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# EUDO CITIZENSHIP OBSERVATORY

## ***COUNTRY REPORT: UKRAINE***

Oxana Shevel

Revised and updated April 2013



<http://eudo-citizenship.eu>

European University Institute, Florence  
Robert Schuman Centre for Advanced Studies  
EUDO Citizenship Observatory

***Report on Ukraine***

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EUDO Citizenship Observatory  
**Robert Schuman Centre for Advanced Studies**  
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# Ukraine

Oxana Shevel

## 1. Introduction

In common with other former Soviet republics which emerged as independent states following the dissolution of the Soviet Union, Ukraine faced the most basic but profoundly important state building task: that of defining the body of citizens of the new state, and the rules on acquisition and loss of citizenship for those who were not included in the initial body of citizens. The Ukrainian domestic law makes a distinction between the terms ‘citizenship’ and ‘nationality’. Whereas ‘citizenship’ (hromadianstvo – громадянство) refers to the legal bonds of the person with the state; ‘nationality’ (natsional’nist – національність) is associated with the ethnicity of the person and refers to a person’s membership in a nation as an ethno-cultural, linguistic and historic community. In the Ukrainian context therefore, when referring to someone’s legal status as citizen of a state, the term “citizenship” instead of “nationality” should be used.

In the over twenty years that have passed since Ukraine adopted its first citizenship law on 8 October 1991, the citizenship rules have evolved substantially. As the citizenship rules have evolved, some cornerstone elements have persisted. The first such element is the territorial (as opposed to ethno-cultural) definition of the official nation that was reflected in the original citizenship law and upheld and broadened in the subsequent versions. This territorial civic definition of the nation in the law was not an outcome of civic national identity, as some theories of citizenship would predict (Brubaker 1992), but a side effect of domestic divisions on the national question (Shevel 2009). The second persistent element of the Ukrainian citizenship regime is the non-recognition of dual/multiple citizenship. Ukraine’s opposition to the principle of dual/multiple citizenship is political, stemming from concerns over possible negative consequences of dual citizenship (in particular with Russia) for the sovereignty and territorial integrity of Ukraine. The complicated historical relationship between Russia and Ukraine, the large Russian minority in the east and south of Ukraine, and the continued scepticism and even downright non-acceptance of Ukrainian independence by many in Russia fuel these concerns.

At the same time, since the late 1990s a third trend in Ukrainian citizenship politics becomes discernable that can be described as a form of Europeanisation. In the middle of the 1990s, Ukraine began soliciting opinions from international organisations with expertise on

citizenship matters, such as the Council of Europe (COE), the Organisation for Security and Cooperation in Europe (OSCE), and the UN High Commissioner for Refugees (UNHCR), on its citizenship rules and the compatibility of national legislation with international legal standards on citizenship. The first major outcome of these consultations were the 1997 changes to the 1991 citizenship law and the subsequent bilateral agreements on citizenship which Ukraine concluded with several post-Soviet republics that allowed tens of thousands of Formerly Deported Peoples (FDPs), primarily Crimean Tatars, to acquire Ukrainian citizenship.<sup>1</sup> A new version of the citizenship law adopted in 2001, and amendments to this law adopted in 2005, further aligned the Ukrainian legislation with European citizenship norms, such as the 1997 European Convention on Nationality. In the process of crafting the 2001 and 2005 changes, Ukraine softened its opposition to dual/multiple citizenship by allowing some exceptions to the prohibition, mirroring the 1997 Convention. However, the issue of dual citizenship remains politicized in Ukraine, and this politicization continues to inform the politics of citizenship policymaking, resulting in a situation where dual citizenship continues to be viewed negatively. In addition to concerns over negative consequences for Ukraine's sovereignty that dual citizenship with Russia in particular may produce, in recent years, the dual citizenship issue seems to have additionally acquired a domestic political dimension and has been used in electoral competition. The issue of dual citizenship has figured in recent legislative elections, most recently in 2012, with some candidates being barred from running due to their alleged possession of another citizenship.<sup>2</sup> In 2010, the Ukrainian government began working on amendments to citizenship and other laws that would introduce steep penalties for private citizens and state officials for non-reporting of their other citizenship, annul Ukrainian citizenship granted to foreigners if they failed to prove that their prior citizenship has been cancelled, and prohibit those holding dual or multiple citizenship from working in government organs. In October 2012 the parliament passed a law introducing such restrictions, but the President voiced objections to the law and sent the law back to the parliament for second consideration which has not taken place at the time of writing (February 2013).<sup>3</sup> The dual citizenship question is vexing not only for the Ukrainian political establishment but also for the Ukrainian public which is divided on the issue. According to a 2010 poll, 49.4% of Ukrainians would like to be able to acquire another citizenship if they can also retain their Ukrainian citizenship, while 40.9% are against dual citizenship under any circumstances.<sup>4</sup>

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<sup>1</sup> Bilateral agreements on citizenship exist between Ukraine and the following post-Soviet states: Belarus, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan.

<sup>2</sup> For example, in August 2012 the Supreme Administrative Court removed Volodymyr Satsiuk, former deputy head of Ukrainian Security Service, from the parliamentary race for allegedly possessing Russian citizenship in addition to his Ukrainian one. See Tetiana Nikolaieno, "Satsiuka znialy z vyboriv" [Satsiuk has been removed from elections], *Ukrains'ka Pravda*, 27 August 2012, <http://www.pravda.com.ua/articles/2012/08/27/6971469/>.

<sup>3</sup> The draft law in question is Draft No. 9728-1 from 1 February 2012 titled "On Amending Certain Legislative Acts of Ukraine on Citizenship." The draft was submitted to the parliament by the cabinet, and the lawmakers approved it on 2 October 2012. On 2 November 2012 the President returned it to parliament with his reservations. The text of the draft law and of the President's comments are available at [http://w1.c1.rada.gov.ua/pls/zweb\\_n/webproc4\\_1?id=&pf3511=42418](http://w1.c1.rada.gov.ua/pls/zweb_n/webproc4_1?id=&pf3511=42418).

<sup>4</sup> Additionally, according to the same poll, 13.7% would like to get foreign citizenship even if they had to give up their Ukrainian citizenship in order to do so, while 3.6% were uncertain about where they stand on the dual citizenship issue. Late 2010 poll by the Razumkov Center as cited in Oleksandr Shaian, "Podviine hromadianstvo v Ukraini: zmina, shcho davno vzhe na chasi? [Dual citizenship in Ukraine: a change that is long past due?]," *Ukrains'ka Pravda*, 9 February 2011, <http://www.pravda.com.ua/columns/2011/02/9/5895554/>.

## 2. Historical background

Ukraine is a successor of the Ukrainian Soviet Socialist Republic (Ukrainian SSR) which was a constituent republic of the Soviet Union from the time of its founding in December 1922 until its dissolution in December 1991. When Ukraine was a republic of the Soviet Union, citizenship of the Ukrainian SSR formally existed but had no practical or political consequences because republican citizenship was fully subsumed into union citizenship. According to the Soviet citizenship law, every citizen of a union republic was simultaneously a citizen of the USSR.<sup>5</sup> The union republics had neither republican citizenship laws nor bureaucracies administering republican citizenship separately from the Soviet citizenship.<sup>6</sup> The Soviet law also did not provide for any documentation demonstrating a person's citizenship of a union republic. All in all, as legal experts of the Ukrainian citizenship administration reasonably concluded, 'the lack of legal rules on Ukrainian SSR citizenship calls in doubt the very reality of this citizenship's existence.' (Chaly et al. 1998: 2). In the absence of official documents recording republican citizenship within the Soviet Union, in the post-Soviet period the *propiska* residency registration stamp in an individual's Soviet passport that attested to his or her legal residency in a particular place was to become the only clear formal criterion for establishing that person's citizenship status in the newly independent states. As will be discussed in Section 3.5 below, determining citizenship on the basis of *propiska* was fraught with a number of difficulties and at times created cases of statelessness in both individual and group cases.

Citizenship emerged as a salient political issue in the union republics of the USSR in the late Soviet period, when sovereignty movements began to gain momentum. Given that having a citizenship law is an indispensable attribute of independent statehood, the timing of the emergence of the citizenship question is not surprising. In Ukraine, the origins of citizenship policy can be dated to the 1990 Sovereignty Declaration which established that the 'Ukrainian SSR has its own citizenship' and that 'acquisition and loss of citizenship is to be regulated by the Law on Citizenship of Ukrainian SSR.'<sup>7</sup> The first Ukrainian citizenship law was adopted by the Ukrainian Supreme Soviet (*Verkhovna Rada*) in fall of 1991, when the Soviet Union was still legally in existence.<sup>8</sup>

Records of the legislative debates of the 1990 Sovereignty Declaration and of the 1991 Law reveal that certain issues dominated the debate as they were particularly controversial.<sup>9</sup>

<sup>5</sup> See, for example, art. 1 of the 23 May 1990 Citizenship Law of the USSR. Text in Andrienko et al. (2000: 103-119).

<sup>6</sup> Decree of the Presidium of the Ukrainian SSR Supreme Soviet from 4 September 1981 titled 'On the procedure of admittance to citizenship of the Ukrainian SSR' specified that the Presidium accepts applications for citizenship of Ukrainian SSR and through it to the USSR, but this applied to non-Soviet citizens only and not to Soviet citizens who moved from one Soviet republic to another. Text of the decree in Andrienko et al. (2000: 94-95).

<sup>7</sup> Section IV of 16 June 1990 Sovereignty Declaration, reprinted in Andrienko et al. (2000: 122).

<sup>8</sup> Law No. 1636-XII from 8 October 1991 'On citizenship of Ukraine,' text in *Vidomosti Verkhovnoi Rady Ukrainy*, 1991, no. 50, p. 701. A draft of the 1991 Citizenship Law was first debated in the Rada in July 1991; repeated first readings took place on 12 September 1991; the law was approved on 8 October 1991 and entered into force on 13 November 1991.

<sup>9</sup> Stenographic reports from debate of the Sovereignty Declaration in the Ukrainian Supreme Soviet on 28 June, 12 and 13 July 1990 (*Bulleten Verkhovnoi Rady Ukrainy* no. 53, 28 June 1990; *Bulleten Verkhovnoi Rady Ukrainy* no. 63, 12 July 1990; *Bulleten Verkhovnoi Rady Ukrainy* no. 66, 13 July 1990), and stenographic reports from debate of the citizenship law in the Ukrainian Supreme Soviet on 28 June, 12 September, and 8 October 1991 (*Bulleten Verkhovnoi Rady Ukrainy* no. 82, 28 June 1991; *Bulleten Verkhovnoi Rady Ukrainy* no. 7, 12 September 1991; *Bulleten Verkhovnoi Rady Ukrainy* no. 18, 8 October 1991).

Among these issues were the implications of the Ukrainian citizenship law for Ukraine's continued political affiliation (or lack of affiliation) with the Soviet Union, the related issue of dual citizenship, and the possibility of preferential access to Ukrainian citizenship for ethnic Ukrainians abroad. In Ukraine, the right (nationalists and national-democrats) and the left (the unreformed Communists and their allies) clashed over these matters.

As they were ideologically committed to Ukrainian state independence, the Ukrainian right saw citizenship legislation as a key pre-requisite for achieving independence, applying the logic that without a population to be claimed as its lawful citizens, an independent sovereign state is impossible. As one member of parliament from the right put it during the first reading of the 1991 citizenship law in June 1991, 'citizenship law is one of the most important instruments to ensure our sovereignty; sovereignty that had been proclaimed but has not yet been realized... If we are serious about building a sovereign state, [we have to realize that] there can be no sovereignty without law on citizenship.'<sup>10</sup> The draft Sovereignty Declaration contained a section on citizenship (sect. IV) proclaiming that 'the Ukrainian SSR has its own citizenship.'<sup>11</sup> This clause turned out to be the single most contested clause of the Declaration. Members of parliament spent more time discussing the citizenship clause than any other clause of the Declaration, including such controversial ones as Ukraine's right to its own armed forces.<sup>12</sup> The Declaration was ultimately about whether Ukraine remained in the Union or whether it left it, and the wording of the citizenship clause bore directly on the issue of succession and independence. If Ukrainian citizens remained citizens of the USSR, Ukraine did not become a full-fledged independent state. By contrast, establishing a form of Ukrainian citizenship which was not linked to USSR citizenship in any way would have been a major step toward full-fledged independence. The right thus favoured the clause 'the Ukrainian SSR has its own citizenship' without any qualifiers, while the Ukrainian communists wanted this clause supplemented with the statement 'citizens of the Ukrainian SSR remain citizens of USSR.' After lengthy debates, a compromise wording was adopted. Sect. IV of the Declaration read: 'The Ukrainian SSR has its own citizenship and *guarantees* every citizen the right to retain citizenship of the USSR' (emphasis added). This wording was ambiguous enough to be acceptable to both the left and the right: USSR citizenship found its way back into the declaration, as the left wanted, but Ukrainian citizenship was not automatically subsumed into Soviet citizenship.<sup>13</sup>

When the first citizenship law was debated in the Ukrainian parliament in the autumn of 1991, dual citizenship again dominated the debate. By then, the August 1991 coup and Ukraine's declaration of independence greatly diminished hopes of preserving the Soviet Union. At the same time, dual citizenship was still a mechanism to maintain close political ties between states, a possible step towards creation of a joint state with Russia at some future time – the explicit objective of the unreformed Ukrainian communists and their allies. The right thus favoured the wording 'in Ukraine there is single citizenship,' without any qualifiers, while the left wanted either to remove this clause, or supplement it with the statement 'dual citizenship is allowed.' The left came extremely close to success: on 8 October 1991, the

<sup>10</sup> MP Osadchuk, quoted after stenographic record in *Bulleten Verkhovnoi Rady Ukrainy*, no. 82, 28 June 1991, pp. 41-42.

<sup>11</sup> Draft text of the Sovereignty Declaration as printed in *Bulleten Verkhovnoi Rady Ukrainy*, no. 61, 11 July 1990, pp. 7-12.

<sup>12</sup> Verbatim report of the article-by-article debate takes up 265 pages, 66 of which (or 25 per cent) are devoted to the debate of the clause 'Ukrainian SSR has its own citizenship.' Author's calculation drawing on the Supreme Soviet bulletins for the period in question.

<sup>13</sup> Further details on the debates over the citizenship clause in the Sovereignty Declaration are provided in Shevel (2009).

clause ‘dual citizenship is allowed’ was rejected by just two votes.<sup>14</sup> In the end, neither the left nor the right commanded sufficient votes in the parliament to get their first preference passed. The final wording of the contested clause was a compromise again. It read: ‘in Ukraine there is single citizenship. Dual citizenship is allowed on the basis of bilateral agreements.’ No such agreements were subsequently concluded.

A special citizenship regime for ethnic Ukrainians was another issue that figured prominently during the 1991 citizenship law debate (it diminished, but never completely disappeared, during the subsequent years when amendments to the 1991 law were discussed). A preferential regime in citizenship acquisition for ethnic Ukrainians was championed by the right who viewed ethnic Ukrainians as the ‘core’ of the Ukrainian political nation.<sup>15</sup> Members of parliament from the right proposed to state in the law that the right to Ukrainian citizenship be extended to ethnic Ukrainians who lived in the west, and to Soviet citizens who had ‘ethnic Ukrainian’ recorded in their Soviet passports.<sup>16</sup> Since the right and the centre-right together constituted a minority in the parliament, these proposals were not adopted.

## 2.1. Defining the body of citizens: divided elites and civic nation by default

A key foundational element of the Ukrainian citizenship regime, as with any new state, is definition of the original body of citizens – those who were recognised as being citizens of the new state *ex lege*. This group, which can be called the ‘official’ nation of the state, is the legal and political community in whose name the state is constituted and on whose loyalty and support the state expects to rely. The politics behind the process of defining the original body of citizens has been investigated in theoretical literature on citizenship, most prominently by Rogers Brubaker (1992) who has argued using the example of France and Germany that historically formed ethnic or civic national identity translates into ethnic or civic citizenship laws in modern states. In some cases, however, this causal pathway is not available because there is no dominant conception of national identity that can translate into citizenship law. Ukraine, where the left and the right bitterly disagreed on the national question, is one of such states. The evidence from the Ukrainian case shows that under these conditions, civic citizenship laws can arise as a side effect of contested politics of national identity.

Already in the 1991 Citizenship Law, the official Ukrainian nation was defined on the basis of territory: a person’s birth or permanent residence, or that of an ancestor, on the territory of Ukraine became the basis for defining the body of citizens of the Ukrainian state. The territorial definition can be characterized as a compromise between the option preferred by the Ukrainian right (to extend the right to Ukrainian citizenship not only to those with links to the territory of Ukraine but also to ethnic Ukrainians), and the Ukrainian left (who initially opposed the very idea of the citizenship law in Ukraine, and subsequently focused on promoting dual citizenship with Russia). The third political camp in Ukraine, the ideologically amorphous centre comprised of the former *nomenklatura* and the new oligarchs,

<sup>14</sup> Stenographic report from the second reading of the 1991 Citizenship Law on 8 October 1991. *Bulleten Verkhovnoi Rady Ukrainy* no. 18, 8 October 1991, p. 26.

<sup>15</sup> This understanding of the nation is reflected in the program of People’s *Rukh*, an umbrella anti-Communist popular movement formed in the late Soviet period (and subsequently a party). *Narodnyi Rukh Ukrainy za Perebudovy* 1989: 18.

<sup>16</sup> See statements by MP during 28 June 1991 and 12 September 1991 debate in the Supreme Soviet (*Bulleten Verkhovnoi Rady Ukrainy* no. 82, 28 June 1991, pp. 31-31; *Bulleten Verkhovnoi Rady Ukrainy* no. 7, 12 September 1991, p. 48), and by MPs Romaniuk and Vlokh during 12 September 1991 debate (*ibid*, pp. 52, 94-95).

was not ideologically committed to any particular image of the nation but supported the territorial definition for pragmatic reasons. Such a definition legitimized state independence and by extension the centrist elites' ruling position, and also had potential electoral benefits since upholding an ideologically neutral territorial principle allowed centrist elites to frame themselves for voters as a preferable alternative to the two brands of 'radicals' (Communists on the left and nationalists on the right).<sup>17</sup>

The territorial definition of the official Ukrainian nation was reflected already in the 1991 Citizenship Law adopted on 8 October 1991 and in force since 13 November 1991, and was upheld and broadened with each subsequent change to the law. The 1991 Law (art. 2) defined the initial body of citizens as including two categories of people:<sup>18</sup>

- 1) All those who were residing permanently in Ukraine when this Law entered into force irrespective of their origin, social and property status, race, ethnicity, sex, education, language, political beliefs, religious affiliation, professional occupation, who are not citizens of other countries, and who do not object being citizens of Ukraine.
- 2) Those who at the time of the Law's entry into force were abroad on government service, military service, or studying if they were born, or can prove that they had permanently resided in Ukraine, who are not citizens of other countries, and who expressed their desire to be citizens of Ukraine no later than one year after this law entered into force (this deadline was subsequently extended several times, eventually till 31 December 1999).<sup>19</sup>

In addition, art. 16 exempted those who were born on the territory of Ukraine or had at least one parent or grandparent born on the territory of Ukraine from the residency requirement, and further stipulated that once the deadline set forth in art. 2 para. 2 expired, those who belonged to the group referred to in this clause could acquire Ukrainian citizenship without satisfying language and residency requirements.

On 16 April 1997, the 1991 citizenship law was amended and the body of citizens as defined in art. 2 was further expanded to include not only students, servicemen, and government employees living abroad as of 13 November 1991, but anyone who was not living in Ukraine on 13 November 1991 but who was born or permanently resided on the territory of Ukraine (as well as descendants, children and grandchildren, of such persons), if they did not have foreign citizenship and provided they applied before 31 December 1999 to formally establish their belonging to the citizenship of Ukraine.<sup>20</sup> After this deadline, the

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<sup>17</sup> See Shevel (2009: 279-283) for more detailed discussion of these three elites groups and their views on the national question).

<sup>18</sup> Text of the 1991 Citizenship Law in *Vidomosti Verkhovnoi Rady Ukrainy*, 1991, no. 50, p. 701.

<sup>19</sup> Text of the relevant amendments in *Vidomosti Verkhovnoi Rady Ukrainy*, 1993, no. 14, p. 121; *Vidomosti Verkhovnoi Rady Ukrainy*, 1994, No. 43, p. 390; *Vidomosti Verkhovnoi Rady Ukrainy*, 1997, No. 19, p. 3-5.

<sup>20</sup> The procedure of establishing one's belonging to Ukrainian citizenship (*vyznannia належності до громадянства України*) for the purposes of being recognised a citizen of Ukraine *ex lege* was a distinct procedure established in the Ukrainian law in addition to the naturalisation procedure – called 'admission to citizenship' (*pryiom do hromadianstva*). The naturalisation procedure included various requirements (see below), while the only requirement in the citizenship establishment procedure was to prove one's or one's ancestor's birth or permanent residency on the territory of Ukraine and the absence of foreign citizenship.

people in question could become Ukrainian citizens on preferential terms, as art. 16 waived the five year residency requirement and the Ukrainian language requirement for this group.<sup>21</sup>

On 18 January 2001, the *Rada* approved a new version of the citizenship law which introduced a number of important changes, including a further expansion of the initial body of citizens and a further simplification of the naturalisation requirements for persons with family origins in the territory of Ukraine.<sup>22</sup> Thus, art. 3 para. 3 of the 2001 Law included in the original body of citizens those former Soviet citizens who moved to Ukraine after 13 November 1991 for permanent residency and whose Soviet passports were stamped with ‘citizen of Ukraine’ stamp by the Ukrainian Ministry of Interior organs, as well as children of such persons who were minors upon their arrival to Ukraine. Additionally, art. 8 (‘Acquisition of Ukrainian citizenship on the basis of territorial origin’) was added to the law which stipulated that one can register as a citizen of Ukraine provided that the person, or at least one of his or her grandparents, parents, or full-blood sibling, was born on or permanently resided before 16 June 1990 (the date of the adoption of the Sovereignty Declaration) on the territory of Ukraine.<sup>23</sup> These persons could register as Ukrainian citizens, although, if they held foreign citizenship, they were obliged to terminate this citizenship and produce documentary proof to this effect within one year of registering as citizens of Ukraine (in 2005 this deadline was extended to two years).<sup>24</sup> Another nod to the territorial principle was found in art. 9 para. 4 of the 2001 law which exempted those former Soviet citizens who had a *propiska* on the territory of Ukraine recorded in their Soviet passports from the requirement to obtain permission for permanent residency as a pre-requisite for naturalisation.

On 16 June 2005, further amendments to the 2001 citizenship law entered into force which expanded eligibility to Ukrainian citizenship on the basis of territorial descent also to those who had a half-blood brother or sister, or son or daughter, or grandson or granddaughter who was born or permanently resided on the territory of Ukraine.<sup>25</sup> Tables 1 and 2 below summarize the progressive expansion of the category of people eligible for Ukrainian citizenship on the basis of territorial origin, and the progressive easing of requirements this group had to fulfil to affiliate to Ukrainian citizenship.

<sup>21</sup> Law No. 210/97-VR from 16 April 1997 ‘On Citizenship of Ukraine,’ text in *Vidomosti Verkhovnoi Rady Ukrainy*, 1997, No. 23, p. 169.

<sup>22</sup> Law No. 2235-III from 18 January 2001 ‘On Citizenship of Ukraine,’ text in *Vidomosti Verkhovnoi Rady Ukrainy*, 2001, no. 13, p. 65.

<sup>23</sup> In the 2001 Law, the term ‘territory of Ukraine’ was for the first time explicitly defined as referring to the territory of the Soviet Ukrainian SSR which became the territory of independent Ukraine, but also to the territories of the short-lived independent Ukrainian state formations that existed during the first part of the 20<sup>th</sup> century: the Ukrainian People’s Republic (UNR), the West Ukrainian People’s Republic (ZUNR), the Ukrainian State, the Ukrainian Socialist People’s Republic, and Transcarpathian Ukraine. This elaboration served a two-fold purpose. First, it gave a degree of historicity to the current Ukrainian state, explicitly linking it to independent state formations of the past. Second, by including all previous Ukrainian state formations into the concept of ‘territory of Ukraine’ the issue of the entitlement to Ukrainian citizenship of ethnic Ukrainians was addressed as a matter of practice, without the need to resort to politically and legally controversial ethnic designations in the law (Andrienko et al. 2002: 66). Given that the term ‘territory of Ukraine’ now includes territories outside the boundaries of contemporary Ukraine and covers the region where ethnic Ukrainians have historically resided, one would be hard pressed to find an ethnic Ukrainian who does not have at least one grandparent who was born, or was a resident, on these territories.

<sup>24</sup> Law No. 2663-IV from 16 June 2005 ‘On introducing changes to the law of Ukraine “On citizenship of Ukraine”.’ Text in *Vidomosti Verkhovnoi Rady Ukrainy*, 2005, no. 30, p. 408.

<sup>25</sup> Law No. 2663-IV from 16 June 2005 ‘On introducing changes to the law of Ukraine “On citizenship of Ukraine”.’ Text in *Vidomosti Verkhovnoi Rady Ukrainy*, 2005, no. 30, p. 408.

**Table 1. The body of citizens in citizenship laws**

1991 citizenship law (art. 2, para. 1 and 2; art. 16)	1997 version of the 1991 law (art. 2, para. 3)	2001 citizenship law (art. 8, para. 1)	2005 amendments to the 2001 law (art. 8, para. 1)
Permanent residents of Ukraine as of 13 November 1991; military personnel, students, and government-sent employees abroad	Those who were born or permanently resided on the territory of Ukraine and their descendents (children, grandchildren)	Those who were born or permanently resided on the territory of Ukraine, or at least one of whose parents, grandparents, or a full-blood sibling, was born or permanently resided on the territory of Ukraine	Those who were born or permanently resided on the territory of Ukraine, or at least one of whose parents, grandparents, children, grandchildren, full or half-blood sibling, was born or permanently resided on the territory of Ukraine

**Table 2. Applicability of naturalisation requirements to those with territorial origin from Ukraine**

Naturalisation requirements	1991 Citizenship Law	1997 version of the 1991 Law	2001 Citizenship Law	2005 amendments to the 2001 Law
5 year residency	No	No	No	No
Knowledge of Ukrainian language	Yes	No	No	No
Legal source of income	Yes	Yes	No	No
Permanent residence permit	n/a	n/a	No	No
Obeying the Constitution	Yes	Yes	No	No
Proof of release from prior citizenship	Yes	Yes	Yes	Yes

### 3. Current citizenship regime

#### 3.1. The main modes of acquisition and loss of citizenship

According to art. 6 of the 2001 Citizenship Law, as amended in June 2005, citizenship of Ukraine can be acquired:

- 1) by birth;
- 2) by territorial origin;
- 3) by admission to the citizenship;
- 4) by restoration of the citizenship;
- 5) by adoption;
- 6) by establishment of guardianship or wardship for a child or placement of the child in a childcare or healthcare institution, family children's home or adoptive family, or placement in the care of a foster parent family;
- 7) by establishment of wardship for a person adjudged as lacking capacity;
- 8) in circumstances where one or both parents of a child is/are citizen(s) of Ukraine;
- 9) by recognition of parenthood or affiliation;
- 10) on other grounds stipulated by international treaties of Ukraine

*Acquisition by ius sanguinis and ius soli*

The acquisition of Ukrainian citizenship at birth is governed by the principle of *ius sanguinis* and partially by the principle of *ius soli*. According to art. 7 of the 2001 Law, Ukrainian citizenship is granted at birth to a child whose one or both parents, at the time of the child's birth, were citizens of Ukraine, irrespective of the place of the child's birth. In addition, the acquisition of citizenship by descent on the basis of *ius sanguinis* is also provided in art. 15 which stipulates that the recognition of paternity or maternity, or establishment of paternity or maternity (and, since 2005, also the establishment of guardianship or adoption – art. 12) are grounds for acquisition of Ukrainian citizenship.

The citizenship law provides for the acquisition of Ukrainian citizenship also on the basis of *ius soli*, but only in certain instances. Thus, according to art. 7 of the 2001 Law, a child born on the territory of Ukraine whose parents or one of whose parents are lawfully residing in Ukraine as stateless persons, aliens or refugees and who has not acquired by birth the citizenship of either of his/her parents (or only acquired citizenship of the refugee parent), shall be deemed a citizen of Ukraine from the moment of birth. A newborn child found on the territory of Ukraine is also treated as the citizen of Ukraine provided both parents are unknown.

In addition, the *ius soli* principle is also used in the right to apply for recognition as a citizen of Ukraine on the basis of territorial origin (art. 8 of the 2001 Law, see Section 2.1 above for details). In 2005, the *ius soli* principle was extended as art. 8 was supplemented with a clause stating that a child born on the territory of Ukraine after 24 August 1991 who has not acquired citizenship of Ukraine at birth and is a stateless person or an alien with regards to whom an obligation to terminate foreign citizenship was undertaken, can be registered as a citizen of Ukraine on request of one of his or her legal representatives.

*Acquisition by naturalisation*

Ukrainian citizenship law provides for the possibility of naturalisation for persons lawfully residing in Ukraine. The Ukrainian law uses the term 'admission to citizenship' (*pryiniattia do hromadianstva*) rather than the term 'naturalisation'. According to art. 9 of the 2001 Law,

aliens or stateless persons can be admitted to the citizenship of Ukraine if they apply for naturalisation and fulfil the following conditions:

- 1) recognition of and compliance with the Constitution and laws of Ukraine;
- 2) submission of a declaration on the absence of foreign citizenship (for stateless persons) or the assumption of an obligation to terminate foreign citizenship(s) (for aliens). Those granted refugee or asylum status in Ukraine may file a declaration renouncing their foreign citizenship rather than being under an obligation to terminate such foreign citizenship (there are exceptions to this requirement, as discussed in Section 3.2 below);
- 3) continuous lawful residence on the territory of Ukraine for the previous five years. For those married to Ukrainian citizens, this term is reduced to two years. For those granted refugee or asylum status, the residency term is shortened to two years, from the date the status was granted.
- 4) possession of immigration permit. Recognised refugees and certain categories of stateless persons are exempt from this requirement;
- 5) command or understanding of state language to the extent sufficient for communication (the requirement does not apply to deaf, blind, or mute individuals);
- 6) legal source of income (recognised refugees are exempt from this requirement).

Those who have rendered distinguished service to Ukraine and those whose admission to the citizenship of Ukraine is of state interest for Ukraine are exempt from requirements three through six above.

### *Loss of citizenship*

Citizenship of Ukraine can be lost or annulled. According to art. 19 of the 2001 Citizenship Law, Ukrainian citizenship can be lost under certain circumstances, namely:

- 1) if a citizen of Ukraine who has come of age voluntarily acquires foreign citizenship;
- 2) if citizenship was acquired through a naturalisation procedure as established by art. 9 on the basis of fraud, false information or forged documents that the applicant knowingly submitted;
- 3) if a citizen of Ukraine voluntarily enlisted in the military service of another state where such service is not universal under the laws of that state.

To prevent statelessness, art. 19 also specifies that Ukrainian citizenship will not be lost even if conditions one or two apply if the person in question will become stateless upon losing Ukrainian citizenship.

The loss of Ukrainian citizenship under art. 19 is not automatic, however, but requires an administrative procedure for each individual case. This procedure entails a governmental body (domestically the Interior Ministry and abroad the consular services) to submit a formal petition with supporting documents, including a document proving that the citizen in question has acquired foreign citizenship. The final decision to deprive a person of Ukrainian

citizenship is taken by the Citizenship Commission of the Presidential Administration and is signed by the president, and citizenship is legally terminated on the date the presidential decree is issued.<sup>26</sup>

As there are no bilateral agreements between Ukraine and other states on sharing such information, there are few ways for the Ukrainian authorities to obtain legal proof that a Ukrainian citizen has acquired foreign citizenship short of catching a citizen with two passports in his or her hand. Even this may not be sufficient, however. As legal experts from the Citizenship Department of the Ukrainian Presidential Administration explained in a commentary to the 2001 Citizenship Law, in order to determine whether a Ukrainian citizen has voluntarily acquired citizenship of a foreign state the Ukrainian authorities need a confirmation from competent authorities of the relevant foreign state to guard against the possibility that the foreign citizenship was acquired but subsequently lost or revoked. In the latter case, revocation of Ukrainian citizenship would render the person in question stateless and therefore is not permissible (Andrienko et al. 2002: 129). In practical terms, it means that even catching someone with two passports in hand will not be enough to deprive the person of Ukrainian citizenship without additional confirmation of the person's citizenship status by official organs of a foreign state. Some of the existing case law indicates that there may be a system of information sharing between passport offices of the former Soviet republics with regard to individual's citizenship status, and that an official confirmation that a person is indeed a citizen of one of the former Soviet republics can lead to annulment of Ukrainian citizenship.<sup>27</sup>

To date, the Ukrainian authorities have not initiated many, if any, procedures to deprive of Ukrainian citizenship those citizens who have acquired another citizenship. This creates a gray zone for those who have acquired another citizenship without giving up their Ukrainian citizenship, which in turn creates possibilities for selective application of the law. Such selective application was evident during the elections campaign before October 2012 legislative elections when some candidates were de-registered for possessing second citizenship, while others in the same legal situation were not. Unsurprisingly, such divergent application of the law gave rise to allegations that electoral de-registrations were politically motivated.<sup>28</sup>

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<sup>26</sup> The administrative procedure on the loss of citizenship is detailed in the addendum to the Presidential Decree No. 215/200 from 27 March 2001 'Questions of the execution of the law of Ukraine "On citizenship of Ukraine"' titled 'Procedure on the processing of applications and motions concerning questions of the citizenship of Ukraine and the execution of decisions taken.' Articles 71, 72, and 88 of the Procedure detail administrative steps and required documents for citizenship cancellation. Text of the decree and the addendum reprinted in Andrienko et al. (2002: 156-224).

<sup>27</sup> Supreme Administrative Court, Case No. K-19264/06 from 23 October 2007. Full text of the ruling is available at <http://www.reyestr.court.gov.ua/Review/1333887>

<sup>28</sup> The most high profile case was the de-registration of the former deputy head of the Ukrainian Security Service Volodymyr Satsiuk for his possession of Russian citizenship and for not living in Ukraine during five years preceding the elections. Given that there was no presidential decree issued cancelling Satsiuk's Ukrainian citizenship, his defense maintained that he remained a Ukrainian citizen, and additionally noted that Satsiuk continued to possess property and registered residency in Ukraine. Satsiuk's situation was thus virtually identical to that of a soccer star Andrii Shevchenko who is married to an American model and who was also not physically living in Ukraine during much of the five years preceding the 2012 elections but whose registration for the electoral race was nevertheless upheld by the same court on the basis of his Ukrainian passport, property in Ukraine, and residency registration. Divergent court ruling on these two cases led to speculations that Satsiuk was de-registered for political reasons: in the electoral district where Satsiuk hoped to compete the governor of the region from the ruling Party of Regions was also running. The case against Satsiuk also accused the two members of Central Electoral Commission, both regarded as allies of the opposition rather than the governing party, for registering Satsiuk in violation of the law. Tetiana Nikolaieno, "Satsiuka znialy z vyboriv" [Satsiuk

Another article of the 2001 law relating to the loss of citizenship is art. 21 which stipulates that an earlier decision to grant Ukrainian citizenship can be reversed (and therefore the granting of citizenship annulled) if a person has acquired Ukrainian citizenship (on the basis of territorial origin under art. 8 or whose Ukrainian citizenship was reinstated pursuant to art. 10) as a result of fraud, or by knowingly submitting false information or forged documents, or if the person concealed a significant fact due to which such person could not have acquired the citizenship of Ukraine. When such fraudulent citizenship acquisition comes to light, the Ukrainian authorities have reversed their earlier decisions granting Ukrainian citizenship.

### 3.2. Dual/multiple citizenship

Ukrainian legislation does not recognise dual citizenship. Art. 4 of the 1996 Constitution states that in Ukraine there is single citizenship. The 2001 Citizenship Law also states that single citizenship is one of the principles on which the law is based (art. 2 para. 1). The single citizenship clause in the 2001 Law further stipulates that if a citizen of Ukraine acquires citizenship of another state, in legal relations with Ukraine such person is considered only to be a citizen of Ukraine. As discussed above, the issue of dual citizenship in Ukraine is interpreted primarily through the prism of Ukraine's relations with Russia, the complicated historical legacy of this relationship, and the resulting fears on the part of the political elites that dual citizenship with Russia is fraught with dangers for Ukraine's sovereignty and territorial integrity. As a result, from the time the citizenship issue first emerged on the political and legal agenda in the twilight of the Soviet era, strong opposition to dual citizenship crystallized on the part of the centrist and rightist elites, while the Ukrainian Communist party and its allies on the left, in contrast, have been vocal supporters of dual citizenship.

In the first half of the 1990s, the legal fate of dual citizenship often hung in the balance. In the 1991 Law, the clause legalizing dual citizenship failed by just two votes. The adoption of the Constitution in June 1996, after a protracted debate, marked a watershed on the issue. After art. 4 of the Constitution stipulated that in Ukraine there is only single citizenship, future initiatives to introduce dual citizenship (such as during the debate of the 1997 Citizenship Law) could be rebutted with a constitutional argument.<sup>29</sup> Indeed, in the 1997 version of the citizenship law the prohibition against dual citizenship has been strengthened as the clause "dual citizenship is allowed on the basis of bilateral agreements" has been dropped from art. 1 of the law.

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has been removed from elections], *Ukrains'ka Pravda*, 27 August 2012, <http://www.pravda.com.ua/articles/2012/08/27/6971469/>

<sup>29</sup> At the same time, it is interesting to note that supporters of dual citizenship have long maintained that the provision on single citizenship (*iedyne hromadianstvo*) in the Constitution was meant to disallow internal citizenship of regions of Ukraine and not multiple citizenships with other states. For this interpretation, see statement by MP Alekseiev during the second reading of the 1997 Citizenship Law on 12 February 1997. Stenographic report available at <http://www.rada.gov.ua/zakon/new/STENOGR/index.htm>. Neither the 1991 Citizenship Law, nor the 1996 Constitution, nor the 1997 Citizenship Law defined the meaning of the term 'single citizenship,' which allowed the arguments such as those by Alexeiev to be made. However, art. 2 para. 1 of the 2001 Citizenship Law explicitly defined 'single citizenship' as 'citizenship of the state of Ukraine that rules out the possibility for existence of a citizenship of administrative-territorial units of Ukraine,' but continued to state that if a citizen of Ukraine acquires a citizenship of another state or states, in legal relations with Ukraine such citizen shall be acknowledged as a citizen of Ukraine only.

More recently, however, Ukraine has contextualized and somewhat softened its opposition to multiple citizenship. This is evidenced by many qualifying clauses regarding dual citizenship introduced in many changes to the Citizenship Law in 2001, when the new version of the law was adopted, and additionally in 2005, when the 2001 Law was amended.

The 2001 Law *de facto* recognised dual citizenship in several specific instances, since art. 19 specified exceptions to the clause that Ukrainian citizenship is lost if an adult Ukrainian citizen voluntarily acquires foreign citizenship. According to art. 19, para. 1, sect. 2, a foreign citizenship shall not be deemed to have been acquired voluntarily, and therefore Ukrainian citizenship should not be terminated, if: (a) a child acquires by birth the citizenship of Ukraine concurrently with the citizenship of another state or states; (b) a child who is a citizen of Ukraine acquires the citizenship of his/her adoptive parents who are foreigners; (c) a citizen of Ukraine acquires another citizenship automatically by virtue of marriage with a foreigner. Conditions (a) and (c) are the same ones found in art. 14 of the 1997 European Convention on Nationality as the cases of multiple citizenship that states who are signatories of the Convention agree to allow.<sup>30</sup>

Additionally, the 2001 Law and amendments added to it which were approved in June 2005 specify several instances when Ukrainian citizenship can be acquired through naturalisation, recognition, or on the basis of territorial origin without submitting documented proof of release from prior citizenship. The documented proof of release from prior citizenship requirement does not apply to those granted refugee status in Ukraine (they submit instead a declaration of renunciation of foreign citizenship), or if the document testifying the termination of foreign citizenship cannot be obtained from the competent authorities of a foreign state ‘for reasons beyond the applicant’s control’ (arts. 8, 9, 10 of the 2001 Law). What constitute ‘reasons beyond one’s control’ is also formally defined in the 2001 Law (art. 1). Under the law, such reasons include the non-issuance by the foreign state of the proof of citizenship renunciation to the applicant within the time frame stipulated in that state’s legislation, or the high cost of the renunciation procedure (exceeding half of the monthly minimum wage in Ukraine). Further, in 2005, the one year deadline for submitting documentary proof of foreign citizenship renunciation was extended to two years.

The main reason behind this contextualization of the single citizenship principle is the growing awareness on the part of the Ukrainian citizenship policymaking elites of the European trends with regard to citizenship reflected in documents such as the 1997 European Convention on Nationality. From the middle of the 1990s, the European bodies such as the Council of Europe, the UNHCR, and the OSCE became deeply involved with citizenship issues in Ukraine. The involvement of the European bodies, and the subsequent Europeanisation of Ukrainian citizenship legislation, occurred due to the massive statelessness problem that the 1991 citizenship legislation inadvertently enabled, the extent of which became evident by the middle of the 1990s. Section 3.4 below discusses this issue in greater detail.

### **3.3 Special rules for those with family origins from the territory of Ukraine**

Although the Ukrainian right has repeatedly made proposals to this effect, especially in the early part of the 1990s, no special rules for co-ethnics exist in Ukrainian citizenship law.

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<sup>30</sup> Text of the 1997 European Convention on Nationality available at <http://conventions.coe.int/Treaty/en/Treaties/Html/166.htm>

Instead, a preferential citizenship acquisition regime for those who themselves, or one of whose family members, is linked to the territory of Ukraine either through birth or permanent residency was established already in the first Citizenship Law adopted in 1991 and expanded in the subsequent editions of the law. Section 2.1 above specifies how the size of this group has been progressively expanded with each change to citizenship law, and what naturalisation requirements are waived for this group.

### 3.4. Special rules for citizens of some of the former Soviet republics

Starting in the late 1990s, Ukraine concluded a series of bilateral agreements on simplified citizenship acquisition and termination with several former Soviet republics, namely with Belarus, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan.<sup>31</sup> While each agreement has slight nuances, all strive to establish a reciprocal procedure for simplified citizenship acquisition and citizenship renunciation by persons who meet certain criteria, namely who permanently and/or legally reside in another state, and who have a close relative (parent, grandparent, spouse, child, brother, sister) who is a permanent resident and citizen (or, in cases of parents and grandparents, who was born or legally resided of the other state's territory). Such persons can acquire citizenship of the other state without paying fees associated with citizenship application and citizenship renunciation. The competent authorities of the state that grants citizenship inform the competent authorities of the state of prior citizenship about their decision to grant citizenship, and new citizenship is considered to have been acquired, and old citizenship terminated, on the same date.

The procedure established by these bilateral agreements clearly aims not only to facilitate citizenship changing process for people who not long ago were all citizens of one state (USSR) and who have family links to the USSR successor country whose citizenship they seek to acquire. These bilateral agreements also seek to avoid statelessness and especially dual citizenship (since the old citizenship terminates the day the new one is acquired). Indeed,

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<sup>31</sup>“Agreement between Ukraine and Republic of Uzbekistan on cooperation in solving citizenship questions of the formerly deported individuals and their descendents” from September 1998 (text of the agreement was not published in open sources, text of the Order of the Ministry of Interior, Ministry of Foreign Affairs, and Ministry of Justice of Ukraine establishing the implementation procedure of this agreement is in *Official Herald of Ukraine*, 29 October 1998, No. 41, p. 66; “Agreement between Ukraine and Republic of Belarus on simplified citizenship changing procedure by citizens of Ukraine permanently residing in Belarus, and citizens of Belarus permanently residing in Ukraine” from 12 March 1999, text at [http://zakon2.rada.gov.ua/laws/show/112\\_510](http://zakon2.rada.gov.ua/laws/show/112_510) (publication source not specified); “Agreement between Ukraine and the Republic of Kazakhstan on simplified citizenship changing procedure by citizens of Ukraine permanently residing in the Republic of Kazakhstan and citizens of the Republic of Kazakhstan permanently residing in Ukraine, and on prevention of cases of statelessness and of dual citizenship” from 19 May 2000, text at [http://zakon1.rada.gov.ua/laws/show/398\\_100](http://zakon1.rada.gov.ua/laws/show/398_100) (publication source not specified); “Agreement between Ukraine and Republic of Tajikistan on simplified citizenship changing procedure by citizens of Ukraine permanently residing in the Republic of Tajikistan and citizens of the Republic of Tajikistan permanently residing in Ukraine” from 6 July 2001, text in *Official Herald of Ukraine*, 9 April 2004, No. 12, vol. 2, p. 484, art. 976; “Agreement between Ukraine and Kyrgyz Republic on simplified citizenship changing procedure by citizens of Ukraine permanently residing in Kyrgyz Republic and citizens of Kyrgyz Republic permanently residing in Ukraine, and on prevention of cases of statelessness and of dual citizenship” from 28 January 2003, text in *Official Herald of Ukraine*, 27 September 2006, No. 37, p. 113, art. 2561; “Agreement between Ukraine and Georgia on simplified citizenship acquisition and termination procedure by citizens of Georgia permanently residing in Ukraine, and citizens of Ukraine permanently residing in Georgia, and on prevention of cases of statelessness and of dual citizenship” from 1 March 2008, text in *Official Herald of Ukraine*, 6 June 2008, No. 38/No. 24, 2008, art. 722 / page 164, article 1286.

in the three most recent of these bilateral agreements (with Kazakhstan, Kyrgyzstan, and Georgia) prevention of statelessness and of dual citizenship is part of the title of the agreement. Ukraine ultimately wants to conclude such agreements with all former Soviet republics, and between October 1998 and January 2000 sent drafts of bilateral agreements for consideration to the authorities of most former Soviet republics, including Russia, but not all proved willing to sign such agreements. Russia in particular has not agreed to Ukraine's proposals to sign the agreement (Prybytkova 2001).

### 3.5. International cooperation, Europeanisation, and reduction of statelessness

As noted in Section 3.2, by the start of the millennium Ukrainian citizenship law and policy had undergone a process of Europeanisation demonstrated most clearly in the 2001 Citizenship Law and the 2005 amendments to it which were informed by such international documents as the 1997 European Convention on Nationality and drafted in close consultation with the UNHCR and the Council of Europe. The involvement of international agencies in Ukrainian citizenship policymaking had commenced already in the middle of the 1990s and was prompted by the problem of statelessness.

Statelessness in Ukraine was an inadvertent side effect of the 1991 Citizenship Law, in particular of the 'zero option' clause in the law that overall prevented statelessness, as it recognised as Ukrainian citizens all permanent residents on the territory of Ukraine as of 13 November 1991. However, a specific group found itself stateless as a result of this provision – some 108,000 members of the so-called Formerly Deported Peoples (FDPs). The FDPs were primarily Crimean Tatars, but also several other smaller ethnic groups who were deported from Crimea in the 1940s by the Stalin regime and who have been returning to Ukraine since the late Soviet period.

By the middle of the 1990s, some 258,000 FDPs had returned to Ukraine. Of them, roughly 150,000 arrived and registered their residency in Ukraine before 13 November 1991 and were duly recognised as citizens of Ukraine *ex lege* under the 1991 Citizenship Law. The remaining FDPs fell into two categories. About 25,000 were *de jure* stateless, having left their previous republic of residence before citizenship legislation was enacted there, and they had neither Ukrainian nor any other citizenship. The remaining approximately 83,000 were legally citizens of the republic of their prior residency (mostly Uzbekistan, but also Georgia, Russia, Kyrgyzstan, Kazakhstan and Tajikistan). The international organisations considered most in this latter group to be *de facto* stateless because, since they were permanently residing in Ukraine, they derived no practical benefits from the citizenship they legally possessed and many were not even aware that they were in theory citizens of the states they left – especially if they had a Ukrainian *propiska* residency registration stamp in their Soviet passports, as the Soviet system whereby *propiska* (renamed registration in the post-Soviet period) was the basis for accessing benefits and receiving services from the state continued in Ukraine. Furthermore, many were also at risk of becoming *de jure* stateless as the legislation of many post-Soviet states, including Uzbekistan, provided that citizenship would be forfeited if citizens lived abroad for an extended period without registering with consular authorities (Uehling 2004: 11).

After a period of intense negotiations and consultations between the Ukrainian authorities, representatives of international organisations, and the Crimean Tatar leaders, a series of legislative amendments and bilateral agreements were signed and implemented in Ukraine that enabled the vast majority of FDPs to acquire Ukrainian citizenship on the basis

of territorial origin as a result of a UNHCR-funded citizenship campaign.<sup>32</sup> By 2004, some 112,000 FDPs had been able to obtain Ukrainian citizenship (Uehling 2004: 1).

Evidencing the Europeanisation process of Ukraine's citizenship regime, Ukraine signed the 1997 European Convention on Nationality on 1 July 2003 and ratified it on 12 December 2006, becoming one of just two post-Soviet states (together with Moldova) to ratify the document. On 19 May 2006 Ukraine also signed the Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, becoming the very first Council of Europe member state to sign this document on the date it became open for signature. To date Ukraine remains one of just two – again together with Moldova – post-Soviet states to sign the document.<sup>33</sup>

In January 2013, Ukraine acceded to the main international instruments on statelessness - the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. The parliament ratified these international instruments on 11 January 2013 and forwarded them to the President to sign on 24 January. According to the State Migration Service of Ukraine, there were 5,875 registered stateless persons in the country as of 1 January 2012.<sup>34</sup> The UNHCR estimates the number to be higher - 39,817, most of them are former Soviet citizens.<sup>35</sup>

### 3.6. Some practical obstacles in citizenship acquisition and renunciation.

The legal provisions regulating citizenship acquisition in Ukraine are rather generous, especially with regard to those who have family origins in the territory of Ukraine, but in practice these and other categories of applicants for Ukrainian citizenship at times face administrative obstacles that can delay or prevent them from exercising their right to Ukrainian citizenship and in some cases create the risk of statelessness. In the absence of systematic publicly available data on the number of people thus affected it is difficult to talk about numbers, so this section will summarize the nature of the main known obstacles.

The first such obstacle, which was particularly acute in the 1990s, concerns the *propiska* residency registration stamp. As noted above, in the Soviet era there were no documents certifying one's republican-level citizenship. As a result, in the post-Soviet period, the terms 'residency' and 'permanent residency' referred to in the law as the basis for determining citizenship status were in practice taken to mean possession of a *propiska* residency registration stamp in a person's internal Soviet passport.<sup>36</sup> Those who permanently resided in Ukraine at the time the law entered into force but who did not have a permanent

<sup>32</sup> For detailed analysis of the consultations between the Ukrainian authorities and the international bodies on citizenship issues in the 1990s, see Shevel (2000, 2009). The UNHCR citizenship campaign, its largest in the world at the time, is detailed and analyzed in Bierwirth (1998), Schodder (2005), Uehling (2004), UNHCR Ukraine (2000).

<sup>33</sup> Ukraine has not yet ratified this Convention, however, while Moldova already did in December 2007. The list of signatories of the Convention is at

<http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=200&CM=1&DF=&CL=ENG>

<sup>34</sup> "UNHCR applauds Ukraine's accession to the UN Conventions on Statelessness and commitment to protecting human rights of stateless persons," 13 January 2013, <http://www.un.org.ua/en/information-centre/news/1549>.

<sup>35</sup> "2013 UNHCR regional operations profile – Eastern Europe," <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e48d4d6&submit=GO>.

<sup>36</sup> The Soviet *propiska* stamp contained the address where one was legally allowed to reside (which was usually one's home address, or dormitory or military quarters in case of students and servicemen), and thus was a handy shortcut for determining one's place of permanent residency at a given moment in time.

*propiska* stamp thus often faced problems acquiring Ukrainian citizenship. Over time this problem diminished as the central authorities inched towards the view that the fact of permanent residency, not the *propiska* stamp, should matter for citizenship status. Some people thus were able to turn to courts and to call on witnesses and/or produce other documents proving permanent residency, and then use the court rulings to exercise their right to Ukrainian citizenship. Many of the FDPs used this pathway, although the exact numbers are unknown.

In addition to obstacles stemming from *propiska/rehistratsia* rules, other practical obstacles relating to Ukrainian citizenship acquisition include the lack of documents confirming territorial origin; differences in the spelling of the name in the documents confirming birth on the territory of Ukraine and in the passport; and the lack of the national passport of the state of prior citizenship on the part of those former Soviet citizens who moved to Ukraine in the early and mid-1990s possessing only Soviet passports. The lack of valid passports led to difficulties in acquiring residency permits from the Ministry of Interior, which in turn hampered naturalisation. Spouses and other relatives of the FDPs who do not qualify for Ukrainian citizenship on the basis of territorial origin are one specific group thus affected. The process of acquiring the national passport of the former Soviet republic of prior citizenship varies in cost and complexity, and then needs to be followed by the also usually costly and lengthy procedure of formally renouncing the old citizenship in the process of application for Ukrainian citizens.

Yet another administrative impediment in citizenship is related to birth registration. This affects primarily but not exclusively the children of refugees. The Family Code of Ukraine (art. 275) stipulates that stateless persons and aliens lawfully residing in Ukraine enjoy the same rights in family relationship matters as citizens of Ukraine, subject to exclusions provided by the Constitution, other laws or international agreements. The practice of birth registration and subsequent issuing of birth certificates thus greatly depends on the lawfulness of parents' stay in the country. The risk of statelessness is created when refugees, asylum seekers, and other foreigners who may be stateless do not possess all the necessary documents to make their residence in Ukraine legal (such as valid national passports, residency permits, and local registration). The authorities can refuse to issue birth certificates in such cases, although the rejection can be contested in court. The UNHCR is monitoring this set of issues and has lobbied the government to pursue birth registration practices that would allow refugee children to exercise their legal right to Ukrainian citizenship.

Finally – and rather ironically given a strong legal and political norm against dual citizenship in Ukraine – it is not easy to legally renounce Ukrainian citizenship. While the difficult procedure guards against statelessness and prevents people with unfulfilled obligations towards the state, in particular military service obligation, from renouncing citizenship as a way to avoid such obligations, it at the same time pushes many people in the gray area of the law if they get “stuck” with Ukrainian citizenship after they acquire citizenship in another country (or they may not be able to acquire citizenship of another country in states where documentary proof of renunciation of prior citizenship is required for naturalisation).

The Ukrainian citizenship law (Article 18) allows renunciation of Ukrainian citizenship (*vykhid z hromadianstva*) by citizens “who according to the legislation of Ukraine are permanently residing abroad” if they obtained another citizenship or received a document from competent authorities of a foreign state that citizenship will be granted once Ukrainian

citizenship is terminated.<sup>37</sup> The requirement to permanently reside abroad “according to the legislation of Ukraine” is the source of complications to citizenship renunciation in practice. To be considered by Ukrainian authorities as permanently residing abroad it is insufficient to be permanently residing abroad de-facto, or even de-jure in the eyes of a foreign state (by, for example, possessing a green card in the USA or a comparable document elsewhere). Instead, one must complete a lengthy and costly administrative procedure in Ukraine to become a non-resident (*vyizd za kordon na postiine prozhyvannia*, commonly known by its Soviet-era abbreviation PMZh) and obtain a PMZh stamp in the passport. The PMZh procedure is a legacy of the Soviet era and normally only those who depart Ukraine with an immigration visa in hand go through this procedure (such as political emigrants in the Soviet days, as well as brides on their way to join foreign fiancées or husbands, or winners of a green card lottery). In the more than two decades since independence, countless thousands have left Ukraine with non-immigrant visas as students, workers, or tourists, but subsequently stayed abroad, became permanent residents, and eventually foreign citizens. These people do not have a PMZh stamp in their Ukrainian passports, and are legally unable to renounce their Ukrainian citizenship without first undergoing the PMZh procedure which is lengthy, costly, and in practice inaccessible to many, especially if they no longer possess *propiska* registration in Ukraine.<sup>38</sup> This means that despite prohibition of dual citizenship in the Ukrainian law, in reality there are likely thousands, if not tens of thousands people, who are forced dual citizens – and forced by the Ukrainian regulations.

Why the Ukrainian authorities do not themselves, following Article 19 of the citizenship law, initiate loss of Ukrainian citizenship for those citizens who voluntarily acquired foreign citizenship is not entirely clear. One reason could be the complexity of the procedure itself, in particular the requirement that the initiating authority (say, a Ukrainian embassy abroad) presents proof that a Ukrainian citizen has voluntarily received foreign citizenship. If, as discussed above, the Ukrainian citizenship officials do not consider the possession of a foreign passport a sufficient proof that Ukrainian citizen acquired foreign citizenship, they need to first obtain some document directly from the authorities of the foreign state confirming that a particular Ukrainian citizen acquired foreign citizenship. A Ukrainian consular official would therefore have to first find out that someone may have obtained foreign citizenship, then get proof to this effect from the competent authorities of a foreign states (which may not be readily forthcoming), submit this proof with the motion on citizenship deprivation to the Foreign Ministry, which in turn submits it to the Ministry of Interior and the Security Service to confirm that there are grounds for citizenship deprivation. If such grounds are found to exist, the case is submitted to the Citizenship Commission of the

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<sup>37</sup> On 13 April 2012, art. 18 para 14 of the citizenship law amended (Law No. 4652-VI (4652-17) to state that one's application to renounce Ukrainian citizenship will be denied if the applicant is informed that s/he is suspected of committing a criminal act (previously one had to be formally named a suspect in a criminal case). *Voice of Ukraine*, No. 90-91, 19 May 2012.

<sup>38</sup> To legally acquire a PMZh stamp requires either travel to Ukraine, collection of many documents from various local authorities, and long waits - and this is assuming one still has a *propiska*/registration stamp in the local passport, otherwise the required documents may be downright impossible to obtain. Applying for a PMZh at a consular abroad may be a dead end to those who left Ukraine years ago and do not have employment history in Ukraine for the five years preceding the application, as they may be unable to prove that they do not owe taxes to the Ukrainian state. The tax requirement is by itself controversial since under the Ukrainian tax law a non-resident is defined differently, and by the letter of the tax law those who do not live in Ukraine are not tax residents and therefore should not be required to prove absence of tax debt. In practice, however, the tax authorities treat anyone who has Ukrainian citizenship as tax resident and reject PMZh applications from non-residents who cannot show that they paid taxes in Ukraine during the previous five year period.

Presidential Administration, and only after the president personally signs off on each individual case will the deprivation of citizenship become legally complete.<sup>39</sup>

Ukrainian authorities may be coming to the realization that current rules make it very difficult to deprive a citizen of Ukrainian citizenship even if the citizen acquired foreign citizenship. This realization may have motivated the recent draft amendment to Article 19 of the citizenship law requiring anyone who voluntarily obtained foreign citizenship as an adult to inform the Ukrainian authorities about it within six months by submitting a declaration about acquiring foreign citizenship and a copy of the document confirming it.<sup>40</sup> If the amendment becomes the law, and if the Ukrainian citizens start declaring their foreign citizenship as required by it (both propositions are far from certain),<sup>41</sup> in the future we may see the Ukrainian authorities acting more pro-actively and initiating deprivation of Ukrainian citizenship procedure more often.

#### 4. Current political debates and reforms

Since 1991, when the first Citizenship Law was adopted, the Ukrainian citizenship regime has been evolving rapidly and frequently. Two versions of the citizenship law were adopted in 1997 and 2001, respectively, plus amendments to the law were adopted almost every year. After the adoption of the 2001 Citizenship Law in January 2001, however, the legislative activity slowed down for the next ten years. Several important amendments to the law were introduced in June 2005, as detailed above, but otherwise in the ten years since the adoption of the 2001 Law only two minor technical changes were made (in April 2005, and in May 2007).<sup>42</sup> The last two years, however, saw a renewed legislative interest in citizenship matters. The citizenship law was amended twice in the last two years (in July 2011, and again in April 2012).<sup>43</sup> Several additional amendments to the citizenship law are pending in the

<sup>39</sup> These steps in the procedure of citizenship deprivation if the procedure is initiated by the consular authorities on the basis of Article 19 of the citizenship law are spelled out in art. 87 and 108 of the Decree of the President of Ukraine (No. 215/2001) "On questions concerning organisation of execution of the Law of Ukraine "On Citizenship of Ukraine", *Official Herald of Ukraine*, 2001, No. 13, p. 19, article 533.

<sup>40</sup> Draft law No. 9728-1 "On introducing changes to certain legislative acts of Ukraine on citizenship," part 18. Text of the draft available at [http://w1.c1.rada.gov.ua/pls/zweb\\_n/webproc4\\_1?id=&pf3511=42418](http://w1.c1.rada.gov.ua/pls/zweb_n/webproc4_1?id=&pf3511=42418).

<sup>41</sup> The draft amendment does not foresee any penalty for failing to declare foreign citizenship, so Ukrainian citizens seeking to maximise advantages from maintaining both Ukrainian and foreign citizenship may decide not to declare their foreign citizenship. The amendment itself so far has not become the law as the draft law of which it is a part (draft law No. 9728-1) has been passed by the parliament on 2 October 2012 but vetoed by the president and returned to the parliament on 30 October 2012 (president's reservations and legislative chronology are at [http://w1.c1.rada.gov.ua/pls/zweb\\_n/webproc4\\_1?id=&pf3511=42418](http://w1.c1.rada.gov.ua/pls/zweb_n/webproc4_1?id=&pf3511=42418)).

<sup>42</sup> Law No. 2508-IV from 5 April 2005 raised the age of required personal consent while acquiring Ukrainian citizenship or succeeding from Ukrainian citizenship from fourteen to fifteen years. *Vidomosti Verkhovnoi Rady Ukrainy*, 2005, no. 20, p. 277. Law No. 1014-V from 11 May 2007 changed the word used to describe conscription-style (i.e. mandatory) military service in art. 19 of the 2001 Citizenship Law. *Vidomosti Verkhovnoi Rady Ukrainy*, 2007, no. 33, p. 442.

<sup>43</sup> Law No. 3575-VI from 5 July 2011 amends para. 5, part 2, of art. 9 of the 2001 citizenship law. The original law states that those convicted in Ukraine and incarcerated for the commission of a grave or very grave crime cannot acquire citizenship of Ukraine until the conviction is cancelled or annulled. The amendment softens this restriction somewhat by adding the clause 'taking into account the level of threat to the national security of the state.' *Vidomosti Verkhovnoi Rady Ukrainy*, 2012, No. 12-13, p. 549. On 13 April 2012, art. 18 para 14 of the citizenship law amended (Law No. 4652-VI (4652-17) to state that one's application to renounce Ukrainian citizenship will be denied if the applicant is informed that s/he is suspected of committing a criminal act (previously one had to be formally named a suspect in a criminal case). *Voice of Ukraine*, No. 90-91, 19 May 2012.

parliament; one of them was adopted by the legislature but subsequently rejected by the president and sent back to the parliament.<sup>44</sup> This raises two questions: why the Ukrainian citizenship regime stabilised, with the citizenship issue no longer generating much legislative activity for ten years between 2001 and 2011, and why the past two years saw the issue becoming more dynamic again.

The slowing down of citizenship reforms can be explained by the fact that the 2001 citizenship law addressed most of the significant practical and legal problems that had been outstanding in Ukraine since the early 1990s, most notably the practical difficulties of acquiring citizenship on the basis of territorial origin that threatened tens of thousands of FDPs as well as other former Soviet citizens with statelessness. Changes were also made to the provisions on citizenship acquisition by children, bringing the Ukrainian law into compliance with the European Convention on Nationality.

At the same time, the citizenship issue has not lost its political salience, and periodically surfaces on the front pages of news media. Political contestation invariably centres around the issue of dual citizenship. Before contested national elections, for example, politicians who count on the support of Russian-speakers in the East and South of the country frequently make a promise to introduce dual citizenship in Ukrainian legislation. Former President Kuchma made this promise during the 1994 presidential elections campaign (Zevelev 2001: 137), and so did current President Yanukovich when he first ran for president in 2004.<sup>45</sup> As soon as the office is assumed, however, the promises are forgotten. This shows not only that the citizenship issue is manipulated as an electoral strategy, but also speaks to the fact that holders of top political offices in Ukraine continue to perceive dual citizenship primarily through the lens of state sovereignty, and therefore continue to oppose it.

More than two decades post-independence, the feeling that Ukraine's state sovereignty has not solidified sufficiently to be beyond danger, especially from Russia, is still present. As Volodymyr Lytvyn, Speaker of the parliament and former Presidential Chief of Staff, expressed the sentiment succinctly in 2003: 'if we have dual citizenship, we will not have the state.'<sup>46</sup> Thus, even politicians who promise dual citizenship when they are running for office to attract votes, once they assume office are forced to adopt positions based on where they sit, as it were. Instead of pursuing electoral promises of dual citizenship, they continue in the steps of their predecessors and uphold the commitment to single citizenship. Commenting on these dynamics, former President Leonid Kravchuk reacted to the promise of dual citizenship articulated by the then-presidential candidate Yanukovich as follows: 'a candidate for president and president are two very different things. When one wins presidency, different motivating factors come into play.'<sup>47</sup>

In addition to election times, legislative initiatives on dual citizenship in Ukraine also surface in response to events in the neighbouring states. Thus, two amendments to the

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<sup>44</sup> Draft law No. 9728-1 "On introducing changes to certain legislative acts of Ukraine on citizenship," part 18. Text of the draft available at [http://w1.c1.rada.gov.ua/pls/zweb\\_n/webproc4\\_1?id=&pf3511=42418](http://w1.c1.rada.gov.ua/pls/zweb_n/webproc4_1?id=&pf3511=42418). A search of Ukrainian parliament's database of draft laws identifies at least six draft laws on amending citizenship law that were registered in 2011 and 2012.

<sup>45</sup> Yanukovich made this announcement on 27 September 2004 during a meeting with Russian media representative (*Ukrains'ka Pravda*, 27 September 2004, also *Uriadovyi Kur'ier*, 6 October 2004). Most recently, in July 2010, the head of Donetsk region (*oblast*) state administration Anatolii Blyzniuk, expressed support for legalisation of dual citizenship. 'Donetsk'ie vlasti vystupili za legalisatiu dvoynogo grazhdanstva' [Donetsk authorities spoke in favour of legalising dual citizenship], *Segodnia*, 19 July 2010, <http://www.segodnya.ua/news/14155004.html>

<sup>46</sup> *Chas2000*, 28 February 2003.

<sup>47</sup> *Den*, 29 September 2004.

citizenship law were submitted in the Ukrainian parliament in September and November 2008, shortly after the Russian-Georgian war of August 2008, when Russia justified its invasion of Georgia in part with the argument that it was defending its citizens (more than half of South Ossetia's 70,000 residents were estimated to be holding Russian passports),<sup>48</sup> and shortly after the April 2008 legal changes in Romania which simplified the rules for acquisition of Romanian citizenship by those who held Romanian citizenship in the past and their descendants.<sup>49</sup> Both amendments aimed at strengthening the single citizenship principle by introducing penalties for the concealment of a foreign citizenship and by requiring security service organs to check if government employees are in possession of foreign citizenship.<sup>50</sup>

The drafts passed at the first reading stage on 2 June 2009, after further changes to Romanian legislation that extended eligibility to Romanian citizenship from second to third-generation descendants of former citizens.<sup>51</sup> Given that some of the territories of south-western Ukraine were part of Romania in the inter-war period, Ukrainian officials expressed their concern and negative attitude to these changes. Both the Russo-Georgian war and the Romanian legal changes were explicitly mentioned during the debate of the 2008 amendments in the *Rada* as threatening developments that Ukraine needs to guard against by finding a way to prevent the situation whereby masses of Ukrainian citizens can become holders of Russian and Romanian passports.<sup>52</sup> However, such concerns were not explicitly shared by more pro-Russian political forces in Ukraine, such as the then-opposition and now governing Party of Regions as well as the Communist Party. Both did not support the 2008 drafts introduced by a member of parliament from the then-governing Yulia Tymoshenko Block (BYT) during the June 2009 vote.<sup>53</sup>

<sup>48</sup> "Q&A: Conflict in Georgia," *BBC World Service*, 11 November 2008, <http://news.bbc.co.uk/2/hi/europe/7549736.stm>.

<sup>49</sup> Draft No. 2752 from 5 September 2008 introducing amendments to the citizenship law 'to remove collisions that allow dual citizenship' (text and accompanying documents available at [http://gska2.rada.gov.ua/pls/zweb\\_n/webproc4\\_1?id=&pf3511=33004](http://gska2.rada.gov.ua/pls/zweb_n/webproc4_1?id=&pf3511=33004)), and Draft No. 3102-1 from 18 November 2008 'On declaring foreign citizenship' (text and accompanying documents available at [http://gska2.rada.gov.ua/pls/zweb\\_n/webproc4\\_1?id=&pf3511=33322](http://gska2.rada.gov.ua/pls/zweb_n/webproc4_1?id=&pf3511=33322)).

<sup>50</sup> Draft No. 2752 proposes amendments to art. 19 of the 2001 Citizenship Law that remove exceptions to dual citizenship prohibition currently contained in this article (for cases when foreign citizenship was acquired automatically by birth or marriage, which are the exceptions contained in the 1997 European Convention on Nationality). The draft also adds a concluding clause to the citizenship law requiring security service organs to check if government employees are in possession of foreign citizenship within six months of the law's entry into force. Draft No. 3102-1 proposes to introduce penalties for the concealment of a foreign citizenship. The proposed amendment to art. 19 of the 2001 Citizenship Law and to the Criminal Code of Ukraine added a requirement for citizens of Ukraine who obtain foreign citizenship to inform competent state authorities of Ukraine of this fact within 90 days of receiving foreign citizenship. Non-compliance with this requirement would lead to a fine in the amount from 100 to 500 times the minimum monthly wage for ordinary citizens and from 1,000 to 3,000 times the minimum wage for state officials.

<sup>51</sup> See EUDO Romania country report, pp. 17-18 (<http://eudo-citizenship.eu/docs/CountryReports/Romania.pdf>), also Iurii Onyshev, 'Ivan Popescu: Sproshchena protsedura otrymannia rumuns'koho hromadianstva ne poznachytsia na ukrainstiaxh' [Simplified procedure of Romanian citizenship acquisition will not affect Ukrainians], *Glavred*, 19 May 2009, <http://ua.glavred.info/archive/2009/05/15/102705-8.html>.

<sup>52</sup> See, for example, statements by MPs Shvets and Zaiets, stenographical record available at [http://www.rada.gov.ua/zakon/skl6/4session/STENOGR/02060904\\_42.htm](http://www.rada.gov.ua/zakon/skl6/4session/STENOGR/02060904_42.htm). At the same time, it should be noted that Ukrainian officials saw Romanian precedent as less threatening than the Russian one. As Petro Poroshenko, Minister of Foreign Affairs at the time argued, in the case of Romania there are 'sufficient constraining factors, including NATO and the EU' that would prevent the country from being involved into any armed conflict with its neighbors over territorial claims. Poroshenko as quoted in 'Podviine hromadianstvo: khloptsi, chyii vy budete?' [Dual citizenship: guys, who do you belong to?], *Nedvizhimost' 5000*, 23 January 2010, <http://www.realt5000.com.ua/news/1215087/?lng=uk>.

<sup>53</sup> Voting results are available at [http://gska2.rada.gov.ua/pls/radac\\_gs09/g\\_frack\\_list\\_n?ident=6643&krit=66](http://gska2.rada.gov.ua/pls/radac_gs09/g_frack_list_n?ident=6643&krit=66)

Following the 2010 presidential elections the political landscape in Ukraine changed dramatically, with the Party of Region now commanding both the majority in the legislature and the office of the presidency. The 2008 drafts did not see further action since the June 2009 vote, but the new government has submitted legislative proposals of its own that are very similar to the ones they opposed when they were in opposition. Thus, Draft No. 9728-1 “On introducing changes to certain legislative acts of Ukraine on citizenship,”<sup>54</sup> prepared by the new Ukrainian government and submitted to the Rada in February 2012 also introduces penalties for the concealment of a foreign citizenship. Under the draft, if a citizen of Ukraine who obtains foreign citizenship does not inform competent state authorities of Ukraine of this fact, the citizen will be fined an amount between 10 and 30 times the minimum monthly wage (or between 50 and 100 times the minimum wage for state officials). Since many Ukrainian politicians possess more than one passport, and since Ukrainian politics has radicalized since the 2004 “Orange Revolution,” legal penalties for second citizenship are likely seen as a possible way to “get at” political opponents by both the “orange” and the “blue” political camps. In the environment of the weak rule of law and politicized justice, a political force in opposition opposes penalties for dual citizenship fearing that it can be on the receiving end of such penalties, but once in government, the same political force starts favoring these very measures since it is now in a better position to wield the law against the opposition.

Numerous examples of high profile Ukrainian political figures with “suspect” dual citizenship can be cited. The 2008 drafts were registered shortly after the Ukrainian press broke the news that the Presidential Administration and the Prosecutor’s Office were planning to revoke the Ukrainian citizenship of one of the high-profile politicians of Georgian origin, David Zhvania, for allegedly acquiring Ukrainian citizenship illegally.<sup>55</sup> According to the same report, relations between Zhvania and then-President Yushchenko, former allies in the 2004 Orange Revolution, became hostile, which prompted the Presidential Secretariat to accuse Zhvania of acquiring Ukrainian citizenship without having sufficient grounds to do so. Allegations that high ranking Ukrainian politicians have citizenship of more than one state periodically break out in the Ukrainian media and the discussion rapidly becomes politicized. Thus, the citizenship status of the former President Yushchenko’s American-born wife has been frequently questioned by his political opponents, especially during the bitterly contested 2004 presidential campaign. A former prime minister Yurii Yushchenko was said to have both Ukrainian and Israeli citizenship, another former prime minister Pavlo Lazarenko (who served a jail sentence in the US for money laundering, wire fraud, and extortion) was arrested entering the US on a Panama passport, and various Ukrainian oligarchs have also been accused of holding multiple passports.<sup>56</sup> Reacting to the September 2008 drafts, a member of the then-opposition Party of Regions alleged that the BYT drafts were tabled in reaction to a BYT member of parliament suspected of having two citizenships quitting the BYT and defecting to the opposition.<sup>57</sup> The Party of Regions had its own share of dual citizenship scandals since taking power in 2010. For example, Andrii Pal’chevskii, who in 2010 was appointed first deputy minister of youth and sports, had citizenship of Russia that was not

<sup>54</sup> Text of the draft available at [http://w1.c1.rada.gov.ua/pls/zweb\\_n/webproc4\\_1?id=&pf3511=42418](http://w1.c1.rada.gov.ua/pls/zweb_n/webproc4_1?id=&pf3511=42418).

<sup>55</sup> Viktor Chervokiunia, ‘Kuma Yushchenka pozbavliaiut’ hromadianstva Ukainy’ [Godfather of Yushchenko’s son is being stripped of Ukrainian citizenship], *Ukrains’ka Pravda*, 20 May 2008, <http://www.pravda.com.ua/articles/4b1a9fc66ef9d>.

<sup>56</sup> Ihor Slisarenko, ‘Dual citizenship: “for” and “against”’, *Den*, 27 January 2010, <http://www.day.kiev.ua/291059/>

<sup>57</sup> Olena Lukash of the Party of Regions, as quoted in Oleksandr Mikhel’son, ‘U Tymoshenko I Lytvyna vynaiishly karu za passport bez tryzuba’ [In Tymoshenko and Lytvyn (parties – m.n.) they found a punishment for the passport without the trident], *Forpost*, 12 September 2008, <http://www.4post.com.ua/politics/107725.html>

officially terminated after he acquired Ukrainian citizenship in 2009.<sup>58</sup> After accusations from the opposition and a series of reports in the media, in July 2010 Pal'chevski was removed from his post. Dual citizenship allegations also were levelled at another government appointee, Dmytro Salamatin, who president Yanukovich appointed to the post of defence minister in February 2012. Salamatin spent most of his career working in business in Russia and received Ukrainian citizenship only in 2005. Some journalists and the opposition charged that since he became Ukrainian citizen in 2005 only, he should not have been allowed to become a member of parliament in 2007 since he had not been a citizen for the preceding five years, and also that it was not clear whether Salamatin's Russian citizenship was officially terminated after he acquired Ukrainian citizenship. If it was not, then the Ukrainian defence minister of all people may be a citizen of a neighbouring state.<sup>59</sup>

While larger politics, both domestic and international, clearly affects the ebb and flow of pro- and anti-dual citizenship legislative initiatives in Ukraine, Ukrainian citizenship policy experts have also proved to be willing to look for ways to hold on to the principle of single citizenship in general while aligning this commitment with the European standards as reflected in the 1997 European Convention on Nationality by recognising multiple citizenship in specific instances (such as automatic acquisition of multiple citizenships at birth or of second citizenship through marriage) and specifying detailed and nuanced exceptions to the requirement to renounce foreign citizenship as a pre-condition for acquiring Ukrainian citizenship (for example, by not requiring such a renunciation from refugees since June 2005, or when the cost of the renunciation procedure is too high).

The fine-tuning of these provisions continues, and some of the existing and proposed requirements create a risk of statelessness. In particular, the requirement in art. 8 of the 2001 Citizenship Law that those who acquire Ukrainian citizenship on the basis of territorial origin are obliged to return their national passports to the competent body of the country of foreign citizenship within two years of acquiring Ukrainian citizenship creates obstacles to some applicants and puts them at a risk of losing the newly acquired Ukrainian citizenship and possibly becoming stateless.<sup>60</sup> There has been at least one court case whereby such a withdrawal has taken place and been upheld by a regional appeals administrative court.<sup>61</sup>

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<sup>58</sup> Volodymyr Boiko, 'Pal'chevskii – taky diisno hromadianyn Rosii [Pal'chevskii is indeed a citizen of Russia],' *Ord-02*, 9 September 2010, [http://ord-02.com/rasledovaniya/item/1719-Palchevskii\\_taki\\_d%D1%96ijsno\\_gromadianin\\_Ros%D1%96%D1%97\\_](http://ord-02.com/rasledovaniya/item/1719-Palchevskii_taki_d%D1%96ijsno_gromadianin_Ros%D1%96%D1%97_)

<sup>59</sup> For these charges, see Serhii Leshchenko, 'Yanukovich postaviv torhuvaty zbroieiu kostolama z moskovskym korinniam [Yanukovich appointed a bully with Moscow roots to supervise arms trade],' *Ukrains'ka Pravda*, 10 June 2010, <http://www.pravda.com.ua/rus/articles/2010/06/10/5128653/>, also 'Skandal'nyi ministr oboroby stav ukrainsem lyshe shist' rokiv tomu [Scandalous defense minister became Ukrainian only six years ago],' *Ukrains'ka Pravda*, 11 April 2012, <http://www.pravda.com.ua/news/2012/04/11/6962527/>

<sup>60</sup> According to NGO partners of the UNHCR in Crimea, consulates of Russia and Uzbekistan in particular refuse to accept passports and issue certificates confirming the reception of passports until the applicants have paid fees (150 USD in case of Uzbekistan, 40 USD in case of Russia as of 2007). This creates a risk of statelessness, as Ukrainian citizenship is granted on the condition that within two years the recipient furnishes Ukrainian state authorities a confirmation issued by the competent authority of the state of prior citizenship that this citizenship was renounced.

<sup>61</sup> In this case, in April 2008 a person who was a citizen of Azerbaijan acquired citizenship of Ukraine on the basis of territorial origin under article 8 part 1 of the 2001 citizenship law and received Ukrainian passport in June 2008. Pursuant to the Ukrainian law, the applicant promised to terminate her Azeri citizenship and return her Azeri passport to the Azeri authorities. In April 2010 Ukrainian Ministry of Interior conducted verification procedure of the grounds for issuing the applicant Ukrainian citizenship, and determined that the applicant never fulfilled her promise to terminate her prior citizenship and return her Azeri passport to the competent authorities of Azerbaijan. Therefore, in June 2010, the Ukrainian authorities revoked their earlier decision granting the applicant Ukrainian citizenship. In April 2011 the court upheld the revocation of citizenship upon confirming

If a 2012 draft (No. 9728-1) that was adopted by the parliament in October 2012 but vetoed by the president becomes law, the risk of statelessness can increase further as the draft makes the passport return requirements more stringent. Amendments to article 9 of the 2001 citizenship law proposed by the draft stipulate that foreigners who acquire Ukrainian citizenship must return their foreign passports to the competent authorities of the state of prior citizenship within three months, and inform the Ukrainian authorities in writing within one month by supplying a list of the content of the certified letter used to mail the passport. Amendments to articles 19 and 21 state that if these deadlines and requirements are not met, decisions to grant Ukrainian citizenship will be annulled. In its commentary on the draft, the UNHCR cautioned that the new requirements “can create the conditions for unnecessary complications (sometimes - an impossibility) of realization by foreigners of the right for acquiring citizenship in Ukraine” and could lead to statelessness. The UNHCR reasoned that Ukraine cannot, by way of its domestic law, dictate to other states how to process termination of citizenship, whether to accept national passports mailed to them, and terminate national citizenship of applicants within the timeframe specified by the Ukrainian law. Loss of the newly obtained Ukrainian citizenship for failure to meet the deadlines proposed by the draft can result in statelessness, according to the UNHCR, because there “may arise a situation when a person would lose its previous citizenship, as well as recently obtained Ukrainian citizenship, and as a result would become stateless.”<sup>62</sup> The president’s objections did not concern these particular amendments so even if the draft is further modified by the lawmakers these particular changes will likely be upheld.

## 5. Conclusion

From the time the first Citizenship Law entered into force in Ukraine in November 1991 and until August 2008, over 752,000 people acquired Ukrainian citizenship under the law.<sup>63</sup> Tens of thousands acquire Ukrainian citizenship annually, most of them former Soviet citizens. From the time the first Citizenship Law was adopted in 1991, Ukrainian citizenship regime has rested on two key principles – the territorial basis for defining the body of citizens, and opposition to dual citizenship. Since the second half of the 1990s, a third trend became discernable – the Europeanisation of Ukrainian citizenship policy. Ukrainian citizenship policymakers have been working on bringing the Ukrainian law closer to the European standards, in particular the standards reflected in the 1997 European Convention on Nationality, while at the same time maintaining a commitment to the principle of single citizenship.

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that the applicant indeed failed to return her Azeri passport and continued to receive pension in Azerbaijan. However, the court also determined that in July 2010 the applicant sent a letter to the Azeri consulate in Ukraine refusing her Azeri citizenship. The outcome of this case is not known, but if the Dnipropetrovsk court decision was not appealed and/or upheld by higher level Ukrainian courts, and if the Azeri authorities terminate the person’s citizenship on the basis of her letter, then the person would become stateless since her Ukrainian citizenship has already been terminated. Decision No. 2a-13534/10/0470 of the Dnipropetrovsk appeals administrative court from 29 April 2011, text of the decision available at <http://www.reyestr.court.gov.ua/Review/15932078>.

<sup>62</sup> Commentary by the UNHCR Kyiv office on the “Draft law of Ukraine On Introduction of amendments to Certain Legislative acts of Ukraine on Citizenship No 9728-1 adopted in the first reading on 22.05.2012,” shared by the UNHCR office with the author on 17 September 2012.

<sup>63</sup> Ministry of Interior, ‘Ten more people became citizens of Ukraine,’ 4 July 2008, [http://mvs.gov.ua/mvs/control/m@ain/uk/publish/article/121865?search\\_param=%D0%B3%D1%80%D0%BE%D0%BC%D0%B0%D0%B4%D1%8F%D0%BD%D1%81%D1%82%D0%B2%D0%BE&searchForum=1&searchDocarch=1&searchPublishing=1](http://mvs.gov.ua/mvs/control/m@ain/uk/publish/article/121865?search_param=%D0%B3%D1%80%D0%BE%D0%BC%D0%B0%D0%B4%D1%8F%D0%BD%D1%81%D1%82%D0%B2%D0%BE&searchForum=1&searchDocarch=1&searchPublishing=1) .

Looking into the near future, two types of issues are likely to remain important and politically salient in Ukraine. First, further fine-tuning of rules governing the acquisition of citizenship, especially provisions specifying how the requirement to document release from prior citizenship are to be handled in practice, can be expected. Second, the issue of dual citizenship is likely to remain politicized. At the two ends of the political spectrum in this controversy are forces geopolitically oriented towards Russia who favour dual citizenship, although more so rhetorically than practically, and those whose geopolitical outlook is pro-western and who favour an affirmation and further strengthening of the single-citizenship principle which they see as a tool of strengthening Ukraine's independence as a state. It may seem ironic that a pro-western political orientation in Ukraine is associated with rejection rather than greater tolerance for dual citizenship, given that such tolerance has been a trend in the west in recent decades. However, given the geopolitical realities in Ukraine and the role played by the 'Russian factor' in Ukrainian domestic politics, this state of affairs is not really surprising.

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