When Montenegro received its candidate country status in November 2010, the European Commission (EC) recommended that the country fulfil seven conditions before opening accession talks. The requirement that topped the EC’s list was the need to adopt a new Election Law. Yet the adoption of the
new election legislation, which had been on hold since the country became independent in 2006, was a
cumbersome task. Since Montenegro is a divided society, it required a number of political compromises,
notably on the name of the language subject in elementary education, and on the citizenship status for
people from other republics of the former Yugoslavia. Hence, along with the adoption of the Election Law
in September 2011, the process of Europeanisation (through EU’s political conditionality) has also yielded
a change in Montenegro’s citizenship legislation, resulting in a facilitated naturalisation for citizens of the
former Yugoslav republics.

According to the new article 41v, citizens of one of the republics of the former Yugoslavia who registered
residence in Montenegro at least 5 years prior to the date of Montenegro’s declaration of independence (3
June 2006) can be granted Montenegrin citizenship, provided they did not unregister their residency in
Montenegro before submitting the application, and that they fulfil financial conditions and have security
clearance as stipulated in article 8, para 1, points 4, 5, 7, and 8 of the Montenegrin Citizenship Act. In
addition, the applicant is required to deliver a written statement about his or her acceptance of the rights
and duties of Montenegrin citizenship, along with a request for admission to Montenegrin citizenship to
the Ministry of Interior.

In the context of Montenegro’s citizenship regime, which is among the most restrictive in the Balkans in
terms of naturalisation requirements and intolerance of dual citizenship, the amendment implies that
applicants are no longer required to obtain release from their citizenship of origin. This will facilitate the
naturalisation of a number of people from other former Yugoslav republics, who could not obtain release
from their citizenship of origin, either due to poorly kept registers, the consequences of the wars of
Yugoslav disintegration, or who simply wanted to keep their primary citizenship. In principle, the most
recent amendment is also a step towards tolerating dual citizenship. By submitting the statement that they
accept the rights and duties of Montenegrin citizenship the person essentially should renounce his or her
citizenship of origin. Nevertheless, as no formal renunciation is required, naturalised individuals will be
able to retain both passports. Data protection acts in other post-Yugoslav states will prevent the
Montenegrin authorities from withdrawing the Montenegrin citizenship of a person who holds another
passport, as occurred in the case of a pro-Serb politician in March 2011.

However, despite the liberalizing effect of Europeanisation on Montenegro’s citizenship legislation, a
large number of people seeking Montenegrin citizenship will remain unaffected by the new provisions.
This is especially true of the Roma, who came to Montenegro during the Kosovo crisis in 1998 and 1999.
For them, the problematic aspect of the new provision is that the law still requires the applicants to have
registered ‘residence’ in Montenegro, since most of the Roma have registered with the Bureau for the
Care of Refugees, which is an institution that does not grant residence status (see EUDO case law on
Montenegro). Being a marginalised societal group, the majority of the Roma did not undergo the adequate
procedures required to obtain lawful residence.

In order to understand why the Roma population will be largely unaffected by the new provisions for
naturalisation, it is important to reiterate that the most recent amendment to the 2008 Montenegrin
Citizenship Act came as part of the package of legislative changes that the government and the opposition
agreed upon as preconditions for the adoption of the new Election Law. It was negotiated among the
major ethnic (Montenegrin, Serb, Bosniak, Albanian, Croat) and political (DPS, SNP, Nova) players.
Hence Roma were largely at the margins of this debate, as well as the Serbs from Kosovo, who registered
with the Bureau for the Care of Refugees. The provisions adopted will mostly be of use to the people
from Bosnia and Croatia who sought refuge in Montenegro in the early 1990s (who were predominantly
of Serb ethnic background), registered lawful residence, but failed to naturalise previously as they could
not obtain release from their citizenship of origin. However, had they at any given moment unregistered
their residence in Montenegro so as to regulate their citizenship of origin, they would not be covered by
the scope of the amendment to the Citizenship Act.
The politicization of the citizenship issue in the context of the adoption of the Election Law reflects the significance of the way voting rights are regulated in Montenegro. Franchise is of utmost importance in a country of less than half a million voters, where the electoral races of the past twenty years have had very tight outcomes. Hence, the question of whether the influx of pro-Serb voters would change the electoral results prevented the pro-Montenegrin government from changing the citizenship legislation and postponed the compromise on electoral legislation for almost five years. Yet, the approaching date of publication of the Progress Report of the EC forced the political actors to reach an agreement, which is an example of the transformative power of Europeanisation.
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