a dynamic one and is influenced by the degree of development and democratization of society.

Citizenship is a concept that requires a multiaspectual treatment, given the fact that it presents itself as a legal institution, as a legal status, as a subjective right and as a social role. Namely the multiaspectual character of the citizenship institution provokes a series of discussions and invokes many problems in the legal and sociological literature of the notion of citizenship. According to Cezar Bîrzea, "... citizenship is one of the concepts, which suffers from its own popularity..." [23, p. 15].

Although citizenship is an institution governed by the domestic law of each state, it is also considered a matter of international law, starting from the consequences of having a citizenship by a person in conditions of transnational mobility, free movement of persons and to facilitate contacts between people. The normative acts regarding the right to citizenship regulated on the international arena, inevitably enter into competition with each other. In this respect, in addition to domestic law, regulations are needed at international and in particular European level, given that the right to citizenship can no longer remain in the discretion of states alone. The regulation of the right to citizenship remains within the limits of national legislation, but it must fall within a certain regulatory framework at the interstate level, only under such conditions does the legislation become a standard, which cannot be ignored by the state community.

"Citizenship is a permanent political and legal link, unlimited in time and space, between individuals and the state, a link that signifies their membership in the state of the Republic of Moldova, and is expressed by all the rights and obligations guaranteed by the state" [109].

International standards on the institution of citizenship come to develop and enrich the content of the right to citizenship. Starting from the fact that the granting of the right to citizenship is an attribute of the state, in this line relations are created between states that can give rise to conflicts of competence, therefore, there is a need for legal systems to be harmonized internationally to avoid conflicts of law.

We therefore note that international concerns about the right to citizenship are more about creating the conditions for people not to be deprived of their citizenship and to enjoy the protection that citizenship offers them, all of which are embodied in human rights treaties, in this regard, we

also mention the European Convention on Citizenship [62], which stipulates that each state determines through its legislation who its nationals are, stating that it must be in accordance with applicable international conventions, customary law and general principles of the right recognized in the matter of the right to citizenship.

All these assessments constitute genuine reasoning in favor of updating this paper which accompanies the mobilization of our legislator to direct national legislation to the requirements of the European Conventions in the field of citizenship, and especially to improve the practical application of these provisions on the territory of Moldova.

The modern trend is to treat the concept of the essence of citizenship as a dynamic, undefined one, which summarizes the problems of the relationship between state and citizen, and the reflection in local scientific literature of current trends in the development of the right to citizenship would boost research in Moldovan legal doctrine the conceptual theory of the essence of the notion of citizenship.

"Citizenship is a permanent political and legal link, unlimited in time and space between individuals and the state. A connection that signifies their belonging to the state of the Republic of Moldova, and is expressed through the set of mutual rights and obligations that the state guarantees"[146, p. 286].

In the Republic of Moldova, citizenship, as a public institution, as a fundamental human right, includes the set of legal norms, which regulate the way of acquiring the quality of citizen or its loss. These norms are found in the law of citizenship of the Republic of Moldova no. 1024/2000 [109]. On the other hand, citizenship is a legal condition of belonging of the individual to a state, a status of the citizen confirmed by individual rights and obligations, which arise from the subjective rights guaranteed by the state, by the Constitution. The current situation of Moldovan society poses fundamental problems for domestic legal science, in order to identify solutions that would increase the effectiveness of constitutional guarantees to ensure the realization of fundamental human rights and freedoms in general, and the right to citizenship in particular.

The institution of citizenship was established by the declaration of the Sovereignty of the Soviet Socialist Republic of Moldova of June 23, 1990, by art. 8, republican citizenship was established in our country [74].

Namely, the Declaration of Sovereignty of the Moldavian S.S.R., by establishing the republican citizenship and by declaring the supremacy of the republican legislation over the union one, created the legal premises for the adoption in one year of the Law on the citizenship of the Republic of Moldova no. 596-XII of 05.06.91, entered into force on July 4, 1991 [113], which subsequently established the sole citizenship on the territory of our country, and the union citizenship was abrogated. It is worth mentioning that this law defined in art. 1 institution of

citizenship through the rule of law: "Citizenship of the Republic of Moldova determines the permanent political and legal relations between a natural person and the state of the Republic of Moldova, which find expression in their mutual rights and obligations" [113].

At international level, European standards in the field of citizenship are found in the European Convention on Citizenship [62]. The law of citizenship of the Republic of Moldova, in force, is a modern legislation, not below the level of the most advanced regulations in the field, in which the criteria based on it are well and balanced articulated, to function efficiently in the international flow, taking into account international treaties, to which the Republic of Moldova makes part.

The actions of accession of the Republic of Moldova to international bodies and instruments, aims to facilitate the reform and establishment of the set of elements for the protection of the right to citizenship as a fundamental right in the Republic of Moldova.

The ratification of the European Convention on Citizenship by the Republic of Moldova culminated in the adoption of a new Law on Citizenship of the Republic of Moldova no. 1024/2000 and the repeal of the old one, but some moments have been overlooked by the legislator, which imposes the need to bring together legislation on citizenship to EU standards, an issue studied and set out in this thesis, with the invocation of those proposals in this sense.

The right to citizenship is an exclusive quality of a concern of domestic law, because the state has the prerogative to determine who its citizens are, but at the other pole of the freedom of states to legislate the right to citizenship is conditioning - this legislation corresponds to the general principles recommended by the Convention. European Union on Citizenship and accepted by the other States Parties, as well as with the International Treaties to which the Republic of Moldova is a party.

The importance of the research is due to theoretical and practical meanings of the constitutional obligations towards the right to citizenship, delimited in the system of fundamental human rights and freedoms in the Republic of Moldova. At the same time, considering the provisions of art. 17 of the Constitution of the Republic of Moldova and art. 24 of the Law on Citizenship of the Republic of Moldova no. 1024/2000, recommends practical concern in matters related to the conformity of citizenship and the plurality of citizens, regulated by the legislation of the Republic of Moldova, international law and European normative acts regarding its implementation and protection. The concordance of the norms of the national legislation with those of international law functions as one of the basic guarantees of human rights, especially of the right to citizenship, in the Republic of Moldova.

The right to citizenship is the subject of many studies and research in Western scientific literature, however, despite the abundance of studies on various aspects of citizenship, we can not

see the existence of a common theoretical vision of citizenship, but conversely, the existence of multiple concepts lead to the ambiguity of understanding the institution of citizenship.

Although most researchers in the field believe that the institution of citizenship appeared with the first revolutions that led to the formation of bourgeois states, we attest to the fact that Aristotle was still the one who tried to define the notions of "citizenship" and "citizen". He put forward the idea that "the status of citizen was granted only to those who took part in decision-making and the exercise of power" [6, p. 552].

**The purpose and objectives of the thesis.** The aim proposed in this paper is to conceptually address the essence of the notion of citizenship, by the need to expand the area of investigations given modern trends to treat this concept as a dynamic one, which summarizes the problems of the relationship between state and citizen. Assessing the adequacy of constitutional guarantees for the protection of the right to citizenship and identifying the creation of conditions under which people should not be deprived of citizenship, benefit from the protection afforded by citizenship, and their materialization through human rights treaties. Multidimensional research of the citizenship institution, through the prism of the national and international normative framework in the need for the accession of the Republic of Moldova to the European Union. In achieving the proposed goal, it was necessary to achieve the following **research objectives** in order to find the scientific solution to the problem:

- analysis of the doctrinal interest regarding the right to citizenship through scientific research in the Republic of Moldova;
- evaluation of the citizenship institution in the Republic of Moldova;
- approaching the right to citizenship through the prism of scientific materials from other states;
- the legal and sociological problematization of the concept of citizenship;
- the historical analysis of the institution of citizenship through the prism of the evolution of statehood during the social, economic, political changes;
- to highlight the role of international standards regulating the right to citizenship, within the applicable national regulations;
- the evolution of the institution of citizenship in the Republic of Moldova, a new dimension defined in terms of the rule of law;
- arguing the fundamental character of the right to citizenship, confirmed by international acts that proclaim the fundamental human rights;
- analysis of the normative guarantees of the right to citizenship by comparison in the systems of continental and Anglo-Saxon law.

The objectives established and highlighted above, give the approached topic not only a theoretical but also a practical utility, by demonstrating the way in which it is achieved in the transcription in jurisprudence of the regulations enshrining the guarantees of the right to citizenship, and the principle of priority application of international human rights regulations.

The scientific novelty of the paper consists in the fact that the application in the internal legal order of the constitutional guarantees of the right to citizenship has been identified and analyzed, highlighting the shortcomings in implementation and formulating solutions to remove the deficiencies found. In order to formulate concrete proposals, studies of the Romanian, Moldovan, Russian, French, English doctrine were carried out, an important place being given to the study of international norms and conventions to which the Republic of Moldova makes part.

The originality and novelty of the paper are due to scientific results, as follows:

- a complex study of the concept of the right to citizenship was carried out, definitions of the right to citizenship and by the citizen were formulated;
- the legal framework of the relations between the Republic of Moldova and the European Union in the field of the right to citizenship was analyzed;
- the particularities of the right to citizenship in national regulations at international standards in the field of citizenship were highlighted, being examined the positive aspects of multiple citizenship, as well as the negative ones in the Republic of Moldova and in the comparative law;
- the set of legal norms applicable to the field of citizenship of the Republic of Moldova and the comparative law regarding citizenship were ascertained and studied, being established the stages of development of the legislation in the field;
- the defining features of the legal status of persons holding one citizenship and those holding more than one citizen were outlined;
- the gaps and legal problems in the Republic of Moldova were distinguished, some recommendations were proposed to adjust the legislation on citizenship to European standards.

**Research hypothesis.** The problems existing in determining the legal nature of citizenship start from the different treatment of the notion of citizenship or the fact as it is perceived in a political or legal sense, it is important that there is an indissoluble link between the two aspects. The fundamental character of the right to citizenship is proclaimed by the Constitution, as well as by international acts to which the Republic of Moldova is a signatory. "Everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality" [75].

The right to citizenship is a fundamental subjective right essential to life, liberty and dignity, which guarantees the free development of the human personality, emphasizing other human rights

and freedoms, "Fundamental rights are those rights, the holders of which are citizens, essential for the fulfillment the purposes of society, indispensable for the free development of the personality, established and guaranteed by the Constitution and the laws of the state" [179, p. 447].

The important scientific problem solved by the research lies in the scientific substantiation of the concept of the right to citizenship in the context of constitutional guarantees that ensure the consecration and implementation of this principle, which determines the improvement of constitutional law to ensure effective and complete constitutional requirements. .

General methods, own methods, as well as those specific to the legal sciences were applied to the research of the studied field, among which were:

➤ the historical method, the research of citizenship and the right to citizenship in its perspective and historical evolution, in different social orders, being influenced throughout its history by social, economic, political changes, to condition the basic ideas in its legal consolidation, as an element of the state, going through stages of development and flowering, but also stagnation, because the state in its evolution accompanies the evolution of people representing for them a way of organization. And the right to citizenship developed in parallel with the development of society and statehood;

➤ the legal method applied in revealing the normative content of the citizenship institution in constitutional law;

➤ the sociological method, used to identify the purpose of organizing and interpreting informative data from national and international practice, which make it possible to assess how to regulate the institution of the right to citizenship, to assess how effective it is in terms of rules in force, with determination possible gaps and problems in the application of legal rules;

➤ the comparative-legal method, which allowed the analysis of the practices of the constitutional legal regulation of the right to citizenship, at national and international level; identifying the similarities and differences between our legislation and that of other states, in the field subject to research. That method makes it possible to determine the extent to which the institution of the right to citizenship of the Republic of Moldova meets the pre-established criteria at the international level;

➤ the method of analysis used to approach the right to citizenship and the analysis of its normative guarantees in different comparatively analyzed legal systems, consisting of interdependent elements, in which the institution of the right to citizenship is studied, constitutional guarantees and its limits, their interaction and correlation, as elements of constitutional law;

➤ the logical method, necessary to explain the studied subject, by passing from the particular to the general the form of reasoning, as well as the conclusion resulting from the premises aiming to identify the key characteristics when formulating the conclusions and recommendations;

➤ the method of contradictory arguments, the transformation in time of the action of the right to citizenship, as form and content.

The theoretical importance and the applicative value is determined by the scientific novelty and the topicality of the research topic; the results can be used in the elaboration of some synthesis works, because they present fundamental rules in close connection with the mechanisms established at constitutional level in order to ensure the observance of these rules.

The applied scientific procedures allowed the obtaining of theoretical-scientific information to examine the right to citizenship through the prism of national and international.

The content of the thesis is consolidated on the normative framework, provided in the Constitution of the Republic of Moldova, in the constitutional norms, organic laws, normative acts of other states. A number of international tools have been used: *Universal Declaration of Human Rights* from 1948, *International Convention on Nationality* from 1997, acts of the European Union, etc.

The scientific research was based on and constituted the theoretical provisions and conclusions, contained in the works of local and foreign researchers, on the general issues of the rule of law, constitutional law, the right to citizenship, in particular, in which various aspects are studied, in the field of guaranteeing the right to citizenship. Thus, the theoretical aspect of the work is supported by the ideas presented in the works signed by Guceac Ion, Arseni Alexandru, Cârnaț Teodor, Popa Victor, Anghel Ion, Babără Valeriu, Bantuș Igor, Berceanu B., Zaporojan Veaceslav, Bîrzea Cezar, Catană Vitali, Ciocîrlan Gheorghe, Авакьян С., Давудова Д., Изотова Е., Калинин В., Черниченко С. to.

The applicative value of the paper can be summarized in such aspects, as follows: theoretical-scientific, normative-legislative and legal-didactic.

Theoretically-scientifically, the content of the constitutional and international guarantees, applicable in the legal system of the Republic of Moldova, regarding the protection and realization of the right to citizenship is outlined and analyzed.

In the normative-legislative plan, the legal framework is analyzed in the sphere of regulating the guarantees that ensure the observance of the right to citizenship, as well as the evolution of the national and international legislation in the researched field.

In the legal-didactic plan, the analysis of the constitutional guarantees in the matter of citizenship will be useful for the university teachers.

**Thesis structure.** The structure of the doctoral thesis was determined by the purpose and objectives of the research. The thesis includes the annotation in three languages, the list of abbreviations, the introduction, four chapters, general conclusions and recommendations, the bibliography and the author's CV.

**Thesis publications.** The results of the research were reflected in 7 scientific papers of the author published in the form of articles in specialized journals and in the materials of international and national conferences and symposia.

**Keywords:** Constitution of the Republic of Moldova, right to citizenship, jus sanguinis, jus soli specific guarantees of the right to citizenship, constitutional guarantees, acquisition of citizenship, ways of acquiring citizenship, international standards, institution of citizenship, equality in social life, evolution of the right to citizenship.

## CONTENT OF THE THESIS

The **introduction** reflects the topicality and importance of the topic, of the research object, determines the main purpose and objectives, the research hypothesis; the synthesis of the research methodology and the justification of the chosen research methods, as well as the summary of the thesis compartments.

**Chapter 1**, entitled *Analysis of scientific research in the field of the right to citizenship*, addresses the scientific interest in citizenship, how to acquire citizenship and its loss, related to its acquisition on the principle jus sanguinis, jus soli, naturalization or granting of citizenship upon request, as well as the determining factors and some elements of the comparative law.

The specific character of the citizenship institution is explained by the fact that it integrates elements specific to several branches of law and is expressed after, as I. Deleanu states as "a legal institution at the confluence of several normative legal subsystems" [79, p. 352] .

The legal doctrine registers several theories regarding the concept of citizenship, and especially, of its legal nature. The most frequent and complicated problems concern the identification of the legal nature, which is of particular importance, because determining the legal nature means framing a legal phenomenon in one category or another of law, and its correct determination would provide the possibility to know the essence of this legal phenomenon.

The institution of citizenship is a concept in evolution and continuous development, and the aspirations of the Republic of Moldova to join the EU, could in the future drive changes in the institution of the right to citizenship.

Citizenship is a quality or a status, which by obtaining it, you enjoy fundamental civil rights and freedoms, but you also have some duties towards the state of which you are a citizen, there is the issue of studying the content of the right to citizenship.

In **Chapter 2** of the paper, called *Conceptual Highlights on the Right to Citizenship*, it presents an analysis through the prism of several subsystems of law, having a complex character, treated multiaspectually.

Citizenship is a concept that requires a multiaspectual treatment, given the fact that it presents itself as a legal institution, as a legal status, as a subjective right and as a social role. Namely the multiaspectual character of the citizenship institution provokes a series of discussions and invokes many problems in the legal and sociological literature of the notion of citizenship.

The legal notion of citizenship results mainly from constitutional law, and in this chapter were analyzed the theories and scientific currents in the doctrine of constitutional law on the legal nature of the right to citizenship.

The legal doctrine registers several theories regarding the concept of citizenship, and especially, of its legal nature. The most frequent and complicated problems concern the

identification of the legal nature, which is of great importance, because the determination of the legal nature means to frame a legal phenomenon in one category or another of the law, and only the correct determination of the legal nature offers the possibility to know the essence of this legal phenomenon.

**Chapter 3**, entitled *Particularities of citizenship in national regulations*, divided into 5 paragraphs, addresses the evolution of the institution of citizenship in the Republic of Moldova, as an independent and sovereign state since August 27, 1991, with the adoption of the Declaration of Independence of the Republic of Moldova, this acquiring a new dimension, with the beginning of an evolution.

Namely the declaration of the Sovereignty of Moldovan S.S.R., by establishing the republican citizenship and by declaring the supremacy of the republican legislation over the union one, created the legal premises for the adoption on 05.06.1991 of the Law on citizenship, entered into force on 04.07.1991, which subsequently established unique citizenship on the territory of our country.

By adopting the Constitution of the Republic of Moldova on July 29, 1994, the institution of citizenship was strengthened, and the constitutional guarantees of the right to citizenship were included in art. 17, which stipulates that "No one may be arbitrarily deprived of his nationality nor denied the right to change his nationality" [50].

The right to citizenship is exclusively a matter of domestic law, because each state has the right to determine who its citizens are, but at the same time at the other pole of the freedom of states to legislate the right to citizenship is conditioning - this legislation should be in line with the general principles recommended by the European Convention on Citizenship and accepted by the other States Parties, as well as by the International Treaties to which the Republic of Moldova is a party.

**Chapter 4**, entitled *The Genesis of the Right to Citizenship in Comparative Law*, contains 4 paragraphs and represents a study on the exercise of normative guarantees of the right to citizenship in the two systems of law analyzed comparatively: continental and Anglo-Saxon law. The institution of citizenship and the right to citizenship in other states is revealed, including Romania, France, Great Britain, Germany, Holland, Portugal, etc.

The right to citizenship in continental states is governed by domestic law and numerous international conventions.

The legislation of the states of the Anglo-Saxon system of law offers the right to acquire citizenship in two ways: by virtue of birth and naturalization.

This chapter analyzes the right to citizenship of the states of the continental law system where there was a tendency to liberalize legal regulations on the right to citizenship, as a result, the

acquisition of citizenship being conditioned by legal access to the state, the right to access this territory, legal residence, right to work.

In general, national laws on citizenship are based on the principles that every person should have a citizenship, statelessness should be avoided, and cases of multiple citizenship - minimized.

Conclusions are presented at the end of each chapter, and the doctoral thesis concludes with a consistent section: General conclusions and recommendations, which includes a series of generalizing ideas on the subject of the thesis, as well as proposals to amend and supplement existing legislation to strengthen the state mechanism and guarantee of the right to citizenship.

## **GENERAL CONCLUSIONS AND RECOMMENDATIONS**

The main purpose of the investigation was the complex and multilateral research of the institution of constitutional guarantees of the right to citizenship, by determining the concept of citizenship, the requirements that form its content and how these requirements work, based on their enshrinement in the Basic Law of the Moldovan state.

The analysis of the degree of research on the issue of citizenship law in the literature of the Republic of Moldova and other states allowed to formulate the following **conclusions**:

1. The requirement for the creation of a democratic society can be achieved by preventing the violation of human rights and by ensuring that such violations are sanctioned, by creating a set of guarantees to ensure that the functions of justice are exercised in a legal and effective framework, thus eliminating the possibility of the production of new violations in the very act of committing the act of justice. The right to citizenship is a fundamental right of the person, which emphasizes the other civil rights;

2. The guarantee of the right to citizenship in a society in which this is an essential principle which refers not only to the guarantee at the constitutional level, by its constitutional means, but also to a guarantee at all levels of organization of the society. Citizenship appeared with the first human settlements, and its evolution was influenced by several factors: the socio-economic development of society, the recognition of democratic values, but more, it was and is influenced by the rights and freedoms it grants and guarantees a state to its citizen;

3. The constitutional guarantee of the individual's right to citizenship is an integrated set of economic, social, political, ideological conditions, enshrined in the Fundamental Law of the country, which determines the possibility of enforcement and mechanisms for respecting this fundamental right, which is the premise for motivating the person to make them. At present, the right to citizenship is enshrined in the Constitutions of most states in the world (Federal Republic of

Germany, Spain, France, Russian Federation, Bulgaria, Cuba, Ukraine, Romania, Republic of Moldova), being regulated by special laws;

4. We highlight two approaches to citizenship in the legal literature at home and abroad: *legal condition*, meaning, the quality of an individual, which confirms the affiliation (legal and political) to a state, in order to characterize the rules of law that are attributed to a person and condition the quality of citizen and *legal institution* consisting of a set of legal rules, which assign the fullness of mutual rights and obligations established by the Constitution and other laws, related to objective law, which is presented as a set of rules governing social relations on ensuring the rights and obligations of persons provided by constitution and other laws;

5. The doctrinal definition of citizenship expressed by most researchers in the Republic of Moldova derives from the text of the law itself:

"Citizenship is a permanent political and legal link, unlimited in time and space, between individuals and the state, a link that signifies their membership in the state of the Republic of Moldova, and is expressed through all the mutual rights and obligations guaranteed by the state" [109] ;

6. The legal nature of citizenship has provoked and continues to provoke (sometimes controversial) discussions in the Western scientific literature, or, this fact emphasizes the need to rethink the legal nature, which is a dynamic one and is influenced by the degree of development and democratization of society. Although the right to citizenship belongs to the domestic law of the state, it is also considered a matter of international law, starting from the consequences of having a citizenship by a person in conditions of transnational mobility and free movement, or then, citizenship documents they transpose themselves into the international arena and inevitably compete with each other. That is why, together with domestic law, regulations at international level are needed, given that the right to citizenship can no longer remain in the discretion of states alone;

7. The reforms promoted in recent years in the citizenship sector have made it possible to improve several segments which, in the end, contribute to increasing the effectiveness of guarantees of the right to citizenship - length of proceedings, access to courts, etc. ;

8. The trends characteristic of Western scientific research at the contemporary stage focus mainly on aspects other than legal nature, such as: relations between citizenship and nationality, multiculturalism and citizenship, planetary citizenship, honorary citizenship, European citizenship, avoiding statelessness, creating statelessness so that a person can have the quality of a citizen and benefit from the protection that this quality offers him, etc. The analysis of scientific sources allowed us to find that the approaches of scientists regarding the conceptual treatment of the right to citizenship differ from one state to another, or, this is explained by the demographic characteristics

of each state and its historical evolution. But granting the right to citizenship is a privilege of the state, because only the state can decide who its citizens are;

9. The general conclusion reached during the analysis of the scientific literature in the country and abroad is that all authors, whose works have been analyzed, unanimously consider that citizenship is a permanent and permanent political and legal link between person and state. And the difficulties that arise in determining the legal nature appear as a result of the complexity of the institution of citizenship, but also of the different ways of acquiring the quality of citizen (through birth, naturalization, adoption, reacquisition, etc.). A complex multiaspective research of the institution of citizenship is needed, as a result of which those pragmatic and partial treatments of the right to citizenship would disappear over time;

10. The diverse conditions and procedures for the right to citizenship of EU Member States require harmonization of the conditions for acquiring citizenship either through EU regulatory competence or by promoting horizontal coordination, respecting the interests of Member States and democratic rules, or as a result of the analysis of the legislation on the right to citizenship, there was a tendency to liberalize the legal regulations on the right to citizenship, as a result of acquiring citizenship being conditioned by legal access to the state, the right to access it, legal residence, the right to work. National citizenship laws are based on the principles: that every person must have a nationality, that statelessness must be avoided and that cases of multiple citizenship must be minimized;

11. The legislation of the Republic of Moldova on the right to citizenship compared to that of the European states analyzed in this paper is broadly in line with international requirements on citizenship and is in line with the principles established by the European Convention on Citizenship. As in most European countries, the right to citizenship of the Republic of Moldova is guaranteed by the Constitution. The basis for acquiring the citizenship of the Republic of Moldova is the principle of *jus sanguinis*, as in Romania, Germany, Poland, Italy, Lithuania, but the principle of *jus soli* is also partially applied, in order to avoid statelessness, in the case of persons benefiting from international protection, or some aspects of the legislation of the Republic of Moldova need to be re-examined, following the practices of European countries.

The conformity of the national legislation on the right to citizenship with the international standards allowed us to find some deficiencies and gaps in the national legislation in this field, which lead to the different interpretation of some norms, or create confusions in the application of the law etc. In the context of those investigated and argued in the thesis, we propose the following **recommendations**:

1. The introduction of a paragraph to art. 17 of the Constitution of the Republic of Moldova: The citizenship of the Republic of Moldova acquired by birth cannot be withdrawn, in terms of its

content in order to ensure at the level of modern requirements the guarantees of the right to citizenship;

2. Introduction of a new article in the Constitution of the Republic of Moldova to a norm, which would confer the citizen's right to legislative initiative;

3. The introduction of an additional article in the Law on the citizenship of the Republic of Moldova on "*honorary citizenship*", which could be granted to foreign citizens for special services brought to our country;

4. Amendment of paragraph (2), art. 11 "Acquisition of citizenship by birth", for which we propose the following amendment: "*The child found on the territory of the Republic of Moldova is considered a citizen of it, unless proven otherwise, if neither parent is known*";

5. Modification of art. 13, para. (1) "Acquisition of citizenship by adoption" of the Law on Citizenship of the Republic of Moldova, for which we propose the following wording: "*The child foreign or stateless citizen automatically acquires the citizenship of the Republic of Moldova by adoption, if the adoptive parents (adoptive parent) are citizens of Moldova*";

6. Repeal of par. (3), art. 13 "Acquisition of citizenship by adoption" of the Law on Citizenship of the Republic of Moldova, *according to which the child of a foreign citizen adopted by a citizen of the Republic of Moldova is subject to renunciation of foreign nationality*, we consider this norm unconstitutional, once the Republic of Moldova allows the child, if he is a minor, for example, cannot decide to renounce his citizenship;

7. Repeal of par. (3) in art. 36 of the Law on Citizenship, according to which: "*Public authorities that have information about the fact that the applicant does not meet the conditions for granting citizenship to the Republic of Moldova will communicate them to the Commission on Citizenship and Political Asylum with the President of the Republic of Moldova.*"

**The advantages and value of the proposed elaborations** are related to the fact that, from a theoretical-scientific point of view, a conceptualization, systematization and updating of the notion and concept of citizen, the right to citizenship as a fundamental human principle, affirmed and supported by various author whose studies have been included in this paper. However, our main concern, which we consider to be a contribution in the field, is to identify and capitalize on the constitutional guarantees of the right to citizenship, or nothing is a stronger revelation among members of the human community than guarantees on which offers them a constitution in order to realize and protect the fundamental rights and freedoms of the individuals who form these communities. Therefore, the issue of guarantees of the right to citizenship, to be a citizen of a state, involves the establishment of functional mechanisms that would ensure this right, and a more effective tool in this regard than the Constitution would be difficult to individualize at this stage of consecration of liberal democracy.

**The prospective research plan** should be aimed at:

- analysis of studies of the evolution of the transformation of the concept of the right to citizenship, under the action of a set of constitutional elements;
- the analysis of the scientific sources that allowed us to find that scientists' approaches to the conceptual treatment of the right to citizenship differ from one state to another, or this is explained by the demographic characteristics of each state and its historical evolution;
- researching national case law in order to identify major shortcomings in the applicability of the principle of a fair trial and proposing solutions to eliminate existing non-unitary practice in this field;
- conceptual theoretical treatment of the essence of citizenship emphasizing the need to expand the area of investigations, given the modern trends to treat this concept as a dynamic, undefined in the end, which summarizes the problems of the relationship between state and citizen;
- analysis of theories and currents in the doctrine of constitutional law on the legal nature of the right to citizenship, which are based on the concept that citizenship is a reciprocal link between state and individual, having a fundamental permanent character;
- the study of the national legislation in comparison with the international legislation in the matter of the right to the citizenship, the conditions of acquisition, its withdrawal, in view of the observance of this right, the foundation enshrined by the Constitution.

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## ANNOTATION

### **DARI Victoria, „Particularities of the right to citizenship in national regulations and comparative law”, PhD thesis, Chisinau, 2021**

**Thesis structure:** introduction, four chapters, general conclusions and recommendations, 163 pages of basic text, bibliography of 188 titles. The obtained results are published in 7 scientific papers.

**Keywords:** Constitution of the Republic of Moldova, right to citizenship, *jus sanguinis*, *jus solis* constitutional guarantees, acquisition of citizenship, ways of acquiring citizenship, international standards, institution of citizenship, equality in social life, evolution of the right to citizenship.

**Research area:** Constitutional law

**Thesis's goal and objectives:** The work's goal involves analyzing the degree of research on the issue of the right to citizenship as a fundamental right of the person in the literature of the Republic of Moldova and other states, how to acquire this right, which not only establishes a person's membership in a state, but also the fact that this person enjoys all the rights and obligations enshrined in the Constitution. Achieving the proposed goal involves identifying reservations to increase the degree of direct applicability of constitutional rules in the process of realizing this fundamental right, including by streamlining access to social security, acquired by obtaining the right to citizenship of a state; research of the system for regulating the guarantees of the right to citizenship, against the background of determining its component elements; highlighting the role of international practice in ensuring the proper application of guarantees of the right to citizenship.

Studying the institution of the right to citizenship, its guarantees and limits, as elements of constitutional law, subjecting to expertise the compatibility of national and international constitutional limits in the field of protection of the right to citizenship with the rules of the ECHR Convention and ECHR case law, arguing changes to adjust rules national to international ones.

**Scientific novelty and authenticity:** Scientific problem solved lies in identifying the gaps, as well as the constitutional elements of regulation and legal protection of the right to citizenship, multiple citizenship in the Republic of Moldova, which determined the substantiation of interventions modeled on the advanced experiences of European states, with proposals for completion of the norms that provide for the acquisition of citizenship, as well as the right to hold more citizens with direct impact on the realization of social guarantees of this fundamental right, completion or extension of the scope of guarantees established at constitutional level.

**The results obtained:** These results achieved are determined by the purpose of researching the conceptual landmarks of the constitutional norms that form obligations to protect the right to citizenship, as one of the fundamental rights, derived from the approach to the problem, from the

very nature of the research object. Thus, the scientific novelty is represented by the research of the evolution of citizenship and the particularities of the right to citizenship in its evolution from its origin until now, how it has developed and improved, with the perfect framing in the international regulations on citizenship.

**Theoretical significance:** The deductions formulated in the paper will contribute to the development of Constitutional Law, especially in the study on the mechanism of obtaining, granting, withdrawing citizenship. The investigation of the right to citizenship as part of the system of fundamental human rights and freedoms, guaranteed by the Constitution, achievable from the point of view of historical evolution from a comparative perspective with the elaboration of answers to the problems a modern constitutional attitude at national and international level. The research results can be used to develop synthesis works, not only for Constitutional Law, but also for International Law, the national and international mechanisms having a close connection in terms of compliance with the rules of obtaining, granting, withdrawing citizenship.

**The applicative value:** It consists in streamlining the applicability of the constitutional guarantees of the right to citizenship, by creating a certain theoretical and practical basis that can contribute to producing direct effects to protect the right to citizenship as an essential and fundamental right of any individual as a distinct person.

**Implementation of scientific results:** From theoretical and scientific viewpoint it has been outlined and analyzed the content of the constitutional and international guarantees of the right to citizenship, applicable in the legal system of the Republic of Moldova, is outlined and analyzed and they were used in publishing scientific articles, as well as in the activity of juris consult.

## ADNOTARE

### **DARI Victoria, „Particularitățile dreptului la cetățenie în reglementările naționale și ale dreptului comparat”, teză de doctor în drept, Chișinău, 2021**

**Structura tezei:** Introducere, patru capitole, concluzii generale și recomandări, \_\_\_\_\_ pagini de text de bază, bibliografie din 188 titluri, 163 de pagini de text de bază. Rezultatele obținute sunt publicate în 7 lucrări științifice.

**Cuvinte-cheie:** Constituția Republicii Moldova, dreptul la cetățenie, *jus sanguinis*, *jus solis* garanții constituționale, dobândirea cetățeniei, modalități de dobândire a cetățeniei, standarde internaționale, instituția cetățeniei, egalitate în viața socială, evoluția dreptului la cetățenie.

**Domeniul de studiu:** Drept constituțional.

**Scopul și obiectivele lucrării:** Lucrarea presupune analiza gradului de cercetare a problematicii dreptului la cetățenie ca drept fundamental al persoanei în literatura de specialitate din Republica Moldova și din alte state, modalitățile de dobândire a acestui drept, care nu numai că stabilește apartenența unei persoane la un stat, dar și faptul că această persoană se bucură de toate drepturile și obligațiile consfințite de Constituție. Atingerea scopului propus presupune identificarea rezervelor pentru sporirea gradului de aplicabilitate directă a normelor constituționale în procesul de realizare a acestui drept fundamental, inclusiv prin eficientizarea accesului la garanțiile sociale, dobândite prin obținerea dreptului la cetățenia unui stat; cercetarea sistemului de reglementare a garanțiilor dreptului la cetățenie, pe fundalul determinării elementelor componente ale acestuia; evidențierea rolului practicii internaționale în procesul de asigurare a unei aplicări adecvate a garanțiilor dreptului la cetățenie.

Studierea instituției dreptului la cetățenie, a garanțiilor și limitelor acesteia, ca elemente ale dreptului constituțional, cu supunerea unei expertize compatibilitatea limitelor constituționale naționale cu cele internaționale în domeniul protecției dreptului la cetățenie cu normele Convenției CEDO și jurisprudența CtEDO, argumentarea unor schimbări în vederea ajustării normelor naționale la cele internaționale.

**Noutatea și originalitatea științifică:** Problema științifică soluționată rezidă în identificarea lacunelor, cât și a elementelor constituționale de reglementare și protecție juridică a dreptului de la cetățenie, cetățenia multiplă în Republica Moldova, fapt care a determinat fundamentarea intervențiilor având ca model experiențele avansate a statelor Europene, cu elaborarea unor propuneri de completare a normelor ce prevăd dobândirea cetățeniei, cât și dreptul de a deține mai multe cetățenii cu impact direct asupra realizării garanțiilor sociale a acestui drept fundamental, completarea sau lărgirea sferei garanțiilor instituite la nivel constituțional.

**Rezultatele obținute:** Acestea sunt determinate de scopul cercetării reperelor conceptuale a normelor constituționale care formează obligații de protecție a dreptului la cetățenie, ca unul din

drepturile fundamentale, derivate din modalitatea de abordare a problemei, din însuși natura obiectului de cercetare. Astfel, noutatea științifică este reprezentată de cercetarea evoluției cetățeniei și a particularităților dreptului la cetățenie în evoluția sa de la origine și până în prezent, cum s-a dezvoltat și s-a perfecționat, cu încadrarea perfectă în reglementările internaționale privind cetățenia.

**Semnificația teoretică:** Deducțiile formulate în lucrare vor contribui la dezvoltarea Dreptului constituțional, în special în studiul privind mecanismul de obținere/acordarea/retragere a cetățeniei; investigarea dreptului la cetățenie ca parte a sistemului de drepturi și libertăți fundamentale ale omului, garantate prin Constituție, realizabilul din punct de vedere a evoluției istorice din perspectiva comparativă cu elaborarea unor răspunsuri la problemele apărute în cazul a protecției constituționale a dreptului la cetățenie, corespunzător tendințelor unei atitudini constituționale moderne la nivel național și internațional. Rezultatele cercetării pot servi la elaborarea unor lucrări de sinteză, nu numai pentru Dreptul constituțional, dar și pentru Dreptul internațional, mecanismele naționale și internaționale având o conexiune strânsă la nivel de respectarea a regulilor de obținere/acordarea/retragerea cetățeniei.

**Valoarea aplicativă:** Eficientizarea aplicabilității garanțiilor constituționale ale dreptului la cetățenie, prin crearea unei anumite baze teoretice și practice ce poate contribui la producerea efectelor directe în vederea protejării dreptului la cetățenie ca drept esențial și fundamental al oricărui individ, ca persoană distinctă.

**Implementarea rezultatelor științifice:** În plan teoretico practic, se conturează și se analizează conținutul garanțiilor constituționale ale dreptului la cetățenie, aplicabile în sistemul de drept al Republicii Moldova. au fost folosite în publicarea în articole științifice, cât și în activitatea de jurisconsult.

## АННОТАЦИЯ

**DARI Victoria, «Особенности права на гражданство в национальном законодательстве и сравнительном праве», кандидатская диссертация, Кишинев, 2021**

**Структура диссертации:** введение, четыре главы, общие выводы и рекомендации, библиография из 188 наименований, 163 страницы основного текста. Полученные результаты опубликованы в 7 научных статьях.

**Ключевые слова:** Конституция Республики Молдова, право на гражданство, *ius sanguinis*, конституционные гарантии *ius solis*, приобретение гражданства, способы приобретения гражданства.

**Область исследования:** Конституционное право.

**Цель и задачи работы:** Работа предполагает подход к способу регулирования в вопросе о праве на гражданство как о фундаментальном праве человека в литературе Республики Молдова и других государств, как получить это право, которое не устанавливает не только принадлежность лица к государству, но и тот факт, что это лицо пользуется всеми правами и обязанностями, закрепленными в Конституции. Достижение предложенной цели предполагает выявление резервов, направленных на повышение степени прямого применения конституционных норм в процессе реализации этого основного права, в том числе путем упрощения доступа к социальному обеспечению, полученному путем получения права на гражданство государства; исследование системы регулирования гарантий права на гражданство на фоне определения ее составных элементов; подчеркивание роли международной практики в обеспечении надлежащего применения гарантий права на гражданство.

Изучение института права на гражданство, его гарантий и ограничений как элементов конституционного права с учетом экспертизы совместимости национальных и международных конституционных ограничений в области защиты права на гражданство с правилами Конвенции ЕКПЧ и ЕСПЧ. прецедентное право, аргументируя внесение изменений с целью приведения национальных правил в соответствие с международными.

**Научная новизна и оригинальность работы:** Состоит в выявлении пробелов, а также конституционных элементов регулирования и правовой защиты права на гражданство, множественное гражданство в Республике Молдова, что определило обоснованность вмешательств, смоделированных на основе передового опыта европейских государств, с предложениями по дополнению норм, которые предусматривают приобретение гражданства, а также право содержать больше граждан с прямым влиянием на реализацию социальных гарантий этого основного права, завершение или расширение объема гарантий, установленных на конституционном уровне.

**Полученные результаты:** Определение цели и задач вытекающими из способа решения проблемы, концептуальных ориентиров конституционных норм, формирующих обязательства по защите права на гражданство как одного из основных прав, вытекающих из подхода к проблеме, со стороны государства, сам характер объекта исследования. Таким образом, научная новизна представлена исследованием эволюции гражданства и особенностей права на гражданство в его эволюции от его происхождения до настоящего времени, как оно развивалось и улучшалось, с идеальным оформлением в международных правилах гражданства.

**Теоретическая значимость работы:** Теоретические выводы сформулированные в статье вычеты будут способствовать развитию конституционного права, особенно в исследовании механизма получения / предоставления / выхода из гражданства; исследование права на гражданство как части системы основных прав и свобод человека, гарантированных Конституцией, достижимого с точки зрения исторической эволюции, в сравнительной перспективе с выработкой ответов на проблемы в случае конституционной защиты права на гражданство, современное конституционное отношение на национальном и международном уровне. Результаты исследования могут быть использованы для разработки обобщающих работ не только по конституционному праву, но и по международному праву, национальным и международным механизмам, имеющим тесную связь с точки зрения соблюдения правил получения /приобретение/ утраты гражданства.

**Прикладная значимость:** Упрощении применимости конституционных гарантий права на гражданство путем создания определенной теоретической и практической основы, которая может способствовать достижению прямых последствий для защиты права на гражданство как основного и фундаментального права любого человека. личность как отдельная личность.

**Внедрение научных результатов:** Эти результаты в теоретическом и практическом плане очерчены и проанализированы в содержание конституционных гарантий права на гражданство, применимых в правовой системе Республики Молдова. они использовались при публикации научных статей, а также в деятельности юрисконсульта.

**DARI Victoria**

**PARTICULARITIES OF THE RIGHT TO CITIZENSHIP IN  
NATIONAL REGULATIONS AND COMPARATIVE LAW**

**Specialty: 552.01. Constitutional law**

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