CITIZENSHIP REGULATIONS IN EASTERN EUROPE. ACQUISITION OF CITIZENSHIP AT BIRTH AND THROUGH REGULAR NATURALIZATION IN SIXTEEN POSTCOMMUNIST COUNTRIES

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Abstract

The article brings a contribution to the comparative study of citizenship policies. Little systematic research in the area has been centered on Eastern Europe and the few references in the literature emphasize the illiberal, nationalistic or ethnic character of citizenship regimes in the region. After criticizing Howard's account on the liberalization of citizenship regimes in Europe, an extensive analysis of citizenship regulations in sixteen postcommunist countries from Eastern Europe is employed in order to emphasize the heterogeneous character of citizenship regimes and the main trends. Rather than "illiberal", citizenship rules in postcommunist Eastern Europe are divergent and arrested by different if not antagonistic tendencies, as regarding to open-ness and restrictive-ness.

Introduction

Citizenship is a multilayered normative concept and an intricate political and legal instrument. The interest in citizenship has grown in the last decades due to genuine transformations at different levels: global (increased economic interdependence, human rights revolution), regional (regional integration, fall of communism in Eastern Europe) and domestic (welfare, migration and minority issues). The existing literature in the area of citizenship is primarily focused on normative aspects (ideological ingredients, normative strata, models and challenges).

Rather than assessing or adjusting the available normative framework on citizenship, this article deals with empirical configuration of citizenship regimes, namely the formal regulations enforced by certain states in order to control the access to and the exit from the polity. There is limited research on empirical citizenship and the existing works are most often non-systematic or case-based while their focal point rarely goes beyond the Western world (West/non-communist Europe and North America)[268]. When not simply

[268]Marc M. Howard, "Comparative Citizenship: An Agenda for Cross-

ignored, the citizenship regimes in Eastern Europe are featured as illiberal, nationalistic or ethnic. Are citizenship regimes in Eastern Europe illiberal? Is there such a homogenous Eastern citizenship regime to be identified throughout the region?

This article challenges the liberal-illiberal dichotomy in the area of citizenship by suggesting an alternative analytical framework based on the less ideological concepts of open-ness and restrictive-ness. Although it does not engage into a comparative analysis between East and West, the study makes use of a particular theoretical model, Howard's citizenship index, in order to show how Western-tailored scheme fail to address the assortment of citizenship regimes in Eastern Europe, but contribute to the continuation of the East/West dichotomist thinking, mainly by *i-liberalizing* the East.

Finally, the study unfolds an extensive survey on citizenship rules with regard to birth rights and un-facilitated naturalization in sixteen postcommunist countries. From the outset, it aims at shooting the general picture and the main trends in the field during the first decade after the collapse of communism in the Eastern Europe. It may serve as a basis for further investigations to explain the structural and contingent factors of change, but it does not provide such explanations. Its less ambitious aim is to dismiss the dichotomist approaches and to suggest a better theoretical tool of classifying citizenship regimes in order to avoid reductionism and ideological labeling.

Liberal West v. Restrictive East

One of the main theses in the field of citizenship is that citizenship rules become more liberal, liberalization being understood mainly as relaxation of the rules of access. Based on Western experiences and designed to capture relevant Western phenomena, (mainly related to past and present immigration) most of the theoretical tools dealing with liberalization of citizenship, are likely to unfold a distorted picture when applied outside the Western world.

In the early 2000s, Patrick Weil challenged Brubaker's account on the nature of the transformation in citizenship rules by rejecting his cultural determinism (conception of nationhood) and linking the transformation/liberalization of citizenship policies with: a certain configuration of legal tradition, a significant pressure coming from immigration, and a general framework of democracy and stable

National Research", *Perspectives on Politics* Vol. 4(3) (2006): 443-455.

statehood[269]. According to Joppke, liberalization of citizenship covers three dimensions: conditional ius soli for second- and third-generation migrants, facilitated naturalization rules (lower residence time requirements, lower degrees of cultural assimilation and more friendly administrative procedures) and greater toleration of dual citizenship[270] (as following the 1997 European Convention of Nationality).

The liberalization thesis is validated by Marc Howard with respect to the states of EU 15 (and additionally to other 10 countries from Eastern Europe) after having analyzed three main elements of citizenship regulations: citizenship right at birth (ius soli for second generation immigrants), residence requirements (minimum period of residence before submitting an application for naturalization) and dual citizenship (if allowed for naturalized persons)[271]. Using a numeric scale (Citizenship Policy Index- CPI), Howard compares and classifies the citizenship policies in two different moments (1980s- 2000s). His conclusions indicate that ten out of fifteen EU countries have changed their citizenship policies in a liberal direction while all ten Eastern European countries have remained relatively restrictive.

Having extended the number of Eastern European countries and having changed the period of the survey (1990-2000s), I updated CPI in an attempt to catch the evolution of citizenship policies in the region during the controversial period that fallowed the fall of communism. As presented in Table 1, Howard's aggregate scheme brakes the cases into two large categories: "restrictive" (five in 1990s and four in 2000s) and "medium" (eleven in 1990s and twelve in 2000s).

[269]Patrick Weil, "Access to Citizenship: A Comparison of Twenty-five Nationality Laws" in *Citizenship Today: Global perspective and practice*, eds. Alexander T. Aleinikoff and Douglas Klusmeyer (Carnegie Endowment for International Peace, 2001). 17-35.

[270]Christian Joppke, *Comparative Citizenship: A restrictive Turn in Europe* [on-line] available at http://www.rg-law.ac.il/workshops/2007/articles/joppke.pdf, accessed 02 April 2007.

[271]Marc M. Howard, "Variation in Dual Citizenship Policies in the Countries of the EU", *International Migration Review* 39.3 (2005): 697-720.

Table 1: Howard's Citizenship Policy Index- (extended and updated)

State	Codification	Ius soli for sec. generation No/ 0p; Yes/2p		Residence >10 years/ 0p; 6-9 years / 1p <5 years/ 2p		Renunciation- of former citizenship No/ 0p; Yes/2p		Scores 0/6 0-1= restrictive (R) 2-4= medium (M) 5-6= liberal (L)		
		'90s	'00s	'90s	'00s	'90s	'00s	'90s	'00s	+/-
Albania		2	2	2	2	0	0	**4/M**	**4/M**	**-**
Bosnia H.		0	0	1	1	0	0	**1/R**	**1/R**	**-**
Bulgaria		0	0	2	1	0	0	**2/M**	**2/M**	**-**
Croatia		0	0	2	2	0	0	**2/M**	**2/M**	**-**
Czech Rep.		0	0	2	2	0	0	**2/M**	**2/M**	**-**
Estonia		0	0	2	2	0	0	**2/M**	**2/M**	**-**
FRY/Serbia		0	0	2	2	0	0	**2/M**	**2/M**	**-**
Hungary		0	0	1	2	2	0	**3/M**	**3/M**	**-**
Latvia		0	0	2	1	0	2	**2/M**	**2/M**	**-**
Lithuania		0	0	0	2	0	0	**0/R**	**0/R**	**-**
Macedonia		0	0	0	0	0	0	**0/R**	**1/R**	**+1/R**
Moldova		0	0	0	1	0	0	**0/R**	**3/M**	**+3/M**
Poland		0	2	2	1	0	0	**2/M**	**2/M**	**-**
Romania		0	0	2	2	2	0	**4/M**	**3/M**	**-1/M**
Slovakia		0	0	2	1	0	2	**2/M**	**2/M**	**-**
Slovenia		0		0		0	0	**0/R**	**0/R**	**-**

***(Restrictive** (4): Bosnia and Herzegovina, Lithuania, Macedonia, Slovenia; **Medium** (12): Albania, Bulgaria, Croatia, Czech Republic, Estonia, FRY/Serbia, Hungary, Latvia, Moldova, Poland, Romania, Slovakia; **Liberal** (0).*

The initial problem of Howard's scheme lays in its normative assumptions. What is liberal or illiberal with concern to citizenship regimes? If liberalization is understood as relaxation of rules, then any reform that introduces additional requirements is inexorably illiberal. The recent introduction of civic integration tests for newcomers in certain Western countries (Austria, Denmark, France, the Netherlands and Germany) was indeed seen as an illiberal venture, promoting a "repressive" form of liberalism - liberal aims pursued by illiberal means[272]. But what kind of liberalism is referred to? Normatively, liberals have been committed to design and promote a fair organization of the state based on a rightful relationship between citizens and the state and among citizens themselves. The liberal norms cannot help with deciding the legitimate boundaries of the polity more than, maybe, requiring clear or transparent rules of access. Most of the liberal works, including Rawl's, take for granted the existence of the established national states and their legitimate control over their territorial and human borders.

Historically, all the states have been organized like selective clubs, making clear distinction between citizens and foreigners and deciding autonomously, and sometimes arbitrarily, which of the foreigners and under what circumstances are they to become citizens. It is dubious to label "liberal" a state that does not require anything from foreigner in change of citizenship status and "illiberal" a state that imposes numerous conditions. In this regard, the international norm on citizenship talks about a "genuine link"[273] between citizens and the state, a requirement that would appear superfluous, therefore disregarded, by a "true" liberal state.

Beyond the problematic association between "liberal" and "non-restrictive", Howard's scheme does not clearly differentiate between various categories of applicants: ius soli for which category of applicants (stateless children, foundlings, children of foreign citizens)? Whose naturalization (of simply foreigners, spouses of citizens, co-ethnics)? Furthermore, the scale itself is very narrow because it does not include important requirements and possible burdens for applicants, such as language tests, criminal records or legal proof of income. Howard's findings are at least puzzling since the key factors that he takes into

[272]Christian Joppke, "Beyond National Models: Civic Integration Policies for Immigrants in Western Europe", *West European Politics,* Vol. 30(1) (2007): 1-22.

[273]*European Convention on Nationality* (1997) [on line]; available at [http://conventions.coe.int/ Treaty/en/Treaties/Html/166.htm], accessed 3 April 2007.

consideration may not be sufficient to depict the real character of the reforms. CPI does not take into account important policy changes, among which the introduction of integration tests in some Northern European countries. Finally, the liberal/restrictive scheme is constructed to deal with western cases (therefore, the weight put on ius soli) and, when applied in other contexts, it leads to artificial convergence by omission.

Since this article is mainly constructed as a critique of Howard's scheme when applied to Eastern Europe it is worth mentioning that I understand that CPI was not especially designed for the measurement of citizenship in Eastern Europe and that the inclusion of the ten cases was rather subsidiary. However, its reductionism is to be shown bellow, while the scheme itself is to serve as a starting point for elaborating new analytical instruments.

The survey. Methodological aspects

The core part of the study is the analysis of citizenship regulations (citizenship laws and additional relevant legislation) in sixteen post-communist countries in two periods of time (where possible): Albania (1998), Bosnia and Herzegovina (1997), Bulgaria (1989/2001), Croatia (1993), Czech Republic. (1993/2003), Estonia (1995/2004), Federal Republic of Yugoslavia (hereafter, FRY)/Serbia (although, after the separation of Montenegro, FRY ceased to exist, we considered appropriate to make the comparison between the citizenship laws of FRY and of one of its successor states-Serbia) (1996/2004), Hungary (1993), Latvia (1994/1998), Lithuania (1992/2003), Former Yugoslav Republic of Macedonia (hereafter, Macedonia) (1992/2004), Moldova (1994/2004), Poland (1962/2000), Romania (1991/2003), Slovakia (1993-7), and Slovenia (1992).

Despite the fact that the time span is vaguely defined (1990s- 2000s) and rather short, the survey is relevant due to the major and dense transformations occurred in the region (related to state and national reconstruction, political reconfiguration, economic transition, regional integration etc.). In the 1990s all states from Eastern Europe, except Poland (that added a piece of legislation regarding the expatriates in 2000) adopted new citizenship laws (some earlier- Romania, successor states; some later- Albania, Bulgaria). Some of the states did not change their citizenship regulations in the first postcommunist decade or changed them superficially (Croatia, Hungary, and Macedonia), others did modify them repeatedly or significantly (Bulgaria, Estonia, Lithuania, and Romania).

The survey focuses on the regulations regarding the acquisition of citizenship- at birth (ius soli, *ius sanguinis* and overlapping) and through regular naturalization (without facilitations). In discussing the naturalization rules, a numeric scale has been designed to measure the "restrictive"-ness of citizenship rules (0-20). The divide open/restrictive does not reiterate a substantive distinction such as: good/bad, liberal/illiberal, lawful/un-lawful. The measurement does not follow any thick normative line; it starts from the intuitive perception that the most "open" state will grant citizenship automatically to anybody (non-residents, not proficient in the language or knowledgeable of the political or societal culture, possessing other or no citizenship and not willing to take any oath of allegiance, poor and maybe gravely ill and with criminal record) and the most 'restrictive' will grant citizenship only after satisfying a great number of conditions or it will not grant citizenship at all.

States have almost unrestricted powers to decide who their citizens are[274]. In determining or preserving their human lot, states use certain techniques that may or may not be the object of frequent restructuring. Citizenship status is basically granted by birth right- ius soli (birth in the territory), *ius sanguinis* (descent from citizen/s) or combinations- and naturalization (normal or facilitated- marriage, statelessness, second generation residents, co-ethnics etc.). Auxiliary roads to citizenship are: marriage (in recent times marriage does not lead to automatic admission but only to facilitated naturalization), adoption, option (in special cases, such as secession, succession, repatriation).

The distinction between ius soli and *ius sanguinis* has been often used to back up the dichotomy between civic and ethnic. The rule of membership based on place (soli) corresponds to a civic conception of the nation and the rule based on blood (sanguinis) corresponds to an ethnic model of nationhood. However, the said principles alone cannot indicate the character of nationhood; they are different techniques to forge and reproduce a political community to be used in a non-exclusive and contextual way. Basically, ius soli has been used by settling societies (i.e. USA, Canada, and Australia) in order to integrate automatically second generation of immigrants, while *ius sanguinis* has been privileged by sending communities in order to maintain a link with their emigrants. While ius soli alone is rather an exception in Europe (Ireland removed it in 2005,

[274] An emergent international norm regarding nationality is limited to issues such as statelessness, non-discrimination, citizenship in successor states.

France saved it in a modified form), and *ius sanguinis* is most frequently used, the common strategy is to utilize them in combination and tied to certain conditions (ius soli for stateless children, *ius sanguinis* for repatriates etc.).

For the purpose of this study, "single" *ius sanguinis* stands for the cases where only one parent is citizen and "double" *ius sanguinis* for the situation where both parents are citizens. Also, "exceptional" ius soli is used whenever the right is granted exceptionally, in situations independent of the actions/options of the child or his/her parents (statelessness, foundlings) and "conditional" ius soli for the cases where certain conditions need to be satisfied (registration, consent, residence, etc.).

Naturalization is the policy area where the greatest variety rests: some countries would require the minimum- limited time of residence and thin proofs of loyalty or integration, some others the maximum- long residence, thick proofs of cultural integration, criminal, political and moral record, undivided loyalty (renunciation of other citizenship), evidence of legal income and even health check.

In order to measure the restrictiveness of the naturalization regulations, the present codification took into consideration five categories of requirements: residence (4 points), integration- language and society/constitution (2+2 points), personal record- criminal and political (2+2 points), loyalty- dual citizenship and oath of allegiance (3+1 points) and welfare- income and medical situation (2+2 points).

Citizenship at birth (1990s- 2000s)

The main legal technique to "produce" citizens is granting citizenship through birth right. Theoretically, a state may choose to grant citizenship to any child born to one or both parents who were citizens at the moment of the child's birth (*ius sanguinis*) or to all children born in its territory (ius soli), regardless of their parental status. Practically, states use the two principles in combination, solely or together with additional conditions (the status of parents, whether the child is found or stateless, whether other procedural steps are undertaken etc.).

Most postcommunist states from Eastern Europe reformed their citizenship rules in the early 1990s- with few exceptions: Poland preserved its citizenship law of 1962, Albania did not operate any change before 1998 and FRY and Bosnia Herzegovina introduced new laws in 1996, 1997 respectively. All sixteen countries included in the survey provided for unconditional

double ius soli and, (with the exception of Macedonia that made it conditional upon the parental consent) and automatic single *ius sanguinis* in correlation with ius soli. Eight of the countries opted for unconditional single *ius sanguinis* not associated with ius soli, and all others required additional conditions: parental consent (Albania, Latvia, and Lithuania), registration with the competent authority (*see* Table 2).

A decade after and in spite of the adoption of new regulations, little changes have been effected the rules regarding the acquisition of citizenship through birth right. Double *ius sanguinis* has not been challenged while single *ius sanguinis* in association with ius soli remained automatic with the exception of the Macedonian case (where the parental consent is required). According to our findings, a relative opening of the citizenship policies may be traced down in the area of acquisition of citizenship at birth (*see* Table 2). One more citizenship law provided for unconditional ius soli (Moldova, 2004) while in other three cases the situation of the stateless minors have been regularized (ius soli for stateless minors of resident parents- Macedonia, 2004, and special naturalization procedure for stateless minors of resident parents- Latvia, 1998; Estonia, 1998). Moreover, there are still two countries that do not have provisions for integration of the stateless children (Bulgaria, 2001 and Romania, 2003).

Table 2: Citizenship at birth 1990s-2000s

Codification: 0p/automatic 1p/conditional 2p/no proviso	Descendents of citizens						Non descendents				Scores 0/10		
	Born in		Born out				Born in						
	One parent citizen		One parent citizen		Both parents citizens		Stateless		Non-stateless				
	'90s	'00s	'90s	'00s	'90s	'00s	'90s	'00s	'90s	'00s	'90s	'00s	+/-
Albania	0	0	1	1	0	0	0	0	0	0	**1**	**1**	/
Bosnia H.	0	0	1	1	0	0	0	0	2	2	**3**	**3**	/
Bulgaria	0	0	0	0	0	0	2	2	2	2	**4**	**4**	/
Croatia	0	0	1	1	0	0	0	0	2	2	**3**	**3**	/
Czech Rep.	0	0	0	0	0	0	0	0	2	2	**2**	**2**	/
Estonia	0	0	0	0	0	0	2	**1**	2	2	**4**	**3**	**-1**
FRY/Serbia	0	0	1	1	0	0	0	0	2	2	**3**	**3**	/
Hungary	0	0	0	0	0	0	0	0	2	2	**2**	**2**	/
Latvia	0	0	1	1	0	0	2	**1**	2	2	**5**	**4**	**-1**
Lithuania	0	0	1	1	0	0	0	0	2	2	**3**	**3**	/
Macedonia	1	1	1	1	0	0	2	**0**	2	2	**6**	**4**	**-2**
Moldova	0	0	0	0	0	0	2	**0**	2	**0**	**4**	**0**	**-4**
Poland	0	0	0	0	0	0	0	0	2	2	**2**	**2**	/
Romania	0	0	0	0	0	0	2	2	2	2	**4**	**4**	/
Slovakia	0	0	0	0	0	0	0	0	2	2	**2**	**2**	/
Slovenia	0	0	1	1	0	0	0	0	2	2	**3**	**3**	/

Citizenship through regular naturalization (1990s- 2000s)

Another legal way to create citizens is to grant citizenship to foreigners (foreign citizens or stateless) through naturalization. Unlike the first technique, citizenship acquired through naturalization is not based on a "right" but depends on certain procedural arrangements. The great diversity in the area of acquisition of citizenship lies with the rules of naturalization. The case of postcommunist Eastern Europe in the early 1990s does not represent an exception: countries like Bulgaria and Poland- with minimum requirement- share the floor with countries like Lithuania and Latvia- with numerous conditions and constraints (*see* Table 3).

A usual requirement for naturalization is having completed a minimum period of residence within the territory of the state, either as simple resident or as permanent resident (some countries do not specify). Except FRY (no past residence), all the other states required a minimum residence ranging from 5 (the most common- ten countries) to 15 years (the extreme case- Macedonia).

Another common prerequisite for naturalization is the knowledge of the official language of the state (or at least one of the official languages) to be proved through formal or informal evaluation. The great majority of the countries in the survey provided for such a proof of socio-cultural integration- with the exception of Bulgaria, FRY and Poland. In half of the cases, the knowledge of the Constitution or the history of the country has been enlisted among the requirements.

A special preoccupation with the personal quality of the would-be citizens have driven most of the states to ask for the criminal record of the applicants, either from within the country where the application is submitted or more extensive- from previous countries of residence. In exceptional cases (Moldova and Latvia) the present or past political activity or status of the applicant could lead to the rejection of the application for citizenship. In even more exceptional cases (Lithuania) the medical situation of the applicant- serious illness, could constitute a legitimate grant to decline the application. The feasibility check was also made by requiring proof of personal income (ten of the cases) in order to avoid any additional burden on the national social security system (major argument in the West).

Provisions regarding dual or multiple-citizenship are an alternative field of discordance in citizenship policies all over the world. The recent tendency to tolerate dual allegiance has limited

impact in postcommunist Eastern Europe where five of the states clearly rejected dual citizenship (Czech R., Estonia, Lithuania, Moldova, Poland) while other nine made the acquisition of citizenship conditional upon the renunciation of any other citizenship. However, many exceptions and uncertainties have been related to the situation of double citizenship. In some cases, individuals may not obtain a proof of release from the original state which is unwilling or unable to produce it, and in some others, states cannot easily verify the provided data in the absence of a coherent framework of international cooperation.

Political and constitutional reforms in Eastern Europe were not frozen with the turmoil of the early 1990s; on the contrary, domestic factors (economic transition, democratization, political shifts etc.) and external factors (bi- and multi-national agreements, membership conditionality of the Council of Europe, the European Union etc.) determined a series of legislative re-adjustments that affected also the field of citizenship. Indeed, two of the countries in our survey modified their citizenship rules in the late 1990s (Albania and Latvia) and others in the early 2000s (Bosnia and Herzegovina, Bulgaria, Czech Rep., Estonia, Serbia, Lithuania, Macedonia, Moldova, Poland and Romania).

A tendency towards moderation can be identified in the evolution of the citizenship policies with regard to naturalization (*see* Table 3). There is no country without specific requirement related to past residence (in the 1990s, there were two) and the most encountered minimum period is five years. Two countries have significantly changed their naturalization rules- Bulgaria and Romania- and they did so mainly by upgrading their requirements related to residence and socio-cultural integration. Extreme requirements such as lengthy residence (15 years in Macedonia) and absence of severe illness (Lithuania) have been withdrawn. The reform of the Moldovan citizenship law is not totally shown in the codification due the fact that significant changes in the direction of open-ness (reduction of residence requirement and toleration of dual citizenship although the condition of renunciation remained in place) are counterbalanced by the introduction of the oath.

Table 3: Acquisition of citizenship through regular naturalization (1990s/ 2000s)

State	Codification	Past Residence		Proof of integration				Personal records				Proof of loyalty				Well-being				Country Scores 0-20		
				Lang.		Constitution Society		Criminal		Politic		Dual citizenship		Oath		Income		Health				
		No/ 0p 0-3/ 1p 4-5/ 2p 6-9/ 3p 10+/ 4p		No/ 0p Test/ 2p		No/ 0p Test/ 2p		No/ 0p Yes/ 2p		No/ 0p Yes/ 2p		Unconditional allowed/ 0p Renunciation required/ 2p Not allowed/3p		No/ 0p Yes/ 1p		No/ 0p Yes/ 2p		No/ 0p Yes/ 2p				
		'90s	'00s	'90s	'00s	'90s	'00s	'90s	'00s	'90s	'00s	'90s	'00s	'90s	'00s	'90s	'00s	'90s	'00s	'90s	'00s	+/-
Albania		2	2	2	2	2	2	2	2	0	0	2	2	1	1	2	2	0	0	**13**	**13**	/
Bosnia H.		3	3	2	2	0	0	2	2	0	0	2	2	0	0	0	0	0	0	**9**	**9**	/
Bulgaria		2	2	0	**2**	0	**2**	0	**2**	0	0	2	2	0	0	0	**2**	0	0	**4**	**12**	**+8**
Croatia		2	2	2	2	2	2	0	0	0	0	2	2	0	0	0	0	0	0	**8**	**8**	/
Czech Rep.		2	2	2	2	0	0	2	2	0	0	3	3	1	1	2	2	0	0	**12**	**12**	/
Estonia		2	2	2	2	2	2	2	2	0	0	3	3	1	1	2	2	0	0	**14**	**14**	/
FRY/Serbia		0	**1**	0	0	2	**0**	2	**0**	0	0	2	2	0	**1**	2	**0**	0	0	**8**	**4**	**-4**
Hungary		3	3	2	2	2	2	2	2	0	0	0	0	1	1	2	2	0	0	**12**	**12**	/
Latvia		2	2	2	2	2	2	2	2	2	2	2	2	1	1	2	2	0	0	**15**	**15**	/
Lithuania		4	4	2	2	2	2	2	2	0	0	3	3	1	1	2	2	2	**0**	**18**	**16**	**-2**
Macedonia		4	**3**	2	2	0	0	2	2	0	0	2	2	0	**1**	2	2	0	0	**12**	**12**	//
Moldova		4	**3**	2	2	2	2	0	**2**	2	**0**	3	**2**	**1**	0	0	**2**	0	0	**14**	**13**	**-1**
Poland		2	2	0	0	0	0	0	0	0	0	3	3	0	0	0	0	0	0	**5**	**5**	/
Romania		2	**3**	2	2	0	**2**	2	2	0	0	0	0	1	1	2	2	0	0	**9**	**12**	**+3**
Slovakia		2	2	2	2	0	0	2	2	0	0	2	2	0	0	0	0	0	0	**8**	**8**	/
Slovenia		4	4	2	2	0	0	2	2	0	0	2	2	0	0	2	2	0	0	**12**	**12**	/

Citizenship Regimes in Eastern Europe: how Different?

Unlike in the Western Europe, states in the Eastern Europe do not face significant challenges related to labor migration. The main issue associated with integration through citizenship is the presence of a great number of stateless persons and refugees throughout the area. Before commenting on the citizenship rules in Eastern Europe it is necessary to notice that soon after the fall of communism most of the states in the area confronted a great deal of salient problems ranging from civil war to economic and political struggles, in the shade of which citizenship issues were easily overlooked. The modest public pressure put on issues of citizenship had also to do with the long history of the authoritarian regimes in which "citizenship was devoid of most rights normally attached to it and, as a consequence, largely irrelevant as a 'political' good in the eyes of citizens"[1].

It is obvious that the citizenship rules in Eastern Europe were not convergent in 1990s and continued not to be so in 2000s. As I have shown in the first section, Howard's aggregate scheme cannot capture the heterogeneous character of the citizenship regulations in postcommunist Eastern Europe. It is reductionist by throwing the cases in only two categories and then suggesting the illiberal character of the regulations throughout the region. It also fails to grasp some aspects of policy evolution; for example, it overrates the changes in Moldovan law, but it overlooks the amendments of the Bulgarian and Romanian regulations.

In order to avoid such shortcomings, a more neutral codification needs to be devised, eventually replacing the term "liberal" with "open". The fact that some states are not "open" (according to the scores) does not necessarily mean that they are not liberal- exclusion and national privilege comes together with many practices of any liberal state. In any case, the question of open-ness and restrictive-ness is relevant most of all with regard to issues of naturalization. Little variance may be encountered in the regulations regarding acquisition of birth. Privileging one principle (soli or sanguinis) to the detriment or disregard of the other does not say much about the open-ness or restrictive-ness of the policy. Important questions arise in relation to the justifications and the normative and practical consequences of the state's choices in this regard, but they all fall beyond the purpose of this study.

Naturalization rules constitute the privileged scene for diversity in citizenship policies. In order to measure the open-ness, and restrictive-ness of a citizenship regime, I designed a new

[1]Albert Kraler, "The legal status of immigrants and their access to nationality", in *Migration and Citizenship. Legal status, Rights and Political Participation*, ed. Rainer Bauböck (Amsterdam: Amsterdam University Press, 2006). 33-65.

scale that aggregates the scores registered in the codification (*see* Table 4). When analyzing the scale, one can easily notice that in the 1990s countries spread along the last five categories of the scale, with no case on the extreme open-ness and one case of the extreme restrictive-ness with the majority of the cases concentrated in the middle (with a slight bias towards the restrictive-ness side).

For the period of 2000s (when ten of the countries operated changes in their citizenship rules) the naturalization scale indicates five shifts in the positioning of the countries: three upwards (Serbia, Lithuania, and Moldova) and two downwards (Bulgaria- the most spectacular, and Romania). Despite the fact that no case is to be found at the restrictive end of the scale, and that more countries moved upwards than downwards, the whole scale moved in a restrictive direction with an accumulation of cases (eight) on the moderate-restrictive level. The two countries that significantly changed their naturalization rules, Bulgaria and Romania, moved both towards more restrictive policies (residence, socio-cultural integration). However, extreme requirements such as minimum residence of 15 years (Macedonia) and the discriminatory reference to medical status of the applicant (Lithuania) have been removed.

Table 4: Naturalization scale 1990s- 2000s

1990s						
Category	**Level**	**Scores**	**Countries**	**Cases**		
Open	Very open	0 - 3	-	0	2	7
	Open	4 - 7	Bulgaria, Poland	2		
Moderate	Moderate (open)	8 - 10	Bosnia and Herzegovina, Croatia, FRY, Romania, Slovakia	5	10	
	Moderate (restrictive)	11 - 13	Albania, Czech R., Hungary, Macedonia, Slovenia,	5		9
Restrictive	Restrictive	14- 16	Estonia, Latvia, Moldova	3	4	
	Very restrictive	17- 20	Lithuania	1		
2000s						
Open	Very open	0 - 3	-	0	2	5
	Open	4 - 7	**Serbia** (↑), Poland	2		
Moderate	Moderate (open)	8 - 10	Bosnia and Herzegovina, Croatia, Slovakia	3	11	
	Moderate (restrictive)	11 - 13	Albania, **Bulgaria** (↓↓), Czech Republic, Hungary, Macedonia,, **Romania** (↓), **Moldova** (↑), Slovenia	8		11
Restrictive	Restrictive	14- 16	Estonia, Latvia, **Lithuania** (↑)	3	3	
	Very restrictive	17- 20	-	0		

Conclusion

The first aim of this article was to test the feasibility of Western-based, theoretical instruments dealing with citizenship to grab the complex picture of citizenship regimes in the Eastern Europe. In this respect, the employment of the Howard's scheme shed little light over the configuration and dynamics of citizenship rules in the sixteen countries from the survey. It only helped proving the overall restrictive character of the citizenship regimes in Eastern Europe by means of oversimplification and reductionism.

The second and the third aim of the study were to present a consistent picture of the recent developments in the citizenship rules of sixteen postcommunist countries and to provide an alternative method to rescue the complexity of the citizenship rules. During the last decades citizenship policies have been reformed in almost all countries from Eastern Europe. The analysis provided that citizenship policies in the region were divergent in the 1990s and remained divergent enough one decade after (although many of them have been reformed). In order to avoid normative ambiguity and technical imprecision (convergence by omission) the liberal/restrictive-type scheme (Howard's style) was replaced with an open/restrictive scale. When measuring the character of change the conclusion was that citizenship regulations in Eastern Europe have not been altered substantially in the past years. Limited changes were related to a relative general open-ing of the regulations regarding acquisition of citizenship at birth (integration of stateless persons in Estonia, Latvia and Macedonia) and a relative restrict-ing of the regulations regarding naturalization (with Bulgaria and Romania in the first line). There is little evidence for arguing in favor of the convergence either through opening up, or through closing up of citizenship regimes.

As declared in the beginning, the article represents only a starting point for further investigation in the area and it offers little explanations of the scrutinized facts and trends. Although complex and diverse, citizenship rules cannot be isolated from the political and socio-economic background in which they are employed. Much work has to be done to capture the significance of the policy change in the region but also to bridge the outcomes of various researches focused on different parts of the world and also on different periods of time.

Moreover, only reading the citizenship regulations is not enough for understanding the substance of the policies. The administrative and political discretion that rests with the application of the rules may lead to completely different results than those envisaged in the text of the laws. In this direction, further research has to be done to assess the reality of the citizenship regulations and the inevitable practical shortcomings attached to them (complicated, opaque

administrative procedures, high fees, arbitrariness, political bias).

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