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**STUDY FOR THE FEASIBILITY OF A LEGAL INSTRUMENT  
IN THE FIELD OF NATIONALITY LAW AND FAMILIES  
(including the promotion of acquisition of citizenship)**

Report prepared by  
Ms Alenka Prvinšek Persoglio, Senior Policy Advisor

and the  
International Center for Migration Policy Development (ICMPD)  
Vienna (Austria)

The views expressed in this study are solely those of the author and do not necessarily reflect the views of the Council of Europe or its member states.

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## I. INTRODUCTION

1. Over the past years, there has been a notable increase in attention paid to legal issues in relation to the family dimension of loss and acquisition of nationality in Council of Europe member states. These are numerous and of considerably complexity. These legal issues are a result of the combined effects of demographic changes in Europe, such as increasing levels of mobility, decreasing fertility, increasing life expectation, changing family norms and practices as well as legal and policy responses to all these issues. Reflecting on these changes, the Committee on Migration, Refugees and Population of Parliamentary Assembly of the Council of Europe recently noted in a report that the demography of Europe is changing, and this affects Council of Europe member states.<sup>1</sup> Some interesting facts presented in this document can be highlighted:

*On 31 October 2011, the world population reached the new milestone of 7 billion people. Within the framework of a growing world population, the current population of the Council of Europe area is 800 million, representing about 12% of the world population. This figure is expected to drop to about 9% by 2050.*

*People are living longer and having fewer children. With increasing mobility and immigration, European societies are becoming more diverse and immigrants are becoming part and parcel of them.*

*In 21st-century Europe, political goals should not be defined in terms of population size, but rather in terms of “human capital” available for producing the best possible quality of life for everyone. Within this paradigm shift, Europe needs to invest more in its “human capital” and improve their skills and opportunities in order to make sure they are well educated, well equipped, and well integrated to take on the challenges presented by an ever more globalised – and populated – world.<sup>2</sup>*

2. The freedom of movement within the European Union and generally, the growing culture of mobility within wider Europe<sup>3</sup> as well as increasing mobility of citizens of countries from outside wider Europe not only led to increasing diversity of European societies as such, but also went along with a marked increase of mixed couples of various shades, origins and legal statuses. It is in particular the latter which gives rise to a variety of legal issues regarding family aspects of the acquisition and loss of nationality, although family issues are also not absent in cases where spouses come from the same country.

The above-mentioned demographic factors, which have already given rise to very specific and complex legal issues<sup>4</sup>, may urgently call for further developments of new measures applicable in domain of nationality.

<sup>1</sup> Parliamentary Assembly Doc. 12817, 9 January 2012 “Demographic trends in Europe: turning challenges into opportunities”, Report, Committee on Migration, Refugees and Population, Rapporteur: Ms Nursuna MEMECAN, Turkey, Alliance of Liberals and Democrats for Europe.

<sup>2</sup> *Ibidem*.

<sup>3</sup> See Gaspar, Sofia “Mixed marriages between European free movers” CIES e-WORKING PAPER N.º 65/2009 ([http://www.cies.iscte.pt/destaques/documents/CIES-WP65\\_Gaspar.pdf](http://www.cies.iscte.pt/destaques/documents/CIES-WP65_Gaspar.pdf)), and Kalekin-Fishman, Devorah, Tsietselikis, Konstantinos and Pitkanen, Pirkko, “Theorizing multiple citizenship”, in “Multiple citizenship as a Challenge to European Nation-States”, 2007, Sense Publishers.

<sup>4</sup> See recent case law of the European Court of Justice concerning nationality (inter alia, Case C-200/02, Zhu and Chen v. Secretary of State for the Home Department, Judgment of 19 October 2004).

3. In regard of adoption of international law, binding and non-binding, the Council of Europe has a unique role in Europe's political mandate. Its Statute provides that:

*Article 15*

1. *On the recommendation of the Consultative Assembly or on its own initiative, the Committee of Ministers shall consider the action required to further the aim of the Council of Europe, including the conclusion of conventions or agreements and the adoption by governments of a common policy with regard to particular matters. Its conclusions shall be communicated to members by the Secretary General.*
2. *In appropriate cases, the conclusions of the Committee may take the form of recommendations to the governments of members, and the Committee may request the governments of members to inform it of the action taken by them with regard to such recommendations.*<sup>5</sup>

4. Furthermore, the legitimacy of the Council of Europe in matters of nationality has been re-enforced by the member states also in 2005 during the last Summit of Heads of the States in Warsaw, in its conclusions and Action Plan, as a part of the interests of the states. Nationality was referred to as being in the list of priorities:

*Nationality law in all its aspects, including the promotion of acquisition of citizenship, as well as family law are focus points of the Council of Europe. The Council, as the suitable international organisation, will continue to develop its action in these fields of law.*<sup>6</sup>

5. The same document refers also to the rights of a child which are in some cases related also to the access to the child's nationality:

*We are determined to effectively promote the rights of the child and to fully comply with the obligations of the United Nations' Convention on the Rights of the Child. A child rights perspective will be implemented throughout the activities of the Council of Europe and effective coordination of child-related activities must be ensured within the Organisation.*

6. It is important to emphasise that the work conducted by the Council of Europe in matters of nationality and family law is of undeniable importance. Proof of that are, *inter alia*, the Convention on Protection of Human Rights and Fundamental Freedoms, the European Convention on the Adoption of Children, the European Convention on the Exercise of Children's Rights, the European Convention on Nationality (ECN)<sup>7</sup>, the Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession (CASRSS), as well as the recent Recommendation CM/Rec(2009)13 on the nationality of children.

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<sup>5</sup> Statute of the Council of Europe, London, 5.V.1949 (with the successive amendments), no. 1 in the European Treaty series (<http://conventions.coe.int/Treaty/en/Treaties/html/001.htm>)

<sup>6</sup> Ministers' Deputies CM Documents, CM(2005)80 final 17 May 2005 Action Plan, available from [http://www.coe.int/t/dcr/summit/20050517\\_plan\\_action\\_en.asp](http://www.coe.int/t/dcr/summit/20050517_plan_action_en.asp).

<sup>7</sup> Convention on Nationality, CETS No.: 166, Strasbourg, on 6 November 1997 (hereinafter, ECN).

**(a) Nationality as human right and its limitations**

1. The right to a nationality has been object of numerous studies and attempts of definition, being one of the recognised human rights by UN international instruments. Article 15 of the Universal Declaration of Human Rights<sup>8</sup> states that:

*(1) Everyone has the right to a nationality.*

*(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.*

2. Nevertheless, in comparison to the American Convention on Human Rights<sup>9</sup> and to the African Charter on the Rights and Welfare of the Child<sup>10</sup>, the Convention for the Protection of Human Rights and Fundamental Freedoms, nor any of the Protocols, list nationality as a distinct human right.

3. This gap has been over bridged by introduction of nationality as a human right as one of fundamental principles for the rules on nationality in article 4 of the ECN as well as in article 2 of the CASRSS for all the persons affected by state succession.

4. According to the ECN, the term nationality is defined as the “legal bond between a person and a state and does not indicate the person's ethnic origin”<sup>11</sup>.

5. The ECN provides principles and rules which aim to provide a nationality to each child, but there are still relevant areas which would request further developments, in particular in regard of the children born out of wedlock abroad<sup>12</sup>. The 2009 Recommendation on the nationality of children<sup>13</sup> shed further light onto important problems and recommended member states to follow the principles enunciated in its appendix for reduction of statelessness of children, nationality as a consequence of a child-parent family relationship, children born on the territory of a state to a foreign parent, position of children treated as nationals, rights of children in proceedings affecting their nationality and registration of birth as precondition for access to the nationality.

6. The challenges related to nationality law and families have been recently pointed out at the 4<sup>th</sup> Council of Europe Conference on Nationality (hereinafter, the 2010 Conference), organised by the Council of Europe in Strasbourg, on 17 December 2010 under the title: “Concepts of nationality in a globalised world”. The participants representing Governments, academia, international intergovernmental and nongovernmental organisations considered “the Council of Europe as being uniquely placed to take account of discussions on nationality, as well as the institution best placed to take action on:

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<sup>8</sup> Universal Declaration of Human Rights, United Nations General Assembly, Paris, 10 December 1948 (General Assembly resolution 217 A (III)).

<sup>9</sup> American Convention on Human Rights “Pact of San Jose, Costa Rica”, adopted on 22 November 1969, and entered into force on 07/18/78.

<sup>10</sup> African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), *entered into force* 29 November 1999.

<sup>11</sup> Article 2.a) of the ECN.

<sup>12</sup> See Nationality of the Child – Feasibility study, CDCJ, prepared by Galicki, Zdzislaw (Poland), 2006.

<sup>13</sup> Recommendation CM/Rec(2009)13 of the Committee of Ministers to member States on the nationality of children, adopted by the Committee of Ministers on 9 December 2009 at the 1073<sup>rd</sup> meeting of the Ministers' Deputies.

- Considering possible new standards, principles and rules (regarding access to nationality, preventing and avoiding statelessness, facilitating naturalisation and recovery and assessing the consequences of multiple nationality);
- Paying particular attention to, *inter alia*, the drafting of a model agreement on multiple nationality, in full respect of data protection principles, the links between nationality and migration management (with attention to the extraterritorial elements of nationality), the relationship between integration and nationality and the role and place of nationality for both states and individuals in a globalised world;
- Ensuring continuous information exchange between its members as a key tool in shaping and advancing the work of the Council of Europe on nationality issues.”<sup>14</sup>

### **(b) Outline of the scope of the study**

1. Taking the 2010 Conference<sup>15</sup> as a starting point, this study addresses current issues connected to nationality and families, identifies common practices and possible challenging factors. This study also draws important conclusions for the future activities of the Council of Europe, and attempts to suggest possible interventions in a format of new legal instrument (potentially a recommendation) on this topic.

2. The purpose of this study is to address the impact of nationality law on families and vice versa across the Council of Europe member states, to understand how nationality attribution affects family relations, in particular children. As a corollary, related issues such as adoption and paternal affiliation are also addressed. Moreover, this study focuses on the topics of acquisition of nationality and dual nationality, pondering the relevance, advantages and disadvantages of dual nationality systems. This includes essential problematic situations that may arise in some of the Council of Europe's member states. Ultimately, the goal of this study is to identify the best way forward in order to harmonize approaches among the Council of Europe member states and to eliminate gaps in the existing regulation.

3. This study consists of four parts: (1) an analysis of the relevant legal framework under international law concerning nationality (section II), (2) an assessment of the current status of nationality law within 31 member states of the Council of Europe which provided answers on the nationality questionnaire prepared for the purpose of this study, (3) a comparative analysis of questionnaire responses and (4) a conclusion.

4. The section “Nationality Questionnaire” analyses the responses of Council of Europe member states to a questionnaire prepared for the purpose of this study (see Appendix I). It provides three cross-country comparative tables on key aspects identified, as well as a comparative assessment of the answers to the questionnaire given by the different member states. The questions included in the questionnaire addressed in detail the applicable legal principles regarding nationality (e.g., the principles of equality of parents, equality of children born in wedlock/out of wedlock, prevention of statelessness, *jus soli/jus sanguinis*), and specifically focus on the rules regarding children. The matters of acquisition of nationality at birth, naturalisation, adoption, recognition, surrogacy, recovery and loss of nationality also deserve special attention, namely concerning children. Furthermore, the answers to the

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<sup>14</sup> See “Conclusions of the 4<sup>th</sup> Council of Europe Conference on Nationality, Strasbourg, 17 December 2010.

<sup>15</sup> 4th Council of Europe Conference on Nationality, held in Strasbourg, 17 December 2010.

questionnaire point out the advantages and disadvantages of dual/multiple nationality as perceived by the member states. Some questions on the future of the nationality legislation are posed, which try to pinpoint if any changes to the law are foreseen and which challenges could a law based on the single or multiple nationality principles bring.

**(c) Sources of information**

The main sources of information for this study are:

1. the answers to the questionnaire by the member states of the Council of Europe (received before the completion of the study),
2. the legal instruments on nationality by the Council of Europe, and
3. the sources on national legislation available from the European Union Democracy Observatory (EUDO) database.<sup>16</sup>

This study builds on the conclusions of the last Council of Europe Conference on Nationality<sup>17</sup> (as well as the conference materials), and the conclusions of previous three conferences, as well as the Report on Multiple Nationality of the Committee of Experts on Nationality<sup>18</sup>. The legislative framework on the issues of nationality and families, both at European and international levels, will be briefly explained in Section II, and will be taken into consideration when assessing the underlying issues of each question.

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<sup>16</sup> See <http://eudo-citizenship.eu/>. The database is hosted by the European University Institute.

<sup>17</sup> The 2010 Conference.

<sup>18</sup> Report on Multiple Nationality of the Committee of Experts on Nationality (CJ-NA), Strasbourg, 30 October 2000.

## II. RELEVANT LEGAL FRAMEWORK UNDER INTERNATIONAL LAW

### (a) United Nations instruments on nationality and family

#### 1. *Universal Declaration on Human Rights (UDHR)*

The Universal Declaration on Human Rights was proclaimed by the United Nations General Assembly in Paris on 10 December 1948. It set out the first fundamental human rights to be protected universally.

Its article 15 establishes that everyone has a right to a nationality. The family deserves the attention of the first line of its article 16:

- (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.*
- (2) Marriage shall be entered into only with the free and full consent of the intending spouses.*
- (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.*

#### 2. *International Covenant on Civil and Political Rights (ICCPR)*<sup>19</sup>

The ICCPR is a multilateral treaty adopted by the United Nations General Assembly in 1966, which entered into force in 1976. It is part of the International Bill of Human Rights, along with the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Universal Declaration of Human Rights (UDHR). The ICCPR commits its parties to respect the civil and political rights of individuals, such as freedom of movement, thought, conscience and religion, speech, association and assembly, family rights, the right to a nationality, and the right to privacy.

It is important to highlight, for the purpose of this study, its article 24, which mandates the right of the child to a nationality:

#### *Article 24*

- 1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.*
- 2. Every child shall be registered immediately after birth and shall have a name.*
- 3. Every child has the right to acquire a nationality.*

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<sup>19</sup> International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966.

Its Article 12 guarantees the freedom of movement, including the right of persons to choose their residence and to leave a country (which applies to legal aliens as well as citizens of a state) and recognises a right of people to enter their own country. The latter has been interpreted by the Human Rights Committee as applying not just to citizens, but also to those stripped of or denied their nationality, and can only be denied in very limited circumstances.

### **3. *International Covenant on Economic, Social and Cultural Rights (ICESCR)*<sup>20</sup>**

The ICESCR is a multilateral treaty adopted by the United Nations General Assembly in 1966 which entered into force in 1976. It commits its parties to work toward the granting of economic, social, and cultural rights (ESCR) to individuals, including labour rights and the right to health, the right to education, and the right to an adequate standard of living. As mentioned above, the ICESCR is part of the International Bill of Human Rights, along with the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR).

The most relevant article in the context of this study is its article 10, which recognises several rights of the family unit:

#### *Article 10*

*The States Parties to the present Covenant recognize that:*

- 1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.*
- 2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.*
- 3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.*

### **4. *Convention on the Rights of the Child (CRC)*<sup>21</sup>**

The CRC is a United Nations human rights treaty setting out the civil, political, economic, social, health and cultural rights of children. It was open for signature in 1989 and came into force in 1990.

<sup>20</sup> International Covenant on Economic, Social and Cultural Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966.

<sup>21</sup> Convention on the Rights of the Child, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989.

The Convention generally defines a child as any human being under the age of eighteen. In article 7 it stipulates that: each child has a right to be registered immediately after the birth, to have the right from birth to have a name and to acquire a nationality. Article 8 stipulates child's right to preserve his or her identity, including nationality, and binds the state to assist in re-establishing speedily the identity.

In terms of recent developments in regard of the effective implementation of the rights of a child under CRC, it is worth to mention adoption of the third Optional Protocol to the Convention on the Rights of the Child, which establishes a communications procedure for violations of children's rights. It was adopted by the General Assembly in December 2011.

**5. *International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)*<sup>22</sup>**

The ICERD is a United Nations convention which commits its members to the elimination of racial discrimination and the promotion of understanding among all races. The convention was adopted in 1965, and entered into force in 1969. It recognises the right to nationality (Article 5, d) iii).

**6. *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*<sup>23</sup>**

The CEDAW is an international convention which was adopted in 1979 by the United Nations General Assembly and came into force on 3 September 1981.

*Article 9*

*1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.*

*2. States Parties shall grant women equal rights with men with respect to the nationality of their children.*

**7. *Convention relating to the Status of Stateless Persons*<sup>24</sup>**

This convention was adopted on 28 September 1954 by a Conference of Plenipotentiaries convened by Economic and Social Council resolution 526 A (XVII) of 26 April 1954, and entered into force on 6 June 1960.

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<sup>22</sup> International Convention on the Elimination of All Forms of Racial Discrimination, adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965.

<sup>23</sup> Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979.

<sup>24</sup> Convention relating to the Status of Stateless Persons, New York, 28 September 1954.

## **8. Convention on the Reduction of Statelessness<sup>25</sup>**

This UN convention was adopted on 30 August 1961, and entered into force on 13 December 1975.

### **(b) Council of Europe instruments on nationality and the family, including soft law**

#### **1. Convention for the Protection of Human Rights and Fundamental Freedoms<sup>26</sup>**

This convention (also referred to as European Convention on Human Rights) was open for signature in 1950 and entered into force in 1953. It defines a number of fundamental rights and freedoms (right to life, prohibition of torture, prohibition of slavery and forced labour, right to liberty and security, right to a fair trial, no punishment without law, right to respect for private and family life, freedom of thought, conscience and religion, freedom of expression, freedom of assembly and association, right to marry, right to an effective remedy, prohibition of discrimination). As noted already in the introduction, this convention and none of the protocols list nationality as a human right. The convention is relevant in regard of other rights which indirectly impact on acquisition or loss of nationality – right to family life and right to marriage.

For this study are relevant the following articles:

#### *Article 8 – Right to respect for private and family life*

- 1. Everyone has the right to respect for his private and family life, his home and his correspondence.*
- 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

#### *Article 12 – Right to marry*

*Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.*

#### *Article 14 – Prohibition of discrimination*

*The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.*

<sup>25</sup> Convention on the Reduction of Statelessness. New York, 30 August 1961.

<sup>26</sup> Convention for the Protection of Human Rights and Fundamental Freedoms, CETS No. 005, Rome, 4 November 1950.

## **2. European Convention on the Adoption of Children (ECAC)<sup>27</sup>**

This Convention first entered into force in 1968. It ensured that national law on the protection of children applies not only to adoptions of children from the Parties but also to those of children from other states. This convention was then revised in 2008 and entered into force in 2011. The new text establishes the father's consent in all cases, even when the child was born out of wedlock, and the child's consent if the child has sufficient understanding to do so.

It is important to highlight articles 11 and 12:

### *Article 11 – Effects of an adoption*

- 1. Upon adoption a child shall become a full member of the family of the adopter(s) and shall have in regard to the adopter(s) and his, her or their family the same rights and obligations as a child of the adopter(s) whose parentage is legally established. The adopter(s) shall have parental responsibility for the child. The adoption shall terminate the legal relationship between the child and his or her father, mother and family of origin.*
- 2. Nevertheless, the spouse or partner, whether registered or not, of the adopter shall retain his or her rights and obligations in respect of the adopted child if the latter is his or her child, unless the law otherwise provides.*
- 3. As regards the termination of the legal relationship between the child and his or her family of origin, States Parties may make exceptions in respect of matters such as the surname of the child and impediments to marriage or to entering into a registered partnership.*
- 4. States Parties may make provision for other forms of adoption having more limited effects than those stated in the preceding paragraphs of this article.*

### *Article 12 – Nationality of the adopted child*

- 1. States Parties shall facilitate the acquisition of their nationality by a child adopted by one of their nationals.*
- 2. Loss of nationality which could result from an adoption shall be conditional upon possession or acquisition of another nationality.*

## **3. European Convention on the Exercise of Children's Rights (ECECR)<sup>28</sup>**

The ECECR was open for signature in 1996 and entered into force in the year 2000. The Convention provides a number of procedural measures to allow the children to exercise their rights, in particular in family proceedings before judicial authorities, and aims to protect the best interests of children.

## **4. European Convention on Nationality (ECN)**

The ECN was open for signature in 1997, and entered into force in the year 2000. This Convention presents principles and rules applying to all aspects of nationality; it is neutral towards single or multiple nationality. Currently, there are 20 ratifications of the treaty<sup>29</sup>.

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<sup>27</sup> European Convention on the Adoption of Children, CETS No. 058, Strasbourg, 1967, revised by CETS No. 202 on 27 November 2008.

<sup>28</sup> European Convention on the Exercise of Children's Rights, CETS No. 160, Strasbourg, 25 January 1996.

<sup>29</sup> <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=166&CL=ENG>.

*It represents a synthesis of recent thinking on this question in national and international law and is the first international text to do so. It reflects the demographic and democratic changes (in particular migration and state succession which have occurred in central and eastern Europe since 1989). Some states which have recently adopted new laws on nationality have already based their laws on the text".<sup>30</sup>*

*Article 1 – Object of the Convention*

*This Convention establishes principles and rules relating to the nationality of natural persons and rules regulating military obligations in cases of multiple nationality, to which the internal law of States Parties shall conform.*

**5. Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession (CECASS)<sup>31</sup>**

This convention entered into force in 2009, and addresses the problem of state succession, which can lead to the emergence of a large number of stateless persons. The treaty builds upon the European Convention on Nationality and establishes more detailed rules to be applied by states with a view to preventing, or at least reducing to the extent possible, cases of statelessness arising from state succession; in regard of the objective of the convention, it is a unique instrument of international law; if it had existed in the beginning of 1990s, there are strong reasons to believe that there would have been less cases of statelessness originating from state successions than occurred. Currently, there are 6 ratifications of the treaty<sup>32</sup>.

**6. Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality<sup>33</sup>**

This convention was open for signature by the member states of the Council of Europe on 6 May 1963, and entered into force on 28 March 1968.

The Convention lays down rules to reduce the number of cases of multiple nationality between Parties as far as possible. Its goal is to reduce multiple nationality cases when acquiring or renouncing a nationality, and defines the legal consequences for the individuals in these situations, including children. This convention also contains provisions on military obligations in cases of multiple nationality.

Three additional Protocols amended this convention:

- Protocol amending the Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality (ETS No. 095), and the
- Additional Protocol to the Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality (ETS No. 096),
- Second Protocol amending the Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality (ETS No. 149).

<sup>30</sup> See <http://conventions.coe.int/treaty/en/Summaries/Html/166.htm>.

<sup>31</sup> Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession, Strasbourg, 19 May 2006.

<sup>32</sup> <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=200&CM=8&DF=15/05/2012&CL=ENG>.

<sup>33</sup> Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality, CETS No. 043, Strasbourg, 6 May 1963.

The first entered into force in 1978, and modified a few provisions of the Convention, allowing a person who rightfully possesses more than one nationality to be able to renounce by declaration of will the nationality of the Party where he/she has no ordinary residence, and clarifying the provision of the Convention regarding military obligations of persons with multiple nationalities.

The Additional Protocol entered into force in 1983 and establishes the obligation of the Parties to communicate one another any acquisition of their nationality by an adult or a minor who is a national of another Party.

The second Protocol was open for signature by the member states of the Council of Europe signatories to the Convention in 1993 and entered into force on 24 March 1995. The amendments introduced to the Convention attempt to “reflect the evolution of society”<sup>34</sup>, adding new situations which allow persons to retain their nationality of origin (second-generation migrants, spouses of different nationalities and children whose parents have different nationalities).

However, despite the importance of the amendments introduced by the Second Protocol, only France (1995), Italy (1995) and The Netherlands (1996) have signed and ratified this document. The latter two have since then kept it into force, while France has effectively denounced this protocol on 5 March 2009.

#### **7. Recommendation No. R (99) 18<sup>35</sup>**

This Recommendation, adopted by the Committee of Ministers on 15 September 1999, sets out principles, based on the European Convention on Nationality, which are especially relevant to the avoidance and reduction of statelessness, and provisions, aiming at the avoidance and reduction of cases of statelessness.

#### **8. Recommendation CM/Rec(2009)13<sup>36</sup>**

This Recommendation, already mentioned above, refers in particular to “nationality as a consequence of a child-parent family relationship” and to “rights of children in proceedings affecting their nationality”.

This Recommendation was originated by the “Nationality of the Child” feasibility study of the CDCJ, prepared by Zdzislaw Galicki in 2006.

Relevant articles are cited throughout this study.

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<sup>34</sup> Quote from the summary of the treaty, present at Council of Europe's webpage (available from <http://conventions.coe.int/Treaty/en/Summaries/Html/149.htm>).

<sup>35</sup> Council of Europe Recommendation No. R (99) 18 of the Committee of Ministers to member states on the avoidance and reduction of statelessness, 15 September 1999.

<sup>36</sup> Council of Europe Recommendation CM/Rec(2009)13 of the Committee of Ministers to member states on the nationality of children, 9 December 2009.

**(c) Legal instruments under the International Commission on Civil Status**

Given the fact that also International Commission on Civil Status (ICCS) adopted international treaties, with impact on nationality, it is meaningful to mention ICCS Convention No. 8 on the exchange of information relating to acquisition of nationality; this 1964 convention contains provisions on exchange of information in case of acquisition of nationality. The convention is applicable among seven member states of Council of Europe<sup>37</sup>.

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<sup>37</sup> <http://www.ciec1.org/SignatRatifConv.pdf>

### III. NATIONAL LEGISLATION OF MEMBER STATES

This section of the study provides a brief assessment of the most important aspects of the currently applicable legislation on nationality of the 31 member states of the Council of Europe which responded to the nationality questionnaire. Namely, it presents an overview of current tendency in regard of applicability of principle of *jus sanguinis* in cases of children born abroad and possibility of dual nationality. Furthermore, this section also analyses the current tendency in regard of applicability of principle of *jus soli* in cases of birth of children to parents who reside lawfully in the territory of a member state, as well as the possibilities of dual nationality for these children.

In some cases, additional information about other aspects of the national law was also included, given its great relevance and specific context, and of course, based on the great detail of the answers provided. In those cases, the reply provided by the member state is transcribed *verbatim*.

The briefly presented information regarding the nationality law of the member states which did not provide an answer to the questionnaire<sup>38</sup> (marked with (\*)) is based on the legislation available at the EUDO database.

#### **Albania (\*)**

The legal text in force in Albania is the Law No. 8442 of 21 January 1999 on some changes in Law No. 8389, dated 5 August 1998 “on Albanian Citizenship”; date of entry into force: 7 March 1999. **This law allows for dual/multiple citizenship** (art.3). The Albanian citizenship is granted by birth right, naturalisation and adoption (art.6). It also is granted to foundlings (art. 8).

Albanian citizenship by birth is granted also to children who are born outside the territory of the Republic of Albania and one of the parents is Albanian national, whereas the other has another citizenship, but both parents agree that the child acquires the Albanian citizenship (art.7).

*Jus soli* is applied in relation to children: “a child born within the territory of the Republic of Albania, by parents having another citizenship, who are legally residing in the Republic of Albania, may acquire the Albanian citizenship by consent of both parents” (art. 8).

The granting and re-acquisition of the Albanian citizenship, as well as its renouncing by children, should have the consent of the parents, and when the child is between 14-18 years of age the approval of the child is also required (art.5).

#### **Armenia (\*)**

The legal text in force in Armenia is the Law of the Republic of Armenia on Citizenship of the Republic of Armenia adopted on 6 November 1995 as amended through 6 April 2010, by RA Law No. 34.

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<sup>38</sup> Except Monaco and San Marino

According to article 9 of this act, citizenship of the Republic of Armenia (hereinafter “RA”) is acquired through recognition of citizenship, by birth, through receiving citizenship (naturalisation), through the restoration of citizenship, through receiving citizenship as a group (group naturalisation), on the bases set forth in the international treaties of the Republic of Armenia, in other cases set forth in this Law.

A child, both of whose parents hold RA citizenship at the time of his/her birth acquires RA citizenship regardless of his/her place of birth. In case only one parent holds RA citizenship at the time of his/her birth, while the other parent is unknown or is a stateless person, the child also acquires RA citizenship. If one parent holds RA citizenship at the time of child's birth and the other parent is a foreign citizen, the child's citizenship shall be determined by the mutual written consent of both parents. In the absence of such consent the child shall acquire the citizenship of the Republic of Armenia, if he/she was born on the territory of the Republic of Armenia, or if he/she would become a stateless person if he/she does not acquire citizenship of the Republic of Armenia, or if the parents permanently reside on the territory of the Republic of Armenia (article 11).

The amendments made in 2007 allow for **dual citizenship** (art. 13).

According to article 18, “a child adopted by citizens of the Republic of Armenia shall acquire RA citizenship. If one of the adopting spouses is a stateless person, while the other is an RA citizen, the child shall acquire RA citizenship. If one of the adopting spouses is a foreign citizen, while the other is an RA citizen the child shall acquire RA citizenship, provided: 1) both adoptive parents consent; 2) the child resides in the territory of the Republic of Armenia and the parent who holds RA citizenship consents; 3) the child is a person without citizenship or may become a stateless person.

### **Austria (\*)**

The legal text in force in Austria is the Federal Law on Austrian Nationality<sup>39</sup> (Federal Law Gazette of the Republic of Austria, FLG No. 311/1985, amended by FLG No. 386/1986, FLG No. 685/1988, FLG No. 521/1993, FLG No. 505/1994, FLG I No. 109/1997, FLG I No. 30/1998, FLG I No. 123/1998, FLG I No. 124/1998 and FLG I No. 37/2006).

Article 6 of this act establishes that nationality shall be acquired by descent (legitimation), naturalisation (extension of naturalisation), taking up the post of university or college professor, declaration and notification.

Children born in wedlock acquire nationality at birth, if one parent is a national at the time or one parent, who died earlier, was a national on the day of death (article 7). Children born out of wedlock acquire nationality at birth if the mother is a national at the time.

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<sup>39</sup> Kundmachung: Wiederverlautbarung des Staatsbürgerschaftsgesetzes 1965 (Kundmachung des Bundeskanzlers und des Bundesministers für Inneres vom 19 Juli 1985, mit der das Staatsbürgerschaftsgesetz 1965 wiederverlautbart wird ) (Staatsbürgerschaftsgesetz 1985).

## **Andorra**

The nationality law in force in Andorra is the “Loi organique sur la nationalité”, of 27 October 2006. Its last modification allowed the naturalisation of the adopted child without the need to renounce to his/her prior nationality. Currently, no modifications to this law or accession to any international treaty regulating nationality are foreseen.

The current situation in Andorra regarding the application of *jus sanguinis* / *jus soli* principles is that both can lead to the acquisition of the nationality at birth. In the case of *jus soli*, the parents must have their permanent and main residence within the territory of the state.

If the child is born abroad, there is no requirement of registration, and consent must be given only by the parent who has the nationality of Andorra, in case of parents with different nationalities. The condition for the acquisition of nationality at birth for a child born abroad is that one of the parents is a national of Andorra. In case the child is born out of wedlock and whose mother is a foreigner, he/she has the right to acquire the nationality by birth; however, there is a difference for children born in the same situation but in the territory of the state, that is in terms of transmitting the nationality to their own children.

Foundlings, as well as fully adopted children, acquire the Andorran nationality *ex lege*. There is no legislation concerning surrogacy.

There is **no possibility of dual citizenship** in Andorra.

## **Azerbaijan**

The latest amendments to the Law on “Citizenship of the Republic of Azerbaijan” were made on 30 September 1998. Changes and additions were made to some legislative acts, in order to improve the processes of entry and naturalization. The naturalisation process was made easier for some categories of people. There are no foreseeable future amendments.

Naturalization is allowed to foreign citizens and stateless persons i) living on the territory of Azerbaijan for 5 years, ii) having a legitimate source of income, in acting in compliance with the regulations and the Constitution, and in submitting a document certifying his/her knowledge of the state language. The time period condition can be excluded if the person has made great achievements in the field of science, technique, culture or sport, or if the person is very important for Azerbaijan and in other exceptional cases.

The law does not require renunciation of a nationality as a precondition for naturalisation. The legal concept of residence as a basic condition for naturalization used in the law on nationality is permanent residence.

Recovery is allowed upon application, and restrictions apply (Part 2 Article 14 of the Law on citizenship). The law does not require that the person must reside in the territory of the state.

Automatic loss of nationality does not happen in the cases of voluntary acquisition of foreign nationality or due to lack of genuine link. According to articles 14 and 15 of the law on citizenship, “naturalization and recovery may lead to dual/multiple nationality”. If the person, wishing to acquire the citizenship of Azerbaijan, is a citizen of a state with which Azerbaijan has

concluded an international treaty on the avoidance of dual nationality, this person has to submit a document attesting the attitude of the authorized body of the foreign state concerned to the person's intention to acquire the citizenship of Azerbaijan.

## Belgium

The Belgian Nationality Code was last amended by Act of 27 December 2006 laying down miscellaneous provisions, published in the *Moniteur Belge* of 28 December 2006. No further amendments are foreseen.

In the answers to the questionnaire it was referred that, under the current legislation, it seems difficult to ratify the European Convention on Nationality given the fundamental changes that the ratification of it would induce. Regarding the Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession, it was not considered appropriate to consider its ratification for it being of no particular interest for Belgium.

The Belgian system is based on a combined application of *ius sanguinis* and *ius soli*. *Jus sanguinis* is the most important criterion according to the Code of Belgian nationality.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses (the residence period required of three years of living together in Belgium in the marriage is reduced to six months of living together in marriage when the spouse abroad, at the option declaration, has been authorized or allowed, for at least three years to stay longer than three months or to settle in the Kingdom), refugees (the waiting period for applications for naturalisation is reduced to two years instead of three years of legal residence required in Belgium), and stateless persons (the waiting period for applications for naturalisation (legislation) is also reduced to two years instead of three years of legal residence required in Belgium).

The Belgian Nationality Code does not impose the condition of prior renunciation of original nationality for the acquisition of Belgian nationality, **therefore it tolerates dual nationality**. The legal concept of residence for naturalisation used in the law on nationality is the one of "principal residence covered by a legal residence."

The Code does not provide the opportunity for a child under the age of eighteen years or emancipated before this age to introduce a procedure for acquiring Belgian nationality. In this respect, it seems useful to clarify that under Belgian law, the "naturalisation" is one of the specific modes of access to Belgian nationality open to foreign adults (other modes of acquisition are the declarations of nationality which are optional).

Loss of nationality due to the lack of genuine link is possible in the case of a Belgian who was born abroad and had there his/her main and permanent residence from the age of eighteen to twenty-eight years old. However, the applicant may retain Belgian nationality through a special declaration, expressing the desire to keep real ties with Belgium from abroad (see article 22, § 1, 5 NBC).

### **Bosnia and Herzegovina**

The nationality law in force in Bosnia and Herzegovina (BH) has seen its last amendments in 2009 and referred to the changes in entity nationality of the BH citizens residing in Brcko District of BH. Currently, modifications to this law are underway and accession to international treaties regulating nationality is foreseen; no further information is provided.

The law on nationality is based on a combination of the principles of *jus sanguinis* and *jus soli*. The criteria for the application of *jus soli* are not specified in the answer to the questionnaire.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses, persons of special interest for the state and citizens of Serbia based on the Dual Nationality Treaty. The law requests renunciation of a nationality as a precondition for naturalisation. There are exceptions in case of naturalisation according to Article 13 of the BH Nationality Law (admission of deserving citizens to nationality) and in case of admission to nationality based on the Dual Nationality Treaty.

The legal concepts of residence for naturalisation used in the law on nationality are habitual residence, permanent residence and temporary residence. The law permits the naturalisation of a child who does not live on the territory of the state in cases of admission based on the Dual Nationality treaty with Serbia.

A recovery of the nationality is allowed in case the person who renounced the nationality of BH for acquiring a nationality of another country is not admitted to the nationality of that country upon issued guarantee. In other cases the conditions for recovery of nationality of BH are regulated by the Nationality Law and are equally applicable to all persons. Loss of nationality due to of lack of genuine link is only possible in the revision procedure of nationality of persons who aquired it between 6 April 1992 and 1 January 2006.

BH concluded Dual Nationality Treaties with Sweden, Serbia and Croatia. There is no specific provisions on data protection.

Dual nationality is allowed in **case of reciprocity**.

### **Bulgaria (\*)**

The Law on Bulgarian Citizenship (Закон за българското гражданство, published in the State Gazette, No. 136/1998) was enacted in 1998 and entered into force in 1999. The last amendment to its text was made in 2010.

This law is based on both *jus soli* and *jus sanguinis*, and establishes four principles for the acquisition of Bulgarian nationality (by origin, place of birth, naturalisation and restoration). It allows for **multiple citizenship**.

## Croatia

The Croatian Parliament has adopted, on 28 October 2011, amendments to the Croatian Citizenship Act, which entered into force on 1 January 2012. For regular acquisition of Croatian citizenship by naturalisation the duration of legal residence in the territory of the Republic of Croatia is extended from 5 to 8 years and is connected with approved permanent residence. The condition for acquisition of renunciation from foreign nationality is expanded on legal basis of acquisition of Croatian citizenship for the persons who are born and reside in Republic of Croatia. Persons who have lost their citizenship earlier by renunciation have to accomplish the precondition of approved residence in Croatia so they could acquire again Croatian citizenship. The amended article 11 of the Act introduced a limitation of transmission of nationalities over several generations by prescribing third degree of kinship with the original Croatian emigrants for their descendant as well as prerequisites of knowledge of Croatian language Latin alphabet, Croatian culture and public order for all Croatian emigrants. The amended article 16 of the Act regulates relevant requirements for proving attachment to the Croatian nation.

On 22 September 2011, the Republic of Croatia acceded to the United Nation Convention of the Reduction of Statelessness from 1961. By this accession, this Convention became part of internal legal system of the Republic of Croatia.

The legislation prescribes that **dual citizenship can be achieved** by the principles *ius sanguinis* and *ius soli* (by origin). Dual citizenship can be achieved in case of acquisition of citizenship by recovery, as well as by all other legal bases of acquisition of citizenship by naturalisation, apart from acquisition of Croatian citizenship pursuant registered residence and birth on the territory of the Republic of Croatia.

The Republic of Croatia has concluded an agreement on dual citizenship only with Bosnia and Herzegovina. The agreement was concluded on 29 March 2007, and entered into force on 28 February 2012. The agreement stipulated that the parties to the agreement agree that their authorities interchange information which contains personal data of dual nationals in accordance with their internal legislation concerning data protection.

The Croatian Citizenship Act regulates that a person acquiring Croatian citizenship in a regular mode pursuant his registered residence within the prescribed period of time, has to submit dismissal from foreign citizenship or provide evidence that will be dismissed from one's foreign citizenship if admitted to Croatian citizenship. The law foresees an exemption, when a foreign country does not permit dismissal or if it places conditions which cannot be met, in which case a statement of an applicant that he renounces his foreign citizenship under the condition of acquirement of Croatian citizenship will be sufficient.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses, persons of special interest for the state and persons born on the territory. Other categories are also eligible: the Croatian citizenship act prescribes only for a regular mode of Croatian citizenship acquisition by naturalisation (pursuant article 8 of the Act) that a foreign citizen in the Republic of Croatia has to have registered residence on the territory of the Republic of Croatia until submission of the application for 8 years in continuation. According to the other legal basis for acquiring Croatian citizenship by naturalisation, Croatian citizenship is acquired under the facilitated conditions regarding types of residence and required duration for registered residence. Croatian citizenship may be acquired by: person born on the territory of the Republic of Croatia, foreign citizen married to a Croatian citizen, who has been granted

permanent stay, emigrants, their descendants and their spouses, foreign citizens whose acceptance to Croatian citizenship would be of interest for the Republic of Croatia, person who acquires Croatian citizenship by recovery, person who belongs to the Croatian nation residing abroad and internally displaced person or person who had domicile in the Republic of Croatia on the 8 October 1991.

For regular acquisition of Croatian citizenship by naturalisation the duration of legal residence in the territory of the Republic of Croatia is extended from 5 to 8 years and is connected with approved permanent residence. The condition for acquisition of renunciation from foreign nationality is expanded on legal basis of acquisition of Croatian citizenship for the persons who are born and reside in Republic of Croatia. For persons who have lost their citizenship earlier by renunciation, now they have to accomplish precondition of approved residence in Croatia so they could acquire again Croatian citizenship. The amended article 11 of the Act implemented generation limitation by prescribing third degree of kinship with the original Croatian emigrants for their descendant as well as prerequisites of knowledge of Croatian language Latin alphabet, Croatian culture and public order for all Croatian emigrants. Amended article 16 of the Act regulates accurate method of proving attachment to Croatian nation.

The legal concept of residence for naturalisation used in the law on nationality is the concept of lawful residence.

Croatian Citizenship Act allows acquisition of Croatian citizenship by recovery, in which case it also allows dual citizenship. A Croatian citizen who has requested and received a dismissal from Croatian citizenship in order to acquire some foreign citizenship, what was imposed to him as the requirement for exercising some profession or activity by the foreign state wherein he has domicile, may acquire Croatian citizenship by recovery if it can be concluded from his behaviour that he respects legal order and customs of the Republic of Croatia and resides in the Republic of Croatia.

A person whose Croatian citizenship terminated (ceased) when he was a minor by dismissal or by renouncement, acquires Croatian citizenship by recovery if he resides on the territory of the Republic of Croatia for at least a year in continuation and if he gives a written statement that he considers himself a Croatian citizen.

Loss of nationality due to of lack of genuine link is not possible.

Croatia stipulates that a citizen of the Republic of Croatia who also has a foreign citizenship shall be regarded before the state authorities of the Republic of Croatia as a Croatian citizen only. However, changes in a Croatian citizen's civil status effected abroad (e.g. marriage, divorce or paternity recognition) may be entered into the person's civil status records kept in the Republic of Croatia on the basis of legalised foreign documents. A personal name change effected by a Croatian citizen abroad may not be entered into the records in the Republic of Croatia, but the person may apply for a personal name change in accordance with valid regulations in the Republic of Croatia.

**It would be useful to resolve the data exchange issue with regard to changes in the civil status of dual citizens by means of interstate agreements or a different instrument.**

As prescribed by the article 46, paragraph 4 of the Law on Defence the person who has acquired Croatian Citizenship by naturalisation is set free from the obligation of military service, if that person has regulated obligation to military service in the state whose citizen is. Paragraph 4 of the same provision prescribes that the person who has Croatian and other foreign citizenship is set free from the obligation of military service, if the person has regulated obligation to military service abroad. Consequently, the Croatian Parliament on 15 October 2007, pursuant to the above mentioned Law, has made a decision about non-calling recruits for the military service obligation. After making that decision, recruits who wish can be referred for voluntary military service in accordance with the provisions of the voluntary military service. Consequently, the citizenship of another country does not exclude the possibility of military service. Article 19, paragraph 1 of the Law on Service in the Armed Forces of the Republic of Croatia prescribed the general conditions for admission to active military service. Subparagraph 6 of the same provision prescribes that for entry into active military service a person must have only Croatian citizenship. Article 189, paragraph 6 prescribes that the active military service ceases to active military person by force of the law, when it becomes known that at the time of admission person to active military service there were barriers from the Article 19, paragraph 1 of the above mentioned Law, with the date of knowing. Croatian citizenship is one of the main conditions for admission to active military service, regardless of the means of acquiring the same, and subsequently finding out about the existence of citizenship of another state represents the reason for termination of the service, or employment relationship by force of the law. When completing the questionnaire for admission to active military service, one of the issues on which candidates must provide an answer is whether they have except from the Croatian one and the citizenship of another country.

### **Cyprus (\*)**

The current citizenship law in force in Cyprus is Law No. 141 (1) 2002. This act entered into force in 26.07.2002 and unified citizenship law with other population related issues (passports, archives, identity cards, registration, etc.), into what was denominated as "Population Data Archives Law". This act was also responsible for a comprehensive restructuring of citizenship.

### **Czech Republic**

The nationality law in force in the Czech Republic (hereinafter "CR") has seen its last amendments in 2008 (124 / 2008 Coll., entry into force: 1 July 2008), which allowed the Ministry of Interior the possibility to have access to the criminal record. At the beginning of 2012, the Ministry of Interior submitted a proposal of a new act on nationality of the CR, which should replace the present legislation. The anticipated entry into force is 1 January 2014.

The CR is a party to the European Convention on Nationality, and at the moment does not consider taking part in another treaty at the moment (neither the Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession).

The state exchanges information on the nationality of its nationals with the Republic of Slovakia (235/1995 Coll.).

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses, refugees, stateless persons and persons born in the territory (5 years of lawful permanent residence). For all other categories, the criteria is 10 years of lawful permanent residence or former nationality of the CR or nationality of the Czechoslovakian Federative Republic or one of the parents is a Czech national or relocation to the CR on the ground of a governmental permission before 31 December 1994.

In principle, the Czech law requests renunciation of the previous nationality, unless the law of the state of the previous nationality does not allow for release from nationality or this state refuses to issue a certificate on release, the release is subject to inappropriate administrative costs or other conditions which do not comply with principals of democracy, the request for release would expose the applicant or persons in a close relationship to the applicant to racial, religious, ethnic social or political persecution, the acquisition of the Czech nationality would be a significant contribution for the CR, especially in the field of science, social life, culture or sports, or the applicant lost the nationality of Czechoslovak Republic or Czech and Slovak Federative Republic, unless the applicant is a Slovak national.

The renunciation of the previous nationality can be also forgiven, if the applicant has have the permission for permanent residence for at least 5 years, has a genuine link to the CR and has stayed lawfully in the CR for at least 20 years. A person granted asylum does not need to provide a certificate on release.

The legal concept of residence as a basic condition for naturalisation used in the law on nationality is the one of permanent residence.

Under certain conditions, a child living outside the territory of the CR might be naturalised, however, he or she must have a permission for permanent residence in the CR.

Adopted children acquire nationality automatically with the coming into force (effect) of the adoption judgement. This rule has been in force since 11 November 1993.

The Czech Law allows the former Czechoslovak nationals for the recovery of nationality in case they lost Czechoslovak (Czech) nationality in the period from 25 February 1948 till 28 March 1990 by way of release from the nationality or in connection with naturalisation in another state, which was bound towards Czechoslovakia (Czech Republic) by a treaty on prevention of dual nationality (USA, former Soviet Union, Hungary, Poland, former German Democratic Republic, Bulgaria and Mongolia). This people can recover the Czech nationality at the ground of a declaration under the Act No. 113/1999 Coll. A certificate on loss of the previous nationality is not needed, i.e. in such case CR allows dual nationality.

There is no loss of nationality due to of lack of genuine link.

Under the section 34 Defence Act, a Czech national, who is at the same time national of another(s) state(s), can serve in military service of this another(s) state without consent of the President of the Republic.

## Denmark

The law on Danish nationality was latest amended in 2004. The possibility of acquiring Danish nationality by declaration was limited to only Nordic nationals (art. 3). Acquisition of Danish nationality by declaration was made dependent upon release from former nationality (art. 4A and art. 5 (2)). Art. 8 (3) was introduced. As were art. 8B, 8C, 8D and 8E.

There are no amendments to the present legislation on nationality to be adopted at the moment. However, 'A united Denmark', the Government Platform of the new Danish Government, was announced when the Government entered office on 3 October 2011. In the new Government Platform the government parties The Social Democrats (Socialdemokraterne), the Danish Social-Liberal Party (Radikale Venstre) and the Socialist People's Party (Socialistisk Folkeparti) have agreed to change the conditions for acquiring Danish nationality by naturalisation. The rules on Danish nationality by naturalisation are to be used actively to promote integration. Applicants who have lived in Denmark for several years and where integration has succeeded can acquire Danish nationality.

According to the Government Platform the requirements for acquiring Danish nationality are still going to be high but should not exclude those who are not well educated.

The Government emphasizes that applicants who have committed criminal offences cannot acquire Danish nationality. The Government will change the requirement according to which applicants have to demonstrate knowledge of the Danish language. According to the agreement applicants will have to pass the *Danish 2 Examination* of the language centres. The requirement of knowledge of the Danish society, Danish culture and history documented by a certificate of a special citizenship test will also be changed. **The new Government Platform stipulates that dual nationality should be possible.**

Denmark is considering accession to the Council of Europe European Convention on Nationality and Convention on the Avoidance of Statelessness in relation to State Succession.

Naturalisation is not regulated in the law on Danish nationality. The conditions for acquiring Danish nationality by naturalisation are set forth in circular letter no. 61 of 22 September 2008 on naturalisation.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses, registered partners, adoptees, refugees, stateless persons and Nordic nationals. Other possibility is for applicants who have entered Denmark prior to attaining the age of 15 may be listed in a naturalisation bill after attaining the age of 18. It is a condition that any education or training which the applicant has received while resident in Denmark is of a Danish nature. Applicants who have undergone a substantial part of their general education or vocational training in Denmark may be listed in a naturalisation bill after four years of residence in Denmark. It is a condition that the education or training is of a Danish nature and of not less than three years' duration unless completed earlier by an examination or a similar test. The general residence requirements may be modified for persons who are former Danish nationals or who are of Danish descent as well as for Danish-minded persons from South Schleswig. Special guidelines for listing in a naturalisation bill in such cases appear from paragraphs. 2, 3 and 4 of Schedule 1. Cf. article 13 in circular letter no. 61 of 22 September 2008 on naturalisation.

It is a precondition for listing in a naturalisation bill that the applicant agrees to renounce his or her present nationality. Unless the applicant loses his or her present nationality automatically by naturalisation, release from his or her present nationality is required as a condition for acquiring Danish nationality. However, persons with refugee status in Denmark or persons from countries where experience shows that it is impossible or implies extreme difficulties to obtain release from nationality are not subject to this requirement. The same applies where an applicant has been denied release, or where it is documented that the applicant has made a serious, but unsuccessful attempt to be released from his or her present nationality.

The legal concept of residence as a basic condition for naturalisation used in the law on nationality is the one of lawful residence and permanent residence.

Children under the age of 12 who are adopted by Danish nationals, including the adoption of stepchildren, and who do not become Danish nationals pursuant to section 2A of the Danish nationality Act, may be listed in a naturalisation bill irrespective of residence in Denmark. Children born out of wedlock of an alien mother and a Danish father may be listed in a naturalisation bill irrespective of residence in Denmark if the father shares the parental authority.

A natural-born Danish national who lived in Denmark until attaining the age of 18 may recover his or her lost nationality by submitting a written declaration to that effect to a county governor, the Prefect of Copenhagen, the High Commissioner of the Faroe Islands or the High Commissioner of Greenland provided that he or she has resided in Denmark during the last two years preceding such declaration. A person who has lost his or her Danish nationality and has subsequently remained a national of a Nordic country will recover his or her Danish nationality by, after having taken up residence in Denmark, submitting a written declaration to that effect to a county governor, the Prefect of Copenhagen, the High Commissioner of the Faroe Islands or the High Commissioner of Greenland. Dual nationality is not possible in these cases. It follows from art. 4A (1) in the law on Danish nationality that it is a condition for acquiring Danish nationality pursuant to art. 4 that the declarant proves that this will cause him or her to lose his or her nationality of other countries.

Article 8 of the Law on Danish nationality stipulates that a person who was born abroad and has never resided in Denmark and never stayed here under conditions indicative of special relations with Denmark, loses his or her Danish nationality on completion of the age of 22. If, however, an application is submitted before that time a permit to retain Danish nationality may be granted by the Minister of Refugee, Immigration and Integration Affairs (presently Minister of Justice). The precondition of "some association with Denmark" can be fulfilled by having had residence in Denmark for at least 3 months, or merely by having stayed in Denmark for at least one year prior to the age of 22. This can be either consecutive or combined, for example if several holidays/trips to Denmark give a combined minimum of one year.

Dual nationality is accepted if dual nationality is obtained automatically, ex. by birth (*jus soli*), by decent (*jus sanguinis*), by entering into marriage. Dual nationality is also accepted if a person cannot be released from former nationality.

## Estonia

The latest change made in the Citizenship Act was in 2004, concerning persons who for health reasons are not capable to meet all the conditions needed for the naturalisation process. Person who is unable to meet all the conditions needed has to submit a medical proof on confirmation of person's disability.

The current Citizenship Act provides that if a person who was defined without legal basis as an Estonian citizen, pursuant to the Citizenship Act which was in force before 1 January 1995, is deemed to have acquired Estonian citizenship by birth or by a subsequent lawful act, as appropriate, unless it is established that an Estonian passport was issued to him or her as a result of documents which were falsified or which contained false information being submitted or as a result of false information being submitted knowingly.

According to the draft Citizenship Act will be amended in a way that individuals who are defined without legal basis as an Estonian citizen are deemed to have acquired Estonian citizenship by birth or by a subsequent lawful act, as appropriate, unless it is established that an Estonian passport was issued to him or her as a result of documents which were falsified or which contained false information being submitted or as a result of false information being submitted knowingly.

The law facilitates naturalisation by a reduction of the length of time required only for children who are stateless (and under the age of 15) and adopted. The Estonian Citizenship Act does request renunciation of a nationality as a precondition for naturalisation and there are no exceptions.

**Estonian legislation on nationality may lead to dual/multiple nationality when a person by birth acquires the citizenship of another state in addition to Estonian citizenship (the *jus sanguinis* principle).** If a person acquires citizenship by naturalisation or recovery he or she has to be released from his or her previous citizenship.

There are no specific bilateral agreements on the exchange of information on dual citizenship. Estonia has concluded more extensive bilateral agreements with Hungary and Finland concerning migration and international protection.

The legal concept of residence as a basic condition for naturalisation used in the law on nationality is permanent residence and right of residence (is issued to a citizen of the European Union and his or her family member).

The Estonian Citizenship Act provides the right to resume Estonian citizenship. Everyone who has lost his or her Estonian citizenship as a minor has the right to its recovery. The person who wishes to resume Estonian citizenship has to be at least 18 years old, reside in Estonia permanently and has to be released from his or her previous citizenship or prove that he or she will be released in connection with his or her resumption of Estonian citizenship. Person who wishes to recover his or her Estonian citizenship has to be at least 15 years old. Persons who are under the age of 15 can't apply for the recovery of a nationality. Persons who are 15–18 years old have to have the consent of a parent or guardian.

A person is deprived of Estonian citizenship by a decision of the Government of the Republic when he or she is a citizen of another state, but has not been released from Estonian citizenship. This does not apply to persons who have acquired Estonian citizenship by birth. The Estonian Citizenship Act does not foresee loss of citizenship if there is no genuine link with Estonia.

## **Finland**

Amendments to the Nationality Act were adopted by the Parliament in April 2011 and they entered into force in the beginning of September 2011. The amendments make it possible to obtain citizenship more flexibly than before. The main amendments concern the reduction of the uninterrupted time of residence required for citizenship to five years and of the accumulated time of residence to seven years. Half of the time spent in Finland with a temporary residence permit will in the future be calculated towards the required time of living in Finland. Exceptions from the time of residence can be made if the applicant proves his/her proficiency in Finnish or Swedish as provided by law. The provisions on the acquisition of citizenship through a declaration have been simplified. In the future, a former Finnish citizen may regain his or her citizenship through an announcement procedure regardless of whether he or she lives in Finland or abroad. In practice, this means the regularization of the previous transitional provision on recovery of Finnish citizenship within five years after having lost it.

Currently, modifications to this law are underway and accession to international treaties regulating nationality are foreseen; no further information is provided.

**Multiple nationality has been accepted in Finland since 1 June 2003.** The state exchanges information on the nationality of its nationals with other Nordic countries if the national also possesses the nationality of that state.

The legal concepts of residence as a basic condition for naturalisation used in the law on nationality are the ones of habitual residence, lawful residence, permanent residence and domicile.

A former Finnish citizen may acquire Finnish citizenship by declaration regardless of where he/she lives.

An alien who does not acquire Finnish citizenship directly by birth, may acquire Finnish citizenship by declaration if his or her father was a Finnish citizen when he or she was born, and he or she was born 1) in Finland and paternity was established only after he or she had reached the age of 18 years or married before that; or 2) outside Finland and paternity has been established.

If an adopted child has reached the age of 12 years before adoption, he/she may acquire Finnish citizenship by declaration if at least one of the adoptive parents is a Finnish citizen and the adoption is valid in Finland (regardless of where he/she lives).

A former Finnish citizen may acquire Finnish citizenship by declaration. Naturalisation Act allows dual citizenship.

According to section 34 of the Nationality Act, a Finnish citizen who also holds the citizenship of a foreign state retains Finnish citizenship at the age of 22 years only if he or she has a sufficient connection with Finland. A sufficient connection is deemed to exist, if: a) the person was born in Finland and his or her municipality of residence referred to in the Municipality of Residence Act (201/1994) is in Finland when he or she reaches the age of 22 years; b) the person's municipality of residence has been in Finland or he or she has been permanently resident and domiciled in Iceland, Norway, Sweden or Denmark for a minimum of seven years in all before he or she has reached the age of 22 years; or c) the person has, after reaching the age of 18 but before reaching the age of 22 years: 1) given notice in writing to a Finnish diplomatic mission or a consulate headed by a career consul or the Register Office of his or her wish to retain Finnish citizenship; 2) been issued with a Finnish passport; or 3) completed military or civil service in Finland.

## France

Law No. 2011-672 of 16 June 2011 on immigration, integration and nationality completed some sections of the Civil Code relating to French nationality regarding to acquisition of French nationality by marriage and residence requirement for naturalisation.

The French Civil Code was also amended to introduce the cultural requirements for naturalisation and the duties of the naturalised person. An article was added to implement the duty to inform the competent authorities of the nationalities he/she had and/or nationalities he/she wishes to renounce to. This provision has no other purpose than statistical, and is restricted to hypotheses of multiple nationality resulting from the acquisition of French nationality in addition to a foreign nationality.

Acquisition of nationality at birth is governed by *jus sanguinis* and *jus soli*. French nationality is transmitted from the father or mother, whether established inside or outside of marriage, in France or abroad, without any conditions other than the establishment of legal parentage during minority. Full adoption also confers nationality. Regarding *jus soli*, it is attributed French *ex lege* from birth to the child born in France of a foreign parent who was born in France. Birth and residence permit in France, also allow for the acquisition of French nationality under certain conditions.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses, refugees, stateless persons (married to French nationals) and persons of special interest for the state.

The spouse of a French acquisitive may sign a declaration of French nationality: according to Article 21-2, paragraph 1, of the Civil Code, a foreigner who marries a French citizen spouse, may after a period of four years of marriage, acquire French nationality by declaration provided that the date of this declaration, the community of life has not ceased between the husband and the French spouse has kept his nationality. The period of community life is extended to five years if the alien at the time of the declaration, does not justify either have resided uninterruptedly and regularly for at least three years in France after the marriage, or is not able to prove that his French spouse was registered for the duration of their community living abroad to register for French nationals settled outside France. Moreover, marriage celebrated abroad must have been a transcript prior to the records of the French registry. The foreign spouse must also provide proof of sufficient knowledge, according to his condition, the French, whose level and evaluation procedures are set by decree in Conseil d'Etat.

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The foreigner who has obtained refugee status may acquire, without any qualifying period, French citizenship by naturalisation (s.21-19 al.3 C.civ.). As for people of special interest for the state, the French law contains a number of provisions that organize special arrangements for naturalisation in respect of persons possessing close ties with France (art. 21-18 to 21-21 of the Civil Code).

The legal concepts of residence as a basic condition for naturalisation used in the law on nationality are the ones of habitual residence and domicile.

French jurisprudence has developed the notion of "domicile de nationalité" applicable only to this field. The court requires residence that is effective, stable and permanent and that it coincides with the center of family ties and occupations (e.g. professional) of the person concerned. This notion is not the same used for the criterion to keep the French nationality for persons born in a former overseas territory of the French Republic.

Recovery by declaration under Article 24-2 of the Civil Code is reserved for persons who lost citizenship by marrying a foreigner or as a person acquired a foreign nationality on condition that these people justify having retained clear links with France. **Recovery, either by decree or declaration, does not exclude dual nationality.**

Loss of nationality may result from a judgment in case of permanent settlement abroad and in the absence of apparent status of Frenchman. This case concerns the French people of origin who have never had a residence in France nor possessed the Frenchman status, and whose ancestors had themselves neither possession of French status, nor residence since half a century in France (art. 23-6 and 30-3 of the Civil Code).

## Georgia

The most recent amendments to the law on citizenship were made in June 2012. These amendments mainly deal with the legal status of stateless persons, introduced in order to harmonise the law with the 1954 Convention on the Status of Stateless Persons. There are no foreseeable future amendments.

The necessary requirement for the acquisition of citizenship by means of naturalization is permanent residence in Georgia in the last 5 years. The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses and persons of special interest for the state. The acquisition of citizenship is simplified for the spouse of the Georgian citizen (the minimum is reduced to 2 years of permanent residence). Also, no presentation of documental proof on real property, entrepreneurship or employment is required (Article 28 of the Law on Citizenship). As for persons of special interest for the state, in exceptional circumstances the President of Georgia is entitled to grant citizenship to a person without having observed the requirements of paragraphs if the person has made a special contribution to Georgia or mankind with his scientific or social activity, or possesses special profession or qualification which is of interest for Georgia, or granting of citizenship to him is within the interests of the state. The simplification provides that no examinations in language, history or law are required. Additionally, no requirement is set regarding the last 5 years of residence on the territory of Georgia, neither is necessary the presentation of documental proof on immovable property, entrepreneurship or employment.

The law allows for the recovery of nationality, in the cases of unlawful deprivation of citizenship of Georgia, abandonment of citizenship of Georgia, or at his/her parents' choice. It is necessary that the applicant permanently resides in Georgia and meets certain requirements (articles 26 and 26i). The restoration of citizenship may also happen in cases where the person does not live permanently in Georgia, when this person has made a "special contribution" to Georgia or granting of citizenship is within the interests of the state.

Automatic loss of nationality happens if a person: (i) without permission of respective Georgian authorities becomes a member of a foreign army, police, department of justice or other government body or state authority; (ii) permanently resides on the territory of another state and has not been registered in a consulate of Georgia for 2 years without any excusable cause; (iii) acquires citizenship of Georgia by submitting false documents; or (iv) acquires citizenship of another state. This applies to all nationals regardless of the grounds which they acquired Georgian nationality. Loss of nationality due to lack of genuine link happens in cases where the citizen permanently resides on the territory of another state and has not been registered in a consulate of Georgia for 2 years without any excusable cause.

Dual/multiple nationality is not allowed, except in the exceptional cases established by the Constitution. Citizenship of Georgia shall be granted by the President of Georgia to a citizen of foreign country, who has a special merit before Georgia or granting the citizenship of Georgia to him/her is due to state interests.

If the person at the same time is the citizen of Georgia and the other country on legal basis, s/he has the right to enter the territory of Georgia with the citizenship documents of both Georgia and other state. In case the citizen of Georgia at the same time is the citizen of other country and upon the border crossing presents a document identifying that he or she is the citizen of other country, a procedure for losing of citizenship will automatically be launched (Article 32).

Regarding the rules concerning military obligations, it is established that the citizen of the foreign country, to which the Georgian nationality was granted (dual citizenship), will not be subjected to the obligatory military service if s/he had already gone through the military service within the armed forces of other country. The national of the foreign state can be taken to the military service of Georgia due to personal will and the decision of the president of Georgia.

## Germany

The latest modification of the German law on nationality was in 2009, to establish the withdrawal of unlawful naturalisations. Currently, there are no proposed amendments, and accession to any international treaty regulating nationality is not being pondered.

The law on nationality is based on the principle of *jus sanguinis*; nevertheless, the *jus soli* principle is also partially applied, in cases of children who are born to parent/s who reside lawfully and habitually in Germany. **Dual or multiple nationality is possible and can derive from *jus sanguinis*, *jus soli*, naturalisation or recovery.**

As a general rule, renunciation is necessary as a precondition for naturalisation, but there are exceptions: someone is unable to give up his/her previous citizenship, or it would be difficult to obtain, or in the case the foreigner is a citizen of another member state of the European Union or Switzerland. **Automatic loss of nationality is applicable in all cases of voluntary acquisition of foreign nationality, even for children, except for nationalities of EU member states or Switzerland, or in cases of retention by permission.**

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses (3 years), registered partners (3 years), dependent parents (8 years), dependent adult children (8 years), adoptees (in case of weak adoption, 8 years), refugees (6 years), stateless persons (born in Germany and under 21, 5 years; born abroad, 6 years), persons born on the territory (not *jus soli*, 8 years), persons of special interest for the state (3 years), nationals of certain states (8 years; German as the native language, 4 years), other categories (integrated persons 6 or 7 years).

The legal concepts of residence as a basic condition for naturalisation used in the law on nationality are the ones of habitual and lawful residence.

Regarding recovery, the rules are similar to the ones applicable to inland naturalisation, but there must be a public interest. In exceptional cases, dual nationality is possible.

There is no loss of nationality due to lack of a genuine link.

## Greece

The latest amendments were introduced by law 3838/2010 and refer to the acquisition of Greek citizenship due to being born in Greece, studies and residence in Greece, introduced the requirement that the decision on naturalisation application is motivated, and introduced the loss of Greek nationality for children after foreign naturalisation or declaration of their parents.

The right to nationality gives preponderance to *jus sanguinis*, but recognizes, at the same time and under certain conditions, *jus soli* as a source of acquisition of nationality.

Section 5, 2 of the Code of Greek citizenship facilitates naturalisation by reducing the time normally required for spouses, refugees, stateless persons, persons born in the territory, people with a special interest for the state, Homogeneous (people who have the Greek ethnicity) and Olympics athletes. **The law does not require the renunciation to the nationality as a prerequisite for naturalisation.**

The legal concept of residence as a basic condition for naturalisation used in the law on nationality is the one of legal residence.

A Greek adult residing abroad is allowed to renounce his/her Greek citizenship, if his/her real connection with Greece no longer exists. The interested person must sign a declaration before the Greek consulate in his place of residence, and a request to the Interior Minister. The Minister's decision is made to the assent of the Council of nationality and is published in the Official Journal (Article 18 of the Code of Greek citizenship).

## Hungary

Act XIV of 2011 amended Act LXVI of 1992 on Keeping Records on the Personal Data and Address of Citizens, Act LV of 1993 on Hungarian Citizenship, as well as Act I of 2010 on Civil Status Procedures. Government decree 26/2011 (10 March) amended their implementing regulations, these new regulations entered into force on 9 and 11 March 2011, respectively.

The most important changes are the following:

- a) If the name change of the naturalized person is permitted, the certificate of naturalization shall bear the new name, i.e. the decision on the naturalization and on the name change appear on a single document.
- b) The certificate of naturalization is now part of the set of documents accepted as proof of Hungarian citizenship as a rebuttable presumption;
- c) Integrated client services (Government counters) are now also entitled to accept applications for citizenship.
- d) A person applying for naturalization may also request the change of his or her foreign married name and the indication in Hungarian language of the name of his or her defunct mother on the certificate of naturalization.
- e) Changes in rules on the use of foreign place names [If the place of birth had an official Hungarian name, this has to be used as a rule in the course of the naturalization procedure, irrespectively of whether this place belonged to Hungary at the date of the birth or not. However the foreign citizen may request that the name of a foreign location in the official form as prescribed by the country concerned be indicated in brackets besides the Hungarian name. In this case, the name of the country also figures within the brackets, e. g.: Kolozsvár (Cluj, Romania).]

Regarding future amendments, a simplification of procedures related to nationality is planned for 2013 (in the framework of the Magyary programme).

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses, registered partners, adoptees, refugees, stateless persons, persons born in the territory and persons of special interest of the state. The length of time required for naturalisation is reduced if the child of a non-Hungarian citizen is a Hungarian citizen [Article 4, paragraph 2, point b) of the Citizenship Act], or if the non-Hungarian citizen established residence in Hungary before reaching the legal age [Article 4, paragraph 4, point b) of the Citizenship Act]. There is no waiting period for a non-Hungarian citizen whose ascendant was a Hungarian citizen or who demonstrates the plausibility of his or her descent from Hungary and provides proof of his or her knowledge of the Hungarian language [Article 4, paragraph 4, point b) of the Citizenship Act], he or she may be naturalized on preferential terms. Similarly, there is no waiting period for those requesting renaturalization [Article 5 of the Citizenship Act].

The legal concept for residence as a basic condition for naturalisation is the one of domicile.

The recovery of Hungarian citizenship may be sought within one year of the date of acceptance of the renunciation. Dual citizenship is not forbidden by Hungarian law, so it is not an excluding factor in this case.

There is no automatic loss of nationality in case of voluntary acquisition of foreign nationality or due to lack of genuine link.

Hungarian nationality law allows dual citizenship irrespective of reciprocity, and basically all cases of acquisition of nationality may lead to dual/multiple nationality.

## **Iceland**

The last amendment is from 2007. The main amendments were: a) Condition to have permanent residence permit, unless the applicant is exempted from the obligation to hold a residence permit in Iceland. b) The applicant shall have passed a test in Icelandic in accordance with standards set by the Minister in a regulation (Entered into force 1 January 2009). c) No unsuccessful attachment shall have been made in the applicant's property for the previous three years, his estate shall not have been accepted for liquidation and he may not be in arrears with the payment of taxes. d) Legalised provisions about certain period of time that has to pass before it can be possible to accept nationality for a person who has been fined or imprisoned (convicted of a crime) (quarantine period).

Amendments to the present legislation on nationality are in the process of being adopted. The new rules concern the quarantine period (not as strong as in the current law), and a new interim provision.

Iceland is considering ratification before the year 2015, of the UN 1954 Convention relating to the status of stateless persons and the 1961 Convention on the reduction of statelessness.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses, registered partners, dependant parents, adoptees, refugees, persons of special interest for the state (only in the case the parliament (Althingi) may grant Icelandic citizenship by legislation, according to Article 6 of the Icelandic Nationality Act), nationals of the Nordic countries, and in the cases of registered cohabitation and former Icelandic citizens. Furthermore, according to Article 10 of the Icelandic Nationality Act: the Minister may also grant Icelandic citizenship to a child born in Iceland that has demonstrably not acquired other citizenship at birth and has not yet acquired Icelandic citizenship or the right to acquire it when the application is made. The child shall have been domiciled and resident in Iceland for at least three years from birth.

Renunciation is not requested.

The legal concept of residence as a basic condition for naturalisation used in the law on nationality falls under lawful residence, permanent residence and domicile.

Regarding recovery, when dual nationality was legalised on 1 July 2003 there was a new interim provision in the law that was in effect for four years or until 1 July 2007. The provision established that

*“a person who has lost Icelandic citizenship under the original provisions of Article 7 of the Act No. 100/1952 but would have retained it if that Article had ceased to apply at the time when he lost Icelandic citizenship shall re-acquire it by informing the Minister of Justice in writing of his wish to do so by 1 July 2007, providing this announcement is accompanied by satisfactory materials in the view of the ministry. If the person concerned is subject to the custody of other persons, a person exercising custody shall see to the announcement. If the person who acquires Icelandic citizenship under this provision has unmarried children under the age of 18 years over whom he exercises custody, they shall also acquire Icelandic citizenship. If the child has reached the age of 12 years and holds foreign nationality, the child shall grant its consent in order to receive Icelandic citizenship. Consent shall not be required if the child is incapable of granting it due to mental disability or other comparable circumstances”*

**In such cases dual nationality was allowed.** At the moment there is a bill discussed in the parliament where it is proposed that the interim provision will be legalised again and valid until 1 July 2016. If a person who has lost Icelandic citizenship is domiciled again in the state, it is possible to apply for Icelandic citizenship after being domiciled in Iceland for one year (Article 8).

Loss of nationality due to of lack of genuine link is possible after 22 years (Article 12).

#### **Ireland (\*)**

The applicable law in Ireland is the Irish nationality and citizenship Acts 1956-2004 (as amended by Act no. 38 of 2004). The latest amendment to the act was made in 2006 (automatic citizenship for members of the police force). In 2005 the Regulations for the Irish citizenship were published (form of declaration for citizenship purposes).

#### **Italy (\*)**

The latest amendment to the Act no. 91/92 was made in 2009 (Act no. 94/2009), and regarded public security. This amendment changed the time period of marriage required to acquire Italian citizenship by spousal transfer, which changed from 6 months to 2 years, and introduced a fee (200 EUR) for the acquisition and re-acquisition of the Italian citizenship.

#### **Latvia**

The most recent amendment to the Citizenship Law of Latvia was on 22 June 1998. There were amended provisions on naturalisation, stated provisions on admission to citizenship for special meritorious service for the benefit of Latvia and stated provisions on acquisition of nationality for stateless person's and non-citizen's child.

Some future amendments are being considered. They consist mainly of updating provisions about naturalisation, acquisition of nationality by registration and allowing dual nationality in specific cases.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses and for other categories: 1) Latvians and Livs who are repatriating to Latvia; 2) persons who, on 17 June 1940, were citizens of Lithuania or Estonia and the descendants of

such persons, if these persons or their descendants have been permanently resident in Latvia for not less than five years as of the date of submission of the application for naturalisation; and 3) persons who, on 1 September 1939, were citizens of Poland and the descendants of such persons, if these persons or their descendants have been permanently resident in Latvia for not less than five years as of the date of submission of the application for naturalisation.

Regarding recovery, according to the Citizenship Law, Latvian citizenship of a person who has lost Latvian citizenship as a result of the choice made by his or her parents or adopters, legal error or an illegal revocation of citizenship may, at his or her request, be restored by a decision of the Cabinet. There is no prohibition on dual nationality in such cases.

There is no loss of nationality due to of lack of genuine link.

### **Liechtenstein**

The law on nationality was last amended on 12 February 2010. Additional conditions for naturalisations: sufficient knowledge of German language and civics. Currently, no modifications to this law are underway and accession to international treaties regulating nationality is not foreseen.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses, registered partners, dependant parents, adoptees, stateless persons and persons of special interest for the state.

The legal concept of residence as a basic condition for naturalisation used in the law on nationality is the one of permanent residence.

The adopted child automatically acquires the Liechtenstein citizenship if father or mother is a citizen of Liechtenstein.

**Liechtenstein law allows for the recovery of a nationality and also allows dual nationality in such cases.**

There is no loss of nationality due to of lack of genuine link.

### **Lithuania (\*)**

The act currently into force in Lithuania concerning nationality was adopted on 2 December 2010. This law establishes ,for the first time, the principles of citizenship of the Republic of Lithuania, rules on children's possession of dual citizenship (acquired at birth) until 21 years of age, rules of establishing the citizenship of an adopted child, impossibility for the renunciation of citizenship of the Republic of Lithuania where this would render the person stateless, right of persons of Lithuanian descent to acquire citizenship of the Republic of Lithuania under a simplified procedure.

There are no further amendments foreseen; however, the Lithuanian Government is considering accession to the UN Convention on the Reduction of Statelessness (1961).

With the exception of individual cases provided for by law, no one may be a citizen of both the Republic of Lithuania and another state at the same time. A citizen of the Republic of Lithuania may be a citizen of another state at the same time, provided he meets at least one of the following conditions:

- 1) he has acquired citizenship of the Republic of Lithuania and citizenship of another state at birth and he has not reached 21 years of age;
- 2) he is a person who was exiled from the occupied Republic of Lithuania before 11 March 1990 and acquired citizenship of another state;
- 3) he is a person who fled the Republic of Lithuania before 11 March 1990 and acquired citizenship of another state;
- 4) he is a descendant of a person referred to in subparagraph 2 or 3;
- 5) by virtue of marriage to a citizen of another state he has ipso facto acquired citizenship of that state;
- 6) he is a person under 21 years of age, provided he was adopted by citizens (citizen) of the Republic of Lithuania before reaching 18 years of age and, as a result of the adoption, acquired citizenship of the Republic of Lithuania;
- 7) he is a person under 21 years of age, provided he, being a citizen of the Republic of Lithuania, was adopted by citizens (citizen) of another state before reaching 18 years of age and, as a result of the adoption, acquired citizenship of that state;
- 8) he has acquired citizenship of the Republic of Lithuania by way of exception while being a citizen of another state;
- 9) he has acquired citizenship of the Republic of Lithuania while having refugee status in the Republic of Lithuania.

The law on nationality is based on *jus sanguinis* principle. However, the *jus soli* principle is applied in the following cases:

- A child of stateless persons who are legally permanently resident in the Republic of Lithuania, irrespective of whether he was born in or outside the territory of the Republic of Lithuania, provided he has not acquired citizenship of another state at birth.
- A child whose one parent is a stateless person who is legally permanently resident in the Republic of Lithuania and the other parent is unknown, irrespective of whether he was born in or outside the territory of the Republic of Lithuania, provided he has not acquired citizenship of another state at birth.
- An unaccompanied child is found in the territory of Lithuania, whose both of parents and legal status are unknown, unless it transpires that the child has acquired citizenship of another state or other circumstances are discovered, by reason of which the child would acquire citizenship of another state.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation (10 years) for spouses. A person married to a citizen of the Republic of Lithuania and legally permanently residing together with his spouse in the territory for the last seven years may be granted citizenship. A person married to a citizen of the Republic of Lithuania who is a deportee, political prisoner or their child born in exile may be granted citizenship, provided he has been legally permanently resident in the territory together with his spouse, who is a citizen of the Republic of Lithuania, for the last five years. A person, who has lived in the Republic of Lithuania for over a year while being married to a citizen who later died, may be granted citizenship of the Republic of Lithuania, provided he has been legally permanently resident in the territory for the last five years.

The law does not request renunciation of a nationality as a precondition for naturalisation of the persons who have acquired citizenship of the Republic of Lithuania while having refugee status in the Republic of Lithuania. The requirement to provide proof of the loss of citizenship of another state is also not applied where the law of that state does not provide for any procedures relating to the renunciation of its citizenship or the loss of its citizenship on acquiring citizenship of another state, or where such procedures are not reasonable by a decision of the Minister of the Interior of Lithuania.

The legal concept of residence as a basic condition for naturalisation used in the law on nationality is the one of legal permanent residence. Legal permanent residence in the Republic of Lithuania means the uninterrupted residence of a citizen of another state or a stateless person in the Republic of Lithuania, holding a document entitling or attesting to the right of residence in the Republic of Lithuania, for the period specified in Citizenship law. A person shall be considered to reside in the Republic of Lithuania uninterruptedly during a one-year period, provided he has been resident in the Republic of Lithuania for at least six months during that year).

A child adopted by citizens (citizen) of the Republic of Lithuania acquires citizenship of the Republic of Lithuania from the date of his adoption (an institution authorised by the Government of the Republic of Lithuania takes decisions regarding the acquisition of citizenship of the Republic of Lithuania by such child). A child who is a citizen of the Republic of Lithuania and who is adopted by citizens (citizen) of another state remains a citizen of the Republic of Lithuania irrespective of whether or not he has acquired citizenship of another state as a result of the adoption.

A person who was granted citizenship of the Republic of Lithuania through naturalisation and who lost citizenship of the Republic of Lithuania may have citizenship of the Republic of Lithuania restored on his application, provided he meets the following conditions:

- 1) he is not a citizen of another state or expresses his will in writing to renounce his citizenship of another state after he has citizenship of the Republic of Lithuania restored;
- 2) he has been legally permanently resident in the Republic of Lithuania for the last five years;
- 3) at the time of the application for the restoration of citizenship of the Republic of Lithuania and the decision regarding the restoration of citizenship of the Republic of Lithuania, he has the right of permanent residence in the Republic of Lithuania;

- 4) he has legal means of subsistence;
- 5) there are no circumstances specified in Article 22 of Citizenship law (citizenship of the Republic of Lithuania shall not be restored to persons who: prepared, attempted to commit or committed international crimes such as aggression, genocide, crimes against humanity and war crime; prepared, attempted to commit or committed criminal acts against the Republic of Lithuania; prior to coming to reside in the Republic of Lithuania, were sentenced to imprisonment in another state for a premeditated crime which is a grave crime under laws of the Republic of Lithuania, or were punished for a grave crime in the Republic of Lithuania, irrespective of whether or not the conviction for the crimes specified in this subparagraph has expired; in accordance with the procedure laid down by law, is not entitled to obtain a document attesting to the right of permanent residence in the Republic of Lithuania).

Subject to the conditions previously specified, citizenship of the Republic of Lithuania may also be restored to a person who has lost citizenship of the Republic of Lithuania, where he acquired citizenship of the Republic of Lithuania before reaching 18 years of age because both or one of his parents had acquired citizenship of the Republic of Lithuania through naturalisation.

A person who acquired citizenship of the Republic of Lithuania by birth, who had citizenship of the Republic of Lithuania reinstated or was granted citizenship of the Republic of Lithuania under the simplified procedure and who subsequently lost it, may have citizenship of the Republic of Lithuania restored, provided he is not a citizen of another state. This requirement shall not apply to a person who, pursuant to subparagraphs 1-4 of Article 7 of Citizenship law, has the right to be a citizen of both the Republic of Lithuania and another state at the same time.

If a Lithuanian national acquires a foreign nationality, he loses the nationality of Lithuania except for the cases when dual nationality is allowed. The child who acquires dual nationality at birth does not lose the Lithuanian nationality, until he reaches the age of 21.

The law does not foresee the loss of nationality due to lack of genuine link.

### **Luxembourg**

The most recent amendment to the nationality law was the entry into force on 1 January 2009 of the Law of 23 October 2008 on the Luxembourg nationality.

The law of nationality of Luxembourg is based mostly on *jus sanguinis*; however, it contains certain relevant elements of *jus soli*.

A reduction of the length of time for naturalisation is not foreseen for any categories. Renunciation is not a precondition.

The naturalisation is subject to a legal and effective residence in Luxembourg during at least seven consecutive years, immediately before the request for naturalisation.

The law allows for recovery of nationality after the age of 18 years. **In case of recovery, the principle of dual nationality is applicable. There is no condition of residence.**

**The legislation allows for dual nationality** in all cases, even in cases of absence of reciprocity.

There is no loss of nationality due to of lack of genuine link.

### **Malta (\*)**

The latest changes made to the Maltese citizenship acts and regulations were made in 2007. The Maltese Citizenship (Amendment) Act, 2007 (Cap. 188) introduced the right to dual/multiple citizenship for second (and also subsequent generation) Maltese individuals born outside Malta and living abroad.

### **Republic of Moldova**

The latest amendment to the nationality law was on 9 June 2011. It added the «legal and habitual domicile of the past three years» for the acquisition of the nationality by naturalisation of the spouse married at least for three years with a national of the Republic of Moldova. Also, it added the functions of the Ministry of Information and Communications Technology and its organs in terms of nationality. No future amendments are foreseen.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses (3 years), adoptees (automatic if the parents are nationals), refugees (8 years), stateless persons (8 years), persons born on the territory (at the moment of birth), persons of special interest of the state (exceptional cases by decree of the President of the Republic), and in case of recovery (5 years), those who have lived 5 years before the age of 18 in the territory, and those who have legal and permanent resident with the parents of the children (3 years).

Renunciation is necessary, but many exceptions apply:

- Person holding the nationality of a country with which The Republic of Moldova has signed a treaty on dual nationality;
- Person born in the territory of the Republic of Moldova or of a parent or grandparents that were born in that territory;
- People who lived until 28 June 1940 in Bessarabia, Bukovina North Herta or Transnistria region;
- Deportees or refugees from the territory of Moldova of 28 June 1940 and their descendants;
- Who since the date of 23 June 1990 have had a lawful and habitual residence in the territory of the Republic of Moldova until now;
- The waiver is not possible or cannot reasonably be requested;
- Exceptional case in the interest of the Republic, by decree of President of the Republic.

The legal concept of residence as a basic condition for naturalisation used in the law on nationality is the one of domicile.

Recovery is possible if the person did not commit international crimes, was not involved in terrorist activities, was not sentenced to imprisonment for premeditated offenses and a criminal record, or when the application is placed on the criminal investigation, does not place an activity endangering of the state security, public order, health and morality of the population. In case the cases mentioned, the person keeps voluntarily a foreign nationality.

There is no loss of nationality due to of lack of genuine link.

## Montenegro

Law amending Law on Montenegrin Citizenship ("Sl. list Crne Gore", br 46 od 16 September 2011). Parliament of Montenegro at the second extraordinary session in 2011 on 8 September 2011, promulgated the Law on Montenegrin citizenship.

### Article 41

*A citizen of the former Yugoslav republics, who had registered residence on Montenegro at least 2 years before 3<sup>rd</sup> June 2006 and who had identity card which is legally issued by Law on identity card, can acquire Montenegrin citizenship by accession without renouncing the citizenship of another state if he or she fulfills other conditions from Law and if he or she didn't check up his residence up to the day on which request for acquiring Montenegrin citizenship has been made. S/He also must fulfil conditions from article 8 paragraph 1 item 4, 5, 7 and 8 of this law.*

*In a case of a child in paragraph 1 of this article which do not possess identity card, it can also acquire Montenegrin citizenship, on the same conditions.*

*The request from paragraph 1 of this article and of this law can be submitted to the competent authority up to 31<sup>st</sup> January 2012.*

*Person from paragraph 1 of this article is required to provide a written statement of acceptance of nationality rights and obligations to the competent authority, along with the request for Montenegrin citizenship.*

*Montenegrin citizenship through origin shall be acquired by a child born on the territory of Montenegro, whose one or both parents have entered in the record of Montenegrin citizens, and child has entered in the Montenegrin birth record book, but hasn't entered in the record of Montenegrin citizens.*

No further amendments are foreseen.

A person who has been married to a Montenegrin citizen for at least three years and who takes up lawful and uninterrupted residence in Montenegro for at least five years, may be granted Montenegrin citizenship if other conditions of Law are fulfilled.

An adult person may be granted Montenegrin citizenship even if he or she does not fulfil the requirements of this Law if it would be in the scientific, economic, cultural, sport, national or other interest to Montenegro.

A citizen of the former Yugoslav republics, who had registered residence on Montenegro before 3 June 2006, can acquire Montenegrin citizenship by accession if he or she fulfils conditions from law.

Montenegrin emigrant and a member of his or her family up to the third degree of consanguinity in lineal terms, may be granted Montenegrin citizenship if he or she takes up lawful and uninterrupted residence in Montenegro for a minimum of two years, and if the conditions of Law are fulfilled.

The legal concept of residence as a basic condition for naturalisation used in the law on nationality is the one of lawful and uninterrupted residence in Montenegro over a period of 10 years, before submitting request for Montenegrin citizenship.

A person whose Montenegrin citizenship has ceased in a way prescribed by this Law and who has acquired the citizenship of another country may re-acquire Montenegrin citizenship, if he or she submits a request for re-acquiring Montenegrin citizenship, and he or she has lawful and uninterrupted residence in Montenegro for at least a year in accordance with relevant legislation. For this kind of acquisition of nationality there are certain conditions that need to be fulfilled: that he or she is over 18 years of age, that he or she was discharged from the citizenship of another state and that there are no legal obstacles for the reasons of the public order and the security of the state.

There is no loss of nationality due to of lack of genuine link.

### **The Netherlands**

The law on nationality was last amended on 17 June 2010. The content of this amendment was various: expansion of the obligation to lose the former nationality to one category of optants, those who have lived in the Netherlands from before they were four years old, a Dutch language test for the Caribbean countries of the Kingdom, and the expansion of the possibilities to lose the nationality in case of criminal conduct, directed at the state.

Currently there is a proposal hanging before Parliament. Its content is various: expansion of language test to those who acquire Dutch nationality via option, expansion of the obligation to lose the former nationality to all optants and letting go of the exceptions, except for the exceptions under international obligation, test of financial means, test of qualification for labour market, lengthening of the terms to an overall 5 years, and applying public order test to applicants between 12-16 years.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses and registered partners (ordinary length of time required for naturalisation is 5 years; spouses and registered partners which have been married and cohabited for over 3 years do not have to fulfil any term) adoptees, (who can acquire nationality the same way as children, by naturalisation of the parents, stateless persons (3 years), persons of special interest for the state (although this category is usually very limited), and also for persons which used to have Dutch nationality (no term) and partners in unmarried cohabitation (3 years).

Renunciation will not be a precondition if: it is unreasonable (regularly impossible), if the applicant is refugee, if the applicant is married to a Dutch national, if the applicant is born on Dutch territory and has on the moment of application domicile on Dutch territory, or if the applicant is national of a member state of the Second Protocol amending the Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality.

The legal concept of residence as a basic condition for naturalisation used in the law on nationality is the one of main residence and lawful residence.

As for acquisition of nationality by recovery, there are two possibilities: after one year lawful residence in the Netherlands, a person who has possessed Dutch nationality in the past can acquire Dutch nationality by option. The other possibility is that a former Dutchman can acquire Dutch nationality by naturalisation abroad. In that case he has to give up his former nationality.

Automatic loss of nationality in case of voluntary acquisition of foreign nationality can occur, and it is also applicable in the case of a child having acquired the nationality at birth on the grounds of registration of nationality by a parent who is the national of the state, unless one of the parents still holds a Dutch nationality. There are however some exceptions: if one is born in the country of the other nationality, if one has lived for over five years in the country during minority or if one is married to a person with the other nationality.

Loss of nationality due to of lack of genuine link can also occur, on the condition that the person concerned has another nationality, and has lived for over 10 years abroad. One can prohibit loss of nationality by applying for a Dutch passport or a 'declaration of nationality' (verklaring van Nederlanderschap) within 10 years, or by living within the kingdom for one year.

## Norway

The Nationality Act came into force in September 2006. There have not been any changes since that has come in to force. The Storting passed an amendment act 27 March 2012, but it has not yet come into force. Accession to any other treaties is not under consideration.

A foundling who is found in the realm is a Norwegian national until it is otherwise established, cf. The Nationality Act section 4.

The law provides for acquisition of nationality for stateless children. They have to meet some conditions set out in section 7 and section 16 in the Nationality Act.

The central elements in connection with applications for citizenship are set out in section 7 of the Nationality Act:

*Any person has a right, upon application, to Norwegian nationality if the applicant at the time the administrative decision is made*

- a) has provided documentary evidence of or otherwise clearly established his or her identity,*
- b) has reached the age of 12,*
- c) is and will remain a resident of the realm,*
- d) fulfils the conditions for a settlement permit laid down in section 12 of the Immigration Act,*
- e) has spent a total of seven years in the realm in the last ten years, with residence or work permits of at least one year's duration, residence during one or more application-processing periods to be included in the seven-year period, cf. fifth paragraph,*
- f) satisfies the requirement regarding Norwegian language training laid down in section 8 in the Nationality Act,*

- g) has not been sentenced to a penalty or special criminal sanction or has observed the waiting period, and*
- h) satisfies the requirement regarding release from another nationality laid down in section 10.*

*The applicant is not entitled to Norwegian nationality if this is contrary to the interests of national security or to foreign policy considerations.*

Applicants who are stateless can acquire nationality on easier terms than other applicants, cf. Section 16 in the Nationality Act. The conditions set out in section 7 regarding the applicant's age, period of residence and release from another nationality does not apply. However, a stateless applicant who has reached the age of 18 must have resided in the realm for the last three years with work or residence permits of at least one year's duration. A person who by his or her own act or omission has chosen to be stateless, or who in a simple way can become a national of another country, is not deemed to be stateless.

There are no special regulations for children born to parents who have an unknown nationality, but who are not stateless. These children can acquire Norwegian nationality if they meet the regular terms in The Nationality Act.

The following groups can acquire nationality after a shorter time of residence:

- Persons who arrived in the realm before reaching the age of 18,
- Persons who are married to, a registered partner of or cohabitant with a Norwegian national,
- Nordic nationals,
- Applicants who are covered by the EEA Agreement or the EFTA Convention,
- Former Norwegian nationals,
- Stateless persons,
- Children under the age of 18 of a parent who is acquiring or has acquired Norwegian nationality after application,
- Special groups of applicants (Athletes and Kola Norwegians).

Persons, who apply for Norwegian nationality must be released from other nationalities, cf. the Nationality Act section 7 and 10. If the applicant does not automatically lose any other nationality as a result of being granted Norwegian nationality, the applicant must be released from any other nationality before the application may be granted. If the applicant cannot be released from any other nationality before the application is granted, the applicant must, within one year of being granted Norwegian nationality, document that he or she has been released from any other nationality. If the applicant cannot be released from any other nationality before reaching a certain age, the applicant must within one year after reaching this age document that he or she has been released from any other nationality. An exemption may be granted from the requirement regarding release if release is deemed to be legally or practically impossible or for other reasons seems to be unreasonable.

According to Norwegian Nationality Regulations section 6-1, release from any other nationality is deemed to be legally or practically impossible, or for other reasons appears unreasonable in the following cases:

1. The legislation in the applicant's former home country does not permit nationals to be released from their nationality, or such release is deemed to be practically impossible.

2. The authorities in the former home country have rejected an application for release.
3. For reasons for personal safety, the applicant should not be required to contact the authorities of his or her former home country in order to apply for release.
4. More than one year has elapsed since Norwegian nationality was granted or since the applicant reached the age at which it is possible to obtain release pursuant to the legislation of the former home country but the granting of release has not been documented, and the home country has provided no information as regards expected processing time. If it is known that the applicant's former home country does not reply to applications for release from nationality, an exemption may be granted from the requirement regarding release in connection with the granting of Norwegian nationality.
5. The authorities in the applicant's former home country set unreasonably burdensome conditions for ordinary income. If the fee exceeds four per cent of the applicant's income, the release fee is deemed to be unreasonably burdensome. The same applies if the applicant is responsible for the care of children under 18 years of age, and the release fee, including any release fee for children, exceeds two per cent of the applicant's income. However, a release fee of up to and including NOK 2,500 is not deemed to be unreasonably burdensome. In the case of orphans, any release fee is deemed to be unreasonably burdensome.

According to the Nationality Act section 7 the applicant must at the time the administrative decision is made, as a main rule:

- be and remain a resident of the realm,
- fulfil the conditions for a permanent residence laid down in section 12 of the Immigration Act,
- have spent a total of seven years in the realm in the last ten years, with residence or work permits of at least one year's duration, residence during one or more application-processing periods to be included in the seven-year period.

According to section 7 and section 15 in the Nationality Act a former Norwegian national has a right, upon application, to Norwegian nationality if the applicant at the time the administrative decision is made:

- has provided documentary evidence of or otherwise clearly established his or her identity
- has reached the age of 12,
- is and will remain a resident of the realm,
- has resided in the realm for the last two years with work or residence permits of at least one year's duration, residence during one or more application-processing periods included when calculating the two-year period,
- satisfies the requirement regarding Norwegian language training laid down in section 8 in the Nationality Act,
- has not been sentenced to a penalty or special criminal sanction or has observed the waiting period, and,

- satisfies the requirement regarding release from another nationality laid down in section 10 in the Nationality Act (the applicant must be released from other nationalities unless release is deemed to be legally or practically impossible or for other reasons seems to be unreasonable).

The applicant is not entitled to Norwegian nationality if this is contrary to the interests of national security or to foreign policy considerations.

A person who acquires another nationality by application or explicit consent loses his or her Norwegian nationality.

Children under the age of 18 who automatically acquire another nationality because one of their parents who shares parental responsibility acquires another nationality loses their Norwegian nationality. However, such loss does not occur if the other parent is a Norwegian national, or if the child is married or a registered partner.

If a child does not acquire another nationality automatically by birth, but acquires this nationality afterwards by application or explicit consent, the child loses the Norwegian nationality.

Loss in the event of absence from the realm is regulated in the Nationality Act section 23.

A person who acquired Norwegian nationality at birth, but who has not resided in Norway for a total of two years or in Norway and other Nordic countries for a total of seven years loses his or her Norwegian nationality upon reaching the age of 22, cf. section 24 paragraph 1.

A person who would otherwise lose his or her Norwegian nationality may, upon application, be given the right to retain it provided that the applicant has sufficient ties with Norway. An application for such retention must be lodged before the person concerned reaches the age of 22, cf. section 24 paragraph 2. The question whether the applicant has sufficient ties to Norway shall be decided after an overall assessment of the specific case, cf. Norwegian Nationality Regulations section 9-2. Applicants who, prior to reaching 22 years of age, spend a total of six months in Norway shall be deemed to have sufficient ties. The same applies if the applicant is resident in Norway at the time the administrative decision is made. If the applicant has in good faith been issued with a Norwegian passport for a period extending beyond his or her 22nd birthday, importance shall be attached thereto in the discretionary assessment.

An application may be dealt with even if it was lodged too late if the applicant is not essentially to blame for this, or if it would be unreasonable that the nationality were to be lost on account of the omission, cf. section 24 paragraph 3. The question whether the applicant is essentially to blame for exceeding the time limit shall be decided after an overall assessment of the specific case, cf. Norwegian Nationality Regulations section 9-3. If the acute or persistent serious illness of the applicant or a member of the applicant's immediate family has prevented compliance with the time limit, the applicant shall be deemed not to be essentially to blame.

If a person loses his or her Norwegian nationality pursuant to section 24, his or her children also loses their nationality. However, this does not apply if one of the parents is still Norwegian, or if the child himself or herself satisfies the conditions laid down in the first paragraph for retaining the nationality, cf. section 24 paragraph 4.

Loss of nationality pursuant to section 24 does not occur if the person concerned thereby will become stateless, section 24, paragraph 5.

In the event of a decision or admission that the circumstances that formed the basis for acquisition of nationality pursuant to section 4 (acquisition by birth) or 5 (acquisition by adoption) of the Nationality Act do not subsist, the child shall be regarded as never having been Norwegian, cf. the Nationality Act section 6. However, this does not apply if the child thereby becomes stateless, or if the decision or admission is made after the person concerned reaches the age of 18.

When there are particular reasons for doing so, an administrative decision may upon application be made to the effect that such decision or admission shall have no significance. The applicant shall then be regarded as having been Norwegian from the date of the originally presumed acquisition of Norwegian nationality. When making the decision, importance shall be attached to the length of time that has elapsed from the presumed date of acquisition to the time the real situation was ascertained, and to whether the applicant and his or her parents acted in good faith.

The child's consent for renunciation of nationality is necessary, according to section 31 of the nationality Act.

Applications for the acquisition or loss of nationality for children may only be lodged by parents jointly or by the parent who has sole parental responsibility. If the whereabouts of one of the parents are unknown, an application may nevertheless be lodged by the other. If the parents have been deprived of parental responsibility or if the parents are dead, the guardian shall act on behalf of the child.

In the case of children who have reached the age of 12, their consent to the application is required. No consent is required if the child is permanently unable to give consent on account of illness or disability.

Children who have not reached the age of 12 shall be given the opportunity to express their opinion. Importance shall be attached to the child's opinion in accordance with the age and maturity of the child.

## **Poland**

The new Citizenship Act was approved by the Parliament on 1 April, 2012. Its provisions will come into force on 15 August 2012 (except provisions about recovery of citizenship, which will come into force on 15 May 2012). Its main changes are: no request of the renunciation of a nationality as a precondition for naturalisation, the introduction of the possibility of recovery of the Polish citizenship, and the facilitation in naturalisation for chosen categories e.g.: spouses, refugees, stateless persons, adoptees and persons with Polish backgrounds. No future amendments are foreseen.

There are plans for consideration of Polish accession to the European Convention on Nationality.

The law facilitates naturalisation by the reduction of the length of time required for naturalisation for spouses and stateless persons. The new Citizenship Act adds one category: refugees (provisions will come into force on 15 August 2012).

There is no request of renunciation of a nationality as a precondition for naturalisation according to the new Citizenship Act (provisions will come into force on 15 August 2012). Under the current law the competent authority may request the renunciation before naturalisation (every case is treated individually).

The new Citizenship Act (provisions will come into force on 15 May 2012) contains provisions allowing for the recovery of a Polish citizenship to a person (at his/her request) who lost it before 1 January 1999 based on laws listed in the Citizenship Act. **It may lead to dual nationality and it is allowed.**

The new Citizenship Act (provisions will come into force on 15 August 2012) allows for the recovery based on general rules. The current law contains specific provisions referred to a child of the parents one of whom is a Polish citizen and the other is a foreign citizen. (Art. 6. 1 A child of the parents one of whom is a Polish citizen and the other is a foreign citizen shall acquire Polish citizenship by birth. However, in their unanimous declaration made before a competent body within three months from the date of birth of the child, the parents have the right to choose for the child the citizenship of the foreign state of which one of the parents has citizenship, if in accordance with the law of the state a child acquires the citizenship [...].

Art. 6. 3 A child who acquired foreign citizenship pursuant to section 1 or 2 shall acquire Polish citizenship if, after reaching the age of sixteen but before a lapse of six months from his/her coming of age, he/she makes an appropriate declaration before a competent body and this body issues a decision accepting the declaration (the above - mentioned provision is repealed in the new law).

The loss of Polish citizenship occurs on request only.

## **Portugal**

The law on nationality was last amended by Law n.2/2006, 17 April. This law reinforced the principle of *jus soli*, allowing descendants of immigrants to acquire Portuguese nationality. This law also enables children of foreign parents who reside lawfully in Portuguese territory, for at least 5 years, to acquire Portuguese nationality. It also introduced a subjective right to naturalisation and a new concept of legal residence that allows the acquisition of Portuguese nationality. Additionally, the new law brings a simplification of the legal procedures to acquire nationality. Currently, there are no further amendments foreseen.

The law does not facilitate naturalisation by a reduction of the length of time required for naturalisation for any category. Renunciation of a nationality is not a precondition for naturalisation.

The legal concept of residence as a basic condition for naturalisation used in the law on nationality is the one of lawful residence.

The law foresees the possibility of naturalisation of a child whose parents are not alive or are of unknown residence and the legal guardian may apply for the child's naturalisation.

Adopted children may acquire Portuguese nationality by naturalisation if one of the parents resides in Portugal for at least a period of 5 years or if the minor has concluded the first 4 years of schooling (1<sup>o</sup> ciclo do ensino básico).

Portuguese law allows for the recovery of Portuguese nationality to the woman that, according to a previous law has lost Portuguese nationality by marrying a foreign citizen. Portuguese law also allows the recovery of nationality to persons that, according to a previous law, have acquired a foreign nationality. In such cases, the law allows dual nationality. In case of children no special rules apply, they only have to declare that they wish to recover Portuguese nationality.

There is no loss of nationality due to lack of genuine link.

### **Romania**

The most recent modifications in the law of nationality in Romania were made in 2010 (Law 112/16.06.2010). There are currently underway further modifications to be made.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation (8 years) for spouses (5 years). These terms can also be reduced to half if the applicant is an internationally recognised person, a citizen of a member state of the EU, a refugee or has invested in Romania more than EUR 1.000.000.

The possibility of recovering the Romanian citizenship is attributed to people who have lost it as well as their descendants to II degree who apply for the recovery, with the maintenance of foreign citizenship. This norm also applies to stateless former Romanian citizens and their descendants to II degree. The recovery of citizenship by one of the spouses has no effect on the citizenship of the other spouse. The spouse who is a foreigner or does not have the citizenship of the person who gets the Romanian citizenship may request the granting of Romanian citizenship in terms of the nationality law.

There is no automatic loss of nationality in case of voluntary acquisition of foreign nationality, nor due to lack of genuine link.

Romanian nationality law **allows dual citizenship** irrespective of reciprocity.

### **Russian Federation**

The law on nationality was last amended on 28 June 2009. Its amendments provided for additional basis for acquisition of citizenship. Currently, modifications to this law are underway, but no further comments are made on the answers to the questionnaire. Accession to international treaties regulating nationality is not currently foreseen. The Russian Federation did conclude some treaties with other states regarding dual/multiple nationality, but it does not specify which. It does specify, however, that some of those treaties contain provisions on data protection.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for refugees, persons who were granted political asylum and persons of special interest for the state.

The legal concept of residence as a basic condition for naturalisation used in the law on nationality is the one of permanent residence. Consent of the child is necessary after she/he reaches 14.

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The adopted child acquires the citizenship after one year of permanent residence in the Russian Federation (in the absence of consent of both parents for the acquisition of Russian citizenship).

Russian law allows for the recovery of a nationality but does not allow dual nationality in such cases. A person must lawfully reside in the territory of the Russian Federation for 3 years.

There is no loss of nationality due to of lack of genuine link.

### **Serbia**

The most recent amendment to the Law on citizenship of the Republic of Serbia was done in 2007, due to the fact that the state union of Serbia and Montenegro ceased to exist. It introduced the possibility for the members of the Serbian nation not residing in the territory to be admitted to the citizenship of the Republic of Serbia, without release from foreign citizenship, provided some conditions are met (Article 23 of Law 90/07).

This law allows for easier naturalisation through the submission of a request without mandatory release from the previous citizenship for some categories such as spouses and citizens of the Former Republic of Yugoslavia (Articles 17, 18, 19, 23 and 52).

Recovery of citizenship is allowed when the person submits an application, is older than 18 years of age, not deprived of working capacity and submits a written statement that he/she considers Republic of Serbia his/her own state. Minors can also apply by simultaneous application with their parents. In these cases, dual or multiple citizenship cases can occur.

Loss of citizenship can occur by release, denial or in accordance with international treaties. It is done upon the client's request, and not by official duty.

Regarding the fact that the Serbian law on citizenship lays out facilitated terms for acquiring citizenship without release from the previous citizenship, a large number of cases of dual/multiple nationality do occur.

### **Slovak Republic**

The nationality law in force in the Slovak Republic is the Act no. 40/1993 of the Coll. On nationality of the Slovak Republic. It was last amended by Act n. 250/2010 of the Coll. This Amendment entered into force on 17 July 2010, and introduced the loss of nationality *ex lege*, by law based on acquisition of nationality of another state on explicit consent and there are two exceptions: 1. If a child acquires nationality of both parents by birth and 2. If a national of the Slovak republic acquires nationality of another state due to marriage and this marriage remains valid.

Currently, modifications to this law are underway and accession to international treaties regulating nationality is foreseen; no further information is provided.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses, dependant adult children, adoptees, refugees, stateless persons, persons born on the territory, persons of special interest for the state, former nationals of Czechoslovakia or the Republic of Slovakia, and persons with Slovak origin.

The legal concept of residence as a basic condition for naturalisation used in the law on nationality is the one of lawful residence and permanent residence.

If a child who is not a national of the Slovak republic is adopted under special law (family law) by adoptive parent or parents of whom at least one is a national of the Slovak Republic, the child acquires the nationality of the Slovak Republic upon adoption. Adoption has to be in compliance with laws (legal order) of the Slovak republic.

The law allows for the recovery of a nationality and allows dual nationality in such cases.

There is no loss of nationality due to lack of genuine link.

## Slovenia

The law on nationality was last amended at the end of the year 2006. Amongst the changes there were changes concerning conditions for regular naturalisation, naturalisation by a reduction of the length of time required for naturalisation for persons who have attended and successfully completed at least a higher education programme in the Republic of Slovenia has been facilitated, changes concerning the competent authorities for deciding on the acquisition of citizenship of the Republic of Slovenia, Citizenship Register was established. There are no future amendments foreseen.

The legislation on nationality of the Republic of Slovenia **may lead to dual/multiple nationality in several cases:**

- In the procedure of regular naturalisation the person must have a release of current citizenship or must prove that he/she will obtain release if he/she acquires citizenship of the Republic of Slovenia. This condition shall be considered fulfilled if the person is stateless, or if he/she proves that pursuant to the law of his/her country he/she lost citizenship by naturalisation itself, or if he/she submits evidence that his/her country has not decided on the application for release of citizenship within a reasonable period of time. It is considered that the country has not made a decision within a reasonable period of time if the person submitted an application for release of citizenship by the competent authorities within 60 days after the assurance was issued and that he/she did everything necessary within two years from the receipt of the assurance to successfully complete the procedure specified by the competent authorities of the home country. If the person proves that his/her country will not grant a release of citizenship or that the voluntary acquisition of foreign citizenship is considered an act of disloyalty, which pursuant to the country's regulations is sanctioned, the declaration of the applicant that he/she will renounce foreign citizenship if he/she is granted citizenship of the Republic of Slovenia shall suffice. A citizen of a European Union member state shall not have to submit the proof of fulfilling the above mentioned condition if there is reciprocity between the countries.
- In the case of naturalisation of a person who lost Slovenian citizenship due to release or renunciation of citizenship in accordance with the provisions of Citizenship of the Republic of Slovenia Act or in accordance with the regulations that governed citizenship in the territory of the Republic of Slovenia prior to the adoption of this Act.
- In the case of naturalisation of a Slovenian expatriate and his/her descendants to the fourth generation in direct descent.
- In the case of naturalisation of a person of full age born in the territory of the Republic of Slovenia.

- In the case of naturalisation of a person with refugee status granted pursuant to the Asylum Act.
- In the case of naturalisation of a person if this naturalisation offers scientific, economic, cultural, national or similar benefits to the state.
- In the case of naturalisation of minors (children under the age of 18 years).
- In all cases of acquiring citizenship of the Republic of Slovenia by origin.

The law does facilitate naturalisation by a reduction of the length of time required for naturalisation for spouses (1 year), refugees (5 years), stateless persons (5 years), persons of special interest for the state (1 year). It is also possible to reduce the length of time for Slovenian expatriates and their descendants to the fourth generation in direct descent (1 year), persons who lost Slovenian citizenship due to release or renunciation of citizenship in accordance with provisions of Citizenship of the Republic of Slovenia Act or in accordance with regulations that governed citizenship in the territory of the Republic of Slovenia prior to the adoption of this Act (6 months), persons who have attended and successfully completed at least a higher education programme in the Republic of Slovenia (7 years, continuously 1 year prior to submitting the application), minor children (in some cases the length of time required for naturalisation is 1 year, in others there is no time required).

The nationality law of the Republic of Slovenia requests a release of current citizenship or that a person proves that he/she will obtain release if he/she acquires citizenship of the Republic of Slovenia as a precondition for naturalisation. The exceptions apply for Slovenian expatriates and their descendants to the fourth generation in direct descent; persons who lost Slovenian citizenship due to release or renunciation of citizenship in accordance with provisions of Citizenship of the Republic of Slovenia Act or in accordance with regulations that governed citizenship in the territory of the Republic of Slovenia prior to the adoption of this Act; persons who have been married to a citizen of the Republic of Slovenia for at least three years but only by a special application; persons of full age born in the territory of the Republic of Slovenia; persons with refugee status granted pursuant to the Asylum Act; persons of special interest for the Republic of Slovenia, minor children.

The legal concept of residence as a basic condition for naturalisation used in the law on nationality is the one of habitual residence. According to Slovenian nationality law the person shall be considered actually living in the Republic of Slovenia if he/she is physically present in its territory and this is the centre of his/her interests, which is assessed based on his/her occupational, economic, social and other ties that show that there are close and permanent links between the person and the Republic of Slovenia. In the time of deciding on acquisition of the citizenship of the Republic of Slovenia the person must have at least temporary residence in the Republic of Slovenia.

Slovenian nationality law does permit the naturalisation of a child who does not live on the territory of the state. The naturalisation of a child not living on the territory of the state is possible in following cases:

- naturalisation of a child under the age of 18 years if it is requested by his/her father and mother and both of the parents acquired citizenship of the Republic of Slovenia by naturalisation;

- naturalisation of a child born in the Republic of Slovenia and not yet having reached one year of age if it is requested by the parent who has obtained citizenship of the Republic of Slovenia by naturalisation;
- naturalisation of a child under the age of 18 years if one of the parents has acquired citizenship of the Republic of Slovenia by naturalisation pursuant to Article 13 of the Citizenship of the Republic of Slovenia Act (persons of special interest for the state) upon request by said parent.

**The nationality law of the Republic of Slovenia does allow for the recovery of a nationality.** If it is in the national interest, the competent authority may, at its own discretion, naturalise a person who lost Slovenian citizenship due to release or renunciation of citizenship in accordance with the provisions of Citizenship of the Republic of Slovenia Act or in accordance with the regulations that governed citizenship in the territory of the Republic of Slovenia prior to the adoption of this Act, if the person has actually been living in Slovenia continuously for six months prior to submitting the application, if he/she has the legal status of an alien and if he/she fulfils following conditions:

- that the person is of 18 years of age;
- that the person and persons who he/she has to support have guaranteed funds that enable material and social security;
- that the person has not been sentenced to an unconditional prison sentence longer than three months, or that the person has not been sentenced to a conditional prison sentence with a trial period longer than one year;
- that the person's residence permit in the Republic of Slovenia was not annulled;
- that the person's naturalisation poses no threat to the public order, security or defence of the state;
- that the person has settled all tax obligations;
- that the person gives a declaration to respect the free democratic constitutional order, founded in the Constitution of the Republic of Slovenia.

**In such cases the law allows dual nationality.** The person must have been living in Slovenia continuously for six months prior to submitting the application.

Loss of nationality due to of lack of genuine link is not foreseen.

Provisions concerning the limitation of the loss of nationality by renunciation to cases in which the application covers all the family members provide as follows. A child who has not yet attained the age of 18 years shall lose citizenship of the Republic of Slovenia at the request of both parents who have lost citizenship by release, or of one of the parents who lost citizenship and the other parent is not a citizen of the Republic of Slovenia.

A child whose parents are divorced shall lose citizenship of the Republic of Slovenia by release at the request of the parent with whom the child resides or to whom the child was assigned for care and education, and who himself/herself requested release of citizenship of the Republic of Slovenia, or in the case that the parent with whom the child resides is an alien. In both cases, the consent of the other parent shall be required.

If the other parent does not agree with the child's release of citizenship of the Republic of Slovenia, the child shall obtain release if the ministry responsible for family and social affairs gives its consent to the child's release if it will benefit the child.

Such consent shall be attached to the application for the child's release of citizenship of the Republic of Slovenia.

It shall be unnecessary to obtain the above mentioned consent if the whereabouts of the second parent cannot be determined or if he/she was deprived of his/her functional capacity or parental rights.

## **Spain**

The Spanish Civil Code contains the main regulation of the subject under Arts. 17 to 28. There are also specific provisions in the Spanish Civil Registry Act. The Civil Code provisions have been amended in 1954, 1975, 1982, 1990 and 2002. There is a new Spanish Civil Registry Act (Act 20/2011, 21 July) that will enter into application on 22 July 2014. No further amendments are foreseen.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation (10 years) for spouses (Section 22.2.d) Spanish Civil Code, 1 year), adoptees (Art. 19.1 and 19.2), refugees (Art. 22.1, 5 years), persons born on the territory (1 year according to Art. 22.2 a)), persons of special interest for the state (no time limit according to Art. 21.1), nationals of certain states (2 years, Art. 22.1) and also other categories (1 year in cases of Art. 22.2).

The legal concept of residence as a basic condition for naturalisation used in the law on nationality is the one of lawful residence in Spain, according to the immigration domestic law.

Recovery is allowed, according to Art. 26 Spanish Civil Code. It is not necessary to renounce to the foreign nationality previously acquired. As a general rule, this article requires lawful residence in Spain. Spanish minors cannot lose the Spanish nationality during his or her minority according to Art. 24 Spanish Civil Code.

Loss of nationality due to of lack of genuine link is envisaged under Art. 24.1 and 25.1.a) Spanish Civil Code.

## **Sweden**

The last time the Swedish Citizenship Act was amended was in 2001. The new law, which came into force on 1 July 2001, introduced the possibility to have two or more nationalities. It also enhanced the ability to acquire Swedish citizenship at birth when the child of a Swedish father always acquires Swedish citizenship at birth if the baby is born in Sweden. The child born abroad has a possibility to acquire Swedish citizenship by registration.

This new amendment also makes possible, for an adopted child under 12 years, for adoption decisions to be applicable in Sweden directly by law, meaning that the child automatically acquires Swedish citizenship. Stateless children also received special attention in the new law - several options for stateless children to acquire citizenship through a notification procedure which is both simpler and cheaper. Security cases, i.e. cases involving national security and public safety, are determined by the Immigration Service as the first instance.

The government has appointed an inquiry until the spring of 2013, to review the Nationality Act of 2001. The inquiry is to upgrade the Swedish citizenship. Among other things, the Swedish citizenship for children is to be reviewed and the inquiry should also look at including any citizenship ceremonies and what they may have for content. Also, this inquiry will look over whether Sweden should accede to the Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession.

Regarding naturalisation, an applicant who is married or cohabiting or registered partner with a Swedish citizen for two years, can become a Swedish citizen after three years of residence in Sweden. Refugees and stateless need only be resident in Sweden for four years to obtain Swedish citizenship. In general there is no reduction of the time for naturalisation for persons born in Sweden, but children who are stateless since birth and were born in Sweden, before the age of five, become Swedish citizens through a notification of Swedish citizenship.

People of particular interest to the state can also be taken into account to become citizens through naturalisation, as foreseen in the Swedish Citizenship Act. This ability is however applied very strictly in this particular regard. The period of residence for citizens of Denmark, Finland, Iceland and Norway is two years.

Children under the age 15 admitted as a biperson in the parent's application for naturalisation, become Swedish citizens without requiring specific period of residence in Sweden. If children from 15-18 years are to be included as bipersons in parent's application, it normally requires that the child had their habitual residence in Sweden for some time. Children who are Swedish citizens through an independent naturalisation and are between 15-18 years of age must have three years of residence in Sweden.

A person who previously held Swedish citizenship can under certain conditions regain their Swedish citizenship after two years of residence in Sweden.

The legal concept of residence as a basic condition for naturalisation used in the law on nationality is the one of legal residence, domicile and permanent residence.

If you previously been a Swedish citizen and intend to recover this, it may be more easily under certain conditions: according to Article 9 of the Nationality Act requires that at least 18 years, have permanent residence in Sweden, you should before age 18 had resided in Sweden for a total of ten years and you must be a resident of Sweden for two years.

If a person has lost his Swedish citizenship and thereafter without interruption been a citizen of Denmark, Finland, Iceland or Norway, get back the Swedish citizenship on notification if he or she has become domiciled in Sweden.

Another possibility for the recovery of the Swedish citizenship is given in Articles 11-12 of the Nationality Act, where a person who has resided in Sweden to adulthood, immediately or shortly after arrival in Sweden can regain their citizenship. If you have only lived in Sweden for a short time as a child, or never been domiciled in Sweden, is usually needed at least two years of residence in Sweden.

A Swedish citizen who was born abroad and who has never been domiciled in Sweden, nor stayed here under circumstances that indicate a link with the country loses his Swedish citizenship when he or she turns 22. (This does not include Swedish citizens that have been for at least seven years in resident of one of the Nordic countries). If he or she applies before age 22 to continue to receive the Swedish citizenship must be recognized that this happens. Loss of Swedish citizenship does not apply where it would lead to the person becoming stateless.

### **Switzerland**

The nationality law in Switzerland is the “Bundesgesetz vom 29. September 1952 über Erwerb und Verlust des Schweizer Bürgerrechts (Bürgerrechtsgesetz, BÜG)” / “Loi fédérale du 29 septembre 1952 sur l’acquisition et la perte de la nationalité suisse (Loi sur la nationalité, LN)”, SR 141.0. Its latest amendment came into force in March 2011 and concerned the extension of the deadline for the annulment of a naturalisation. Currently, there are no proposed amendments, and accession to any international treaty regulating nationality is not being pondered.

Swiss Law provides a facilitated naturalisation by a reduction of length of time required for naturalisation for spouses (Articles 27 and 28 BÜG), stateless children (Article 30 BÜG), a foreign child, not having been included at the naturalisation of one parent (Article 31a BÜG), a child of a parent that has lost its Swiss citizenship (Article 31b BÜG), a foreign child, from the marriage of a Swiss woman to a foreign national, who has close links with Switzerland (Article 58a BÜG), the illegitimately born child of a Swiss father. In the event of close links with Switzerland, an application may also be filed on completion of the child’s 22<sup>nd</sup> year (Article 58c BÜG), persons, who believed in good faith to have Swiss citizenship for at least 5 years (Article 29 BÜG).

The decision to grant facilitated naturalisation is in the sole responsibility of the Confederation. The canton in question is first given a hearing and, like the community in question, has a right of appeal. People who want to be naturalised in this way must be integrated into their Swiss environment. In addition, they must comply with the Swiss rule of law, and they must not endanger Switzerland’s internal or external security.

According to Swiss Law, renunciation of a nationality is not a precondition for naturalisation.

A foreign child who was not able to acquire Swiss nationality because, before his/her birth, one of his/her parents had lost Swiss nationality can be naturalised if there is a close link with Switzerland. To live on the territory of Switzerland is hereby not required (Article 31b BÜG). Furthermore, a foreign child (born before July 1, 1985), from the marriage of a Swiss woman to a foreign national, who has close links with Switzerland (Article 58a BÜG). Finally, the illegitimately born child of a Swiss father (born before October 3, 2003), in the event of close links with Switzerland (Article 58c BÜG). There are no further possibilities.

Recovery and dual nationality are allowed. Loss of nationality due to of lack of genuine link is not foreseen.

As a rule, dual nationality does not influence the compulsory military service of a Swiss citizen. However, Swiss citizens can supply proof that they possess a foreign citizenship and that they have performed military service abroad (or have performed civilian or equivalent alternative service). In this case, there is no obligation to carry out military service in Switzerland. Notwithstanding, such citizens are subject to a reporting obligation and they have to pay compensation according to the provisions of the military service exemption tax.

Switzerland has concluded bilateral agreements on the exchange of information with certain neighbour states.

#### **“The former Yugoslav Republic of Macedonia”**

The legal act concerning nationality currently into force is the “Law on Citizenship of the Republic of Macedonia”. “The former Yugoslav Republic of Macedonia” did not provide information concerning latest/planned amendments or on accession to treaties.

The law on citizenship is mainly based on the principle of *jus sanguinis*, and allows dual/multiple nationality.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses, refugees, stateless persons and persons of special interest for the state.

The legal concept of residence as a basic condition for naturalisation used in the law on nationality falls under the categories of habitual residence, lawful residence, permanent residence, domicile and other.

Loss of nationality due to lack of genuine link is not foreseen.

#### **Turkey**

Turkish Nationality Act numbered 403 was abolished with the adoption of Turkish Citizenship Law numbered 5901. This law was published on the Official Gazette on 12 June 2009. There are not any amendments to the present legislation on nationality in the process of being adopted. Turkey has not signed the Council of Europe European Convention on Nationality and the Convention on the Avoidance of Statelessness in relation to State Succession.

Turkish Citizenship Law has accepted the *jus sanguinis as a primary principle* for acquisition of Turkish citizenship by parental descent. In order to avoid statelessness the place of birth (*jus soli*) is the secondary acquisition of Turkish citizenship. According to Citizenship law, article 5, Turkish citizenship is acquired by birth or after birth.

According to Turkish Citizenship Law, a child born through a Turkish father and to an alien mother out of wedlock acquires Turkish citizenship if the principles and procedures ensuring the establishment of descent are met. There is not any discrimination between the child born in Turkey or born abroad.

Information on the reduction of length of time for certain categories for naturalisation and on the concept of residence was not provided.

A foreigner who wishes to acquire Turkish citizenship is required to obtain residence permit in Turkey with the aim to settle down in Turkey without interruption for 5 years.

The law allows for the recovery of nationality. According to Article 13 of the Turkish Citizenship Law: “The persons mentioned below can re-acquire Turkish citizenship by decision of the Ministry irrespective of their residence period in Turkey provided they have no quality constituting an obstacle in respect of national security.

- a) Persons who lost Turkish citizenship by obtaining a renunciation permit.
- b) Of the persons who had lost Turkish citizenship because of their parents those who have not enjoyed the right to choice within the time-limit foreseen in Article 21.”

However, according to Article 14 of the above mentioned Law, those whose citizenship has been revoked by a decision of the Council of Ministers and those who lost Turkish citizenship by the right to choice can re-acquire Turkish citizenship by decision of the Ministry provided that they have no quality constituting an obstacle in respect of national security and they have been residing in Turkey for three years.

The loss of genuine link is not the reason for loss of nationality.

**The law allows for multiple nationality.** There is not any condition. In the Turkish Citizenship Law, dual citizenship for Turkish citizens who acquire the nationality of another state is permissible and voluntary acquisition of a foreign nationality is not a ground for *ex lege* loss of the Turkish citizenship. Multiple Citizenship is regulated under Article 44 of the Turkish Citizenship Law.

## Ukraine

The last major amendment to the Law of Ukraine “On Citizenship of Ukraine” was made by the Law of Ukraine № 2663-IV dated 16 June 2005, which improved mechanism for acquiring and losing citizenship of Ukraine, as well as revised authority of state bodies in this sphere. Currently there are few draft laws in the Parliament that aimed to partially amend the Law of Ukraine “On Citizenship of Ukraine”.

The law facilitates naturalisation by a reduction of the length of time required for naturalisation for spouses, dependent parents, dependant adult children, adoptees, refugees, stateless persons, persons born on the territory and persons of special interest for the state.

Simplified procedure for naturalisation is provided for foreigners and stateless persons who are married to a citizen of Ukraine for more than two years and permanently resides in Ukraine on legal grounds and to a person who permanently resides in Ukraine on legal grounds and had been married to a citizen of Ukraine for more than two years in case when the marriage was terminated because of his/her death).

A foreigner or a stateless person, lawfully residing in Ukraine, who is declared incapable by the court and is put under wardship of a citizen of Ukraine, shall acquire the citizenship of Ukraine from the effective date of the court decision for putting such person under the wardship.

A child being a foreigner or a stateless person, who is put under the guardianship or ward, while person(s) appointed as guardian(s) or tutor(s) of such child, is/are the citizen(s) of Ukraine, or one of the persons appointed as guardians or tutors of such child is the citizen of Ukraine, and the other is a stateless person, shall become the citizen of Ukraine from the effective date of a resolution for putting the child under the guardianship or ward, or from the effective date of the court judgement for putting the child under the guardianship or ward.

A child residing at the territory of Ukraine and being a stateless person or a foreigner, who is put under the guardianship or ward, while one of the persons appointed as guardians or tutors of such child is the citizen of Ukraine, and the other is a foreigner, shall become the citizen of Ukraine from the effective date of a resolution for putting the child under the guardianship or ward, or from the effective date of the court judgement for putting the child under the guardianship or ward, subject that such child does not acquire due to its guardianship or ward the citizenship of the state of another guardian, who is a foreigner.

A child, who is a foreigner or a stateless person and permanently resides in a child-care or in a medical institution, the administration whereof performs the functions of a guardian, or a tutor, in relation to such child, shall become the citizen of Ukraine from the date of its placement into the relevant institution, if the parents of such child are dead, deprived of parental rights, declared missing or disabled, or declared dead, or if the parents of a child parted from its family are not found.

A child, who is a foreigner or a stateless person and is fostered in a foster home, or in adopting family, or in a patronage fostering family, where, at least, one of the fostering parents, or adopted parents, or patronage fosterers, is the citizen of Ukraine, shall become the citizen of Ukraine from the date of its placement to the relevant a foster home, or to adopting family, or from the date of such child placement into the family of patronage fosterers, if the parents of the child are died, deprived of parental rights, declared missing or disabled, or declared dead, or if the parents of a child parted from its family are not found.

A child being a foreigner, or a stateless person, who is adopted by the citizens of Ukraine, or by spouses, one of which is the citizen of Ukraine, and the other is a stateless person, shall become a citizen of Ukraine from the effective date of the resolution for adoption of such child, no matter whether such child permanently resides in Ukraine or abroad.

A child being a stateless person or a foreigner, who is adopted by spouses, one of which is the citizen of Ukraine, and the other is a foreigner, shall become a citizen of Ukraine from the effective date of the resolution for adoption of such child, no matter whether such child permanently resides in Ukraine or abroad. A person of age, which is stateless and permanently resides at the territory of Ukraine, and is adopted by the citizens of Ukraine, or by spouses, one of which is the citizen of Ukraine, shall become a citizen of Ukraine from the effective date of the court resolution for adoption of such person.

The period of lawful permanent residence in Ukraine for persons granted the status of a refugee in Ukraine or asylum in Ukraine, is established as three years from the date of granting the status of a refugee in Ukraine or asylum in Ukraine.

The period of lawful permanent residence in Ukraine for persons who entered Ukraine as stateless persons is established as three years from the date of entry to Ukraine.

A person who was born at the territory of Ukraine from any stateless persons, lawfully residing at the territory of Ukraine, shall be treated as the citizen of Ukraine. A person who was born at the territory of Ukraine from any foreigners, lawfully residing at the territory of Ukraine, and has not acquired by birth the citizenship of any of his/her parents, shall be treated as the citizen of Ukraine. A person who was born at the territory of Ukraine from parents, one of which was granted the refugee status in Ukraine or asylum in Ukraine, and has not acquired by birth the citizenship of any of his/her parents, or has acquired by birth the citizenship of the parent that was granted the refugee status in Ukraine or asylum in Ukraine, shall be treated as the citizen of Ukraine.

A person who was born at the territory of Ukraine from a foreigner, or a stateless person, lawfully residing at the territory of Ukraine, and has not acquired by birth the citizenship of his/her parent with foreign citizenship, shall be treated as the citizen of Ukraine. A child who was born at the territory of Ukraine after 24 August 1991, and has not acquired the citizenship of Ukraine by birth, but is a stateless person, or is a foreigner in relation to whom an obligation of renunciation of foreign citizenship was filed, shall be registered as a citizen of Ukraine under an application thereupon from one of the legal representatives of the child.

Filing of an obligation of citizenship renunciation shall not be required from a foreigner if such foreigner is a citizen (subject) of a state, the laws whereof provide an automatic renunciation of its citizenship (allegiance to it) concurrently with acquisition of a citizenship of (allegiance to) any other state, or if an international treaty between Ukraine and another state the foreigner is subjected to provides an automatic renunciation of its citizenship concurrently with acquisition of a citizenship of Ukraine.

The legal concept of residence as a basic condition for naturalisation used in the law on nationality is the one of lawful residence, permanent residence and continuous residence – shall be understood as such residence in Ukraine, when the period of staying abroad for any private purposes does not exceed 90 days per one exit from the country and 180 days per a year in aggregate. Any exit from the country for the purposes of business trip, study, vacation, or getting a course of treatment following recommendations of the relevant medical institution, or any change of the place of residence within the territory of Ukraine, shall not be treated as a failure to comply with requirements of permanent residence at the territory of Ukraine.

### **United Kingdom**

The latest amendments to the law on nationality in the UK were the ones introduced by the Borders, Citizenship and Immigration Act of 2009. These were the following:

- A child born in the United Kingdom to a parent in the armed forces will be a British citizen. (This already happens in practice, but this change put the matter beyond doubt).
- A child born in the UK after will qualify for registration under section 1(3A) if the parent becomes a member of the armed forces.
- The application is to be made before a child's 18<sup>th</sup> birthday, rather than within 12 months of the birth. (A good character requirement is added for those over the age of 10 by s.47 BCI Act).

- BN(O)s are to be included in 4B. A BN(O) will not qualify under this section if they have done anything after 19<sup>th</sup> March 2009 that resulted in the loss of another nationality.
- Removes the 7<sup>th</sup> February 1961 cut-off date for 4C applications (children of British mothers).
- A new registration route for children of those in the armed forces. The parent has to be serving outside the United Kingdom at the time of birth, and both parents must consent to the registration. No upper age limit.
- Moves the good character requirement for registrations into the BNA 1981 (from IAN Act 2006). Adds a good character requirement for 3(2) and new section 1(3A).
- Moves the definition of "in breach of the immigration rules" into the BNA 1981 (from NIAA 2002). Slight change to the wording re EEA nationals, otherwise no change<sup>40</sup>.

There are no further amendments foreseen at this moment.

The law allows for a reduction of time necessary for naturalisation to spouses and registered partners. Naturalisation requirements relating to British citizenship are set out in Schedule 1 of the British Nationality Act 1981. Under section 6(1) of this legislation an applicant who wishes to be naturalised must be able to demonstrate that he has resided in the UK for a period of 5 years (although they are allowed to be absent during that period for a maximum of 450 days.) However, where the spouse or a civil partner of a British citizen applies for naturalisation under section 6(2), they must demonstrate that they have been resident in the UK for 3 years (although they are allowed to be absent during that period for a maximum of 270 days).

As for adoptees, where adults, there is no reduction in the length of time required for naturalisation. However, there is discretion to overlook excess absences beyond the 450 day limit during the 5 year qualifying period e.g. because of exceptionally compelling circumstances.

There is no provision for the naturalisation of children under the British Nationality Act 1981, regardless of their place of birth. Rather, they can either acquire British citizenship by birth or via registration provided all the statutory requirements are met.

According to Section 13 of the British Nationality Act 1981, British citizens who have lost that status as a result of making a declaration of renunciation can recover it. The conditions under which persons are entitled to be registered as British citizens are the following:

- they are of full capacity; and
- in the case of a person aged 10 or over on the date of application, this being a date on or after 4 December 2006) that the Secretary of State is satisfied that they are of good character and

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<sup>40</sup> Section 1(1A) BNA 1981 (inserted by section 42 of the BCI Act)Section 1(3A) BNA 1981 (inserted by section 42 of the BCI Act)Section 3(2) BNA 1981 (amended by section 43 of the BCI Act)Section 4B BNA 1981 (amended by section 44 of the BCI Act)Section 4C BNA 1981 (amended by section 45 of the BCI Act)Section 4D BNA 1981 (inserted by section 46 of the BCI Act)Section 41A BNA 1981 (inserted by section 47 of the BCI Act)Section 50A BNA 1981 (inserted by section 48 of the BCI Act)

- they have made a declaration of renunciation of British citizenship; and
- renunciation was necessary to enable them to retain or acquire some other citizenship or nationality.

There is no loss of citizenship due to lack of genuine link.

The nationality status a person holds prior to becoming a British citizen is not lost once British citizenship is granted. Therefore, in most cases, dual/multiple nationality will be held following registration or naturalisation as a British citizen, and it is not restricted by UK law. However, in order to register as a British citizen under section 4B of the British Nationality Act 1981 the Secretary of State must be satisfied that he or she has no other citizenship or nationality and has not renounced, voluntarily relinquished or lost through action or inaction any citizenship or nationality on or after 4 July 2002. Therefore, immediately upon becoming a British citizen under this provision the citizen will hold British citizenship only. However, once British citizenship has been granted these citizens can go on to acquire dual/multiple nationalities in line with all other British citizens.

The UK reply to the questionnaire has also provided a brief list of reasons why the the British Nationality Act 1948 removed restrictions on dual nationality, transcribed below:

1. Dual nationality was not thought to be so undesirable, since most practical problems were avoided by the Master Nationality Rule
2. The majority of cases of dual nationality were caused by the conflict of laws rather than by naturalisation abroad
3. It was not always clear whether a person had acquired a foreign nationality voluntarily by naturalisation, it often involved the interpretation of obscure foreign law, and there were anomalies
4. The policy of allowing British nationality to be retained was felt to be justified by the loyalty shown during the Second World War by the large British communities abroad with dual nationality.

#### IV. NATIONALITY QUESTIONNAIRE (ANALYSIS OF REPLIES)

The methodology of this study is based on a detailed questionnaire on nationality, which was sent to all the member states of the Council of Europe. Although only 37 states replied, the answers provided a direct feedback on the most important issues concerning nationality law and families. Answering the questionnaire demanded a deep understanding and knowledge of the nationality law and related acts<sup>41</sup>.

A cross-country analysis, reflecting the answers given to the questionnaire, is summarized in three tables concerning the issues of Nationality Law, Acquisition and Multiple Nationality (Table 1), Nationality Law on the aspects of Naturalisation, Recovery and Loss (Table 2), and Family Law implications to Nationality (Table 3). These tables are included on Appendix II.

The questionnaire contained 50 questions and was divided into nine parts. Each of those parts focused on one of the following key areas:

1. provisions on nationality in the Constitution,
2. law on nationality,
3. acquisition of nationality at birth,
4. naturalisation,
5. acquisition of nationality by recovery,
6. loss of nationality,
7. multiple nationality,
8. latest changes of nationality law and *lege de ferenda*, and
9. future challenges.

Below we can find a summarized description of the replies to the questionnaire, which demonstrate the current patterns and trends in nationality law across the Council of Europe member states<sup>42</sup>.

##### (a) Provisions on nationality in the Constitution

Of all the replies obtained, the great majority of member states have provisions on nationality included in the text of its Constitution, only two countries, Portugal and Norway, do not make reference to nationality in their Constitutional texts. The UK did not reply to this section as this country does not have a written constitution.

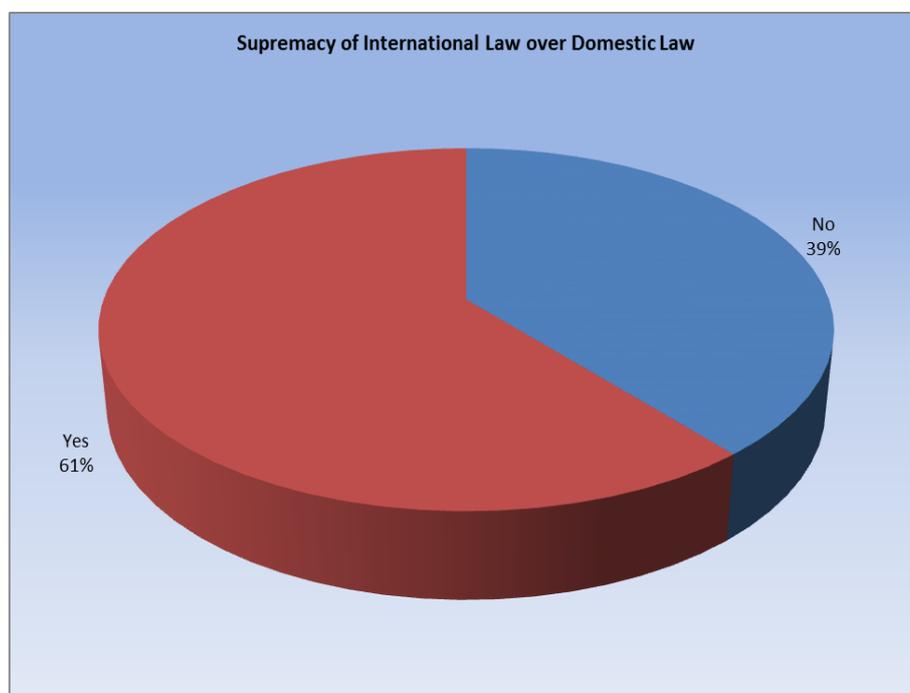
Among the countries which responded affirmatively, only five make reference to the prohibition of dual nationality: Andorra, Lithuania, Georgia, Serbia and Ukraine. Andorra and Ukraine allow no exceptions to this prohibition. Lithuania, however, allows dual nationality in specific cases. Georgia and Serbia both allow exceptions to this prohibition.

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<sup>41</sup> Andorra; Azerbaijan; Belgium; Bosnia and Herzegovina; Croatia, Czech Republic; Denmark; Estonia; Finland; France; Georgia; Germany; Greece; Hungary; Iceland; Latvia; Liechtenstein; Lithuania; Luxembourg; Republic of Moldova; Montenegro; The Netherlands; Norway; Poland; Portugal; Romania; Russian Federation; Serbia; Slovak Republic; Slovenia; Spain; Sweden; Switzerland; “the former Yugoslav Republic of Macedonia”; Turkey; Ukraine; United Kingdom.

<sup>42</sup> For this chapter of the study, the replies considered were the ones submitted before 16 May 2012.

There is less consensus in the replies regarding the aspect of supremacy of international treaties: 14 member states do not allow it (Belgium, Denmark, Finland, Germany, Iceland, Latvia, Liechtenstein, Luxembourg, Norway, Switzerland, Sweden, Slovenia and “the former Yugoslav Republic of Macedonia”), and the remaining 22 allow it.



Regarding the question whether nationality is considered a human right included in the text of the Constitution, only 12 member states responded affirmatively (Andorra, Croatia, Germany, Iceland, Republic of Moldova, Portugal, Spain, Hungary, Georgia, Azerbaijan, Turkey and Ukraine), while the rest of the countries answered “no”. However, a few countries did mention the inclusion of the right to nationality in the “Fundamental Rights” section of their constitution.

**(b) Law on Nationality**

The great majority of the Council of Europe member states recognise, as fundamental principles for its nationality law, the principle of equality of parents in the determination of the child's nationality in case of mixed marriage, the principle of equality of children born in or out of wedlock and the principle of avoidance and prevention of statelessness.

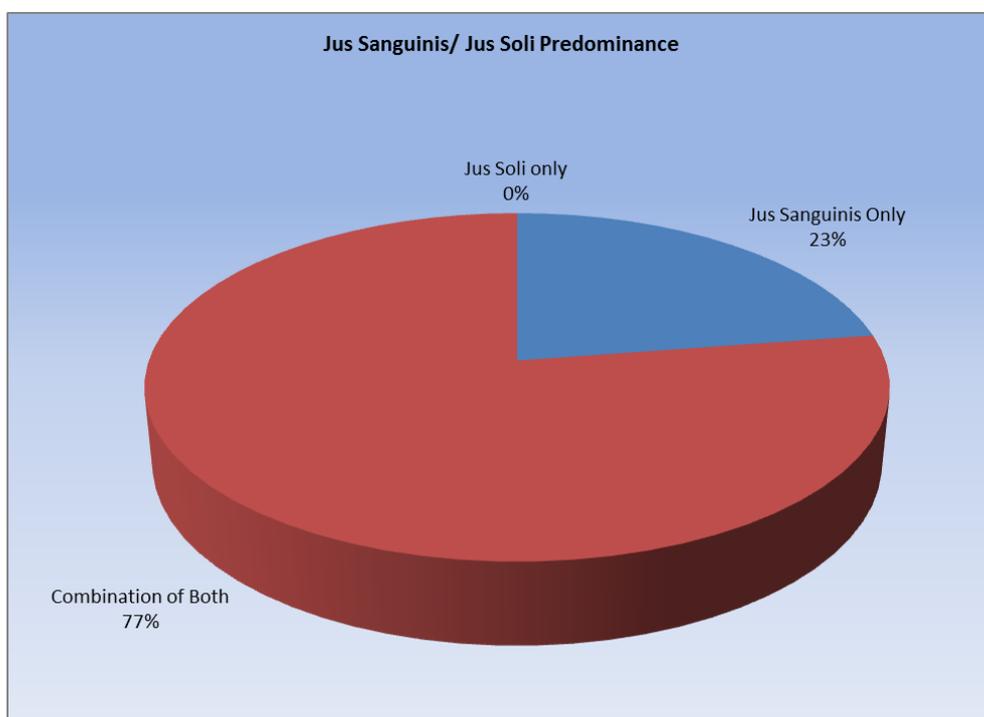
Out of the member states which do not recognize one or more of these principles, we have Denmark, Estonia, Ukraine, Romania and Sweden. Denmark, instead, applies the principle of reduction of dual citizenship to the extent possible. Estonia recognises the first two situations, but does not apply the principle of avoidance or prevention of statelessness. Ukraine and Sweden, on the other hand, recognize the first two principles of equality, but reject the latter. Romania did not reply concerning the principle of equality of parents in mixed marriages.

We will further analyse the principles of equality of parents in the determination of the child's nationality in case of mixed marriage and of equality of children born in or out of wedlock below.

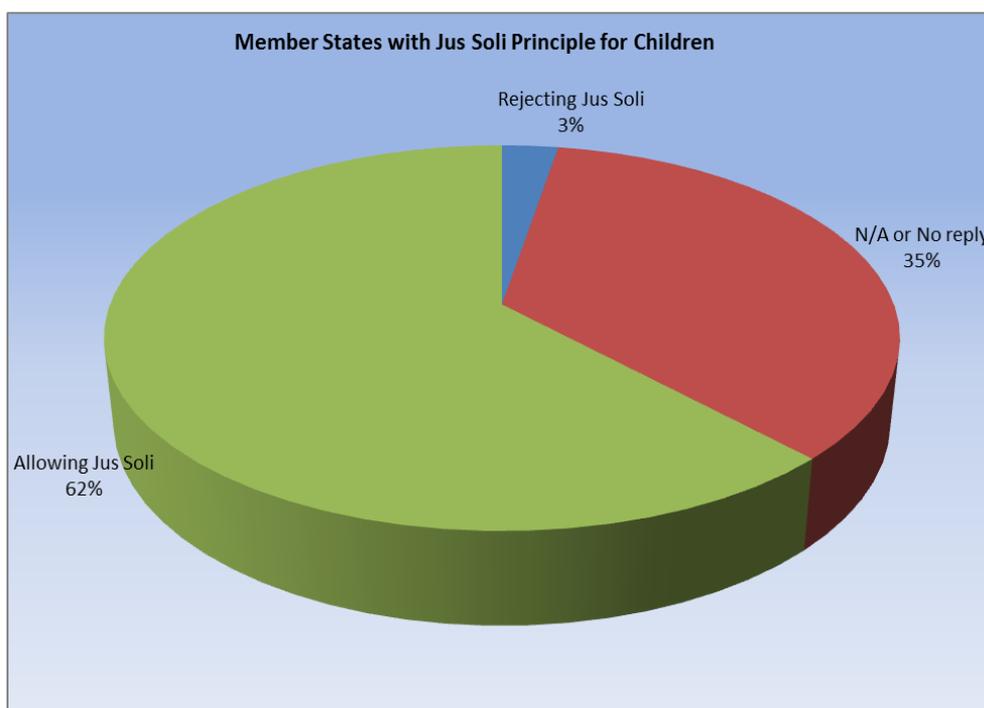
**(c) Acquisition of nationality at birth**

In this section of the questionnaire the clear trend of the Council of Europe member states can be observed about the prevalent factor taken into consideration for the acquisition of nationality at birth. Traditionally predominant in Europe, *jus sanguinis* is the still primary factor taken into consideration in all member states.

However, nineteen countries have admitted to the possibility of acquisition of nationality at birth by *jus soli* by replying to the question “Could you please indicate if the law on nationality is based on *jus sanguinis* or *jus soli* principle?” with a variation of replies such as “both”, “mainly *jus sanguinis* but partially *jus soli*”, “primarily *jus sanguinis* and *jus soli* in some cases” or simply “*jus sanguinis* and *jus soli*”. Romania has replied to apply *jus loci*.



Only one country explicitly rejected the application of this principle to children (Latvia). Two countries responded “non-applicable” to this question (Denmark and Poland<sup>43</sup>), whereas 11 other member states replied left this field blank (see below).



Regarding the question on whether, in case nationality is acquired according to the principle of *jus soli*, it is limited to children who are born to parent/s who have lawful and habitual residence in the territory of the state, 13 countries have left the answer blank or have stated that it is not applicable.

The answers of the 24 remaining states regarding the residence criteria applicable to *jus soli* can be found below in a simplified format:

Member state	Residence criteria for the applicability of <i>jus soli</i>
Andorra	<b>Main and permanent residence</b> in the territory of the state.
Azerbaijan	No mention of residence.
Belgium	<b>No requirement</b> (statelessness)/ <b>Main residence for 5 years</b> (immigrants of 3 <sup>rd</sup> generation) / <b>Main -for 10 years- and permanent residence</b> of one parent (immigrants of 2 <sup>nd</sup> generation).
Croatia	The residence of the child's parents is irrelevant.
Czech Republic	<b>Lawful permanent resident</b> of the Czech Republic.

<sup>43</sup> Polish law on nationality is based on *jus sanguinis*. However, there are exceptions: a child born or found in Poland shall acquire Polish citizenship when both parents are unknown or their citizenship is indefinite or they do not have any citizenship.

France	<b>Residence</b> in France for 5 years.
Georgia	No mention of residence.
Germany	<b>Lawful and habitual residence</b> in the territory.
Greece	<b>Habitual resident</b> (parent born in Greece)/ <b>Habitual and legal residence</b> for 5 years (both parents foreign).
Hungary	<b>Residence</b> in Hungary.
Lithuania	<b>Legal permanent residence.</b>
Luxembourg	No condition of residence is necessary.
Republic of Moldova	There is no precision on residence.
Portugal	<b>Lawful residence</b> in Portuguese territory for at least 5 years.
Russia	No mention of residence.
Serbia	No mention of residence.
Slovenia	No mention of residence.
Spain	No requirement of regular administrative residence.
Sweden	No requirement of residence.
The former Yugoslav Republic of Macedonia	No requirement of residence.
The Netherlands	<b>Domicile.</b>
Turkey	No mention of residence.
Ukraine	<b>Residence on legal grounds.</b>
United Kingdom	<b>Parent settled in the UK or qualifying territory.</b> The parent does not need to be habitually resident in the UK at the date of the child's birth so long as they have the required status.

We can see that there are several countries where the residence criteria is not mentioned, or is considered irrelevant for any kind of acquisition by *jus soli*. There are a few member states which apply some type of residence criteria even in case of risk of statelessness (Czech Republic, Lithuania, and Hungary).

Excluding the cases of *jus soli* for children born on the territory of the state of stateless/unknown parents, there are other circumstances which lead to the acquisition of citizenship by *jus soli* in some member states, namely Sweden, Greece, Portugal, Belgium, Republic of Moldova, France, the Netherlands, Ukraine, Luxembourg, Germany and the UK. Among these countries there is a clear dichotomy between those which take into consideration the legal residence on the territory and those for which it is irrelevant.

In the cases where residence is taken into consideration, member states mention the concepts of lawful/legal, habitual, main or permanent residence, domicile or simply residence, not being therefore possible to identify a trend or a predominant criteria of presence for residence.

Not many of the member states impose the mandatory registration at a diplomatic/consular mission for children born abroad as a precondition for the acquisition of the nationality (only Germany, Latvia, Montenegro, Russia, Switzerland, Sweden, Serbia and “the former Yugoslav Republic of Macedonia” do so). In Latvia, there is no provision that states mandatory registration for children born abroad as a precondition for the acquisition of the nationality. But it is obligatory to submit an application (at a diplomatic/consular mission or with the Latvian authorities in Latvia) if there is the will to obtain nationality by registration.

Regarding situations of children born out of wedlock, as stated above, the principle of equality of parents in the determination of the child's nationality in case of mixed marriage and the principle of equality of children born in or out of wedlock are widely recognised (only Denmark, Sweden and Ukraine have answered negatively). This means that the subsequent attribution of rights to a child born out of wedlock will not, in principle, differ from the ones attributed to children born in wedlock.

Hence, children whose mother is a foreigner and the father is a national acquire nationality of the state at birth in 33 of the member states of the Council of Europe. “The former Yugoslav Republic of Macedonia” imposes some conditions for the child to acquire nationality at birth in this situation, as well as Greece, which allows the acquisition at birth after the recognition of paternity. Only Denmark mentions a clear “no” for the situations of children born out of wedlock.

Children who are found in the territory are considered to have acquired the nationality of the country in question in all of the member states which answered the questionnaire.

Full adoption is considered, by almost the totality of the member states, to entitle the child to the nationality *ex lege*. Only Hungary has replied 'no'. In only a few member states some conditions must apply (Czech Republic, Denmark, Georgia and Montenegro).

Surrogacy is still highly unregulated across the member states of the Council of Europe. In most cases where there is legislation on the subject, surrogacy is not allowed, or it provides no legal ground for acquisition of nationality through this means. Only the Slovak Republic, Georgia and the Netherlands and the UK (under specific conditions) allow surrogacy and provide rules for the acquisition of citizenship in this case.

#### **(d) Naturalisation**

This section analysed the conditions for acquisition of nationality, especially focusing on the possibility of naturalisation for children. More detail on the answers can be found on Table 2 of Appendix II.

Fifteen countries referred that renunciation is not a precondition for naturalisation; nine member states responded “yes”, but mentioned several exceptions to this rule. Only seven answered with a full “yes” (Denmark, Georgia, Estonia, Liechtenstein, Montenegro, Norway and the Russian Federation).

The member state's legislation, to which categories to allow for a reduction of time in the process of naturalisation varies substantially. The reduction of length of time is possible for persons of special interest of the state in 22 countries, whereas 13 have responded negatively. Turkey did not provide information on this topic. Romania does not mention the special interest of the state, but allows for special conditions for internationally reputed persons and investors to Romania.

Member states <u>allowing</u> a reduction of time for persons of special interest of the state	Member states <u>not allowing</u> a reduction of time for persons of special interest of the state
Bosnia and Herzegovina, Croatia, Czech Republic, France, Germany, Greece, Iceland, Liechtenstein, Republic of Moldova, Montenegro, The Netherlands, Russian Federation, Slovak Republic, Slovenia, Spain, Sweden, "The former Yugoslav Republic of Macedonia", Ukraine, Hungary, Georgia, Azerbaijan, Serbia.	Andorra, Belgium, Denmark, Estonia, Finland, Latvia, Luxembourg, Lithuania, Norway, Poland, Portugal, Switzerland, UK.

Naturalisation for the children who are not present in the territory of the state is generally permitted (21 countries have confirmed to allow it). Nevertheless, it is still not possible (or not applicable) in 12 other countries. Azerbaijan does not have this question specified in the law.

The consent of the child for naturalisation is generally requested: in 24 member states naturalisation is preconditioned by consent of a child when reaching of certain age (the age from which it is asked ranges from 12 to 16, and the average age among these countries is 14).

Only eight countries do not consider necessary to request the consent of a child for naturalisation.

Naturalisation of children whose parents are not alive or are of unknown residence is also possible in the majority of the Council of Europe member states (23 countries).

The law foresees the possibility of independent acquisition of a nationality by naturalisation if a child is born on the territory of the state (e.g. if a parent is deprived of parental right or if the parent has lost legal capacity) also in the majority of the member states (19 cases). It is not possible in 13 other countries.

Naturalisation for adopted children is generally possible (18 member states); however, in 11 other countries it does not apply because adopted children acquire the nationality automatically *ex lege* at the time of the adoption.

Regarding the legal concept of residence as a basic condition for naturalisation used by the member states in the law of nationality, it is possible to observe that the most important factors are the ones of lawful residence (16 countries) and permanent residence (19 countries).

The replies were as follows:

Legal concept of residence for naturalisation	Member states
Habitual residence	“The former Yugoslav Republic of Macedonia”, Belgium, Finland, Slovenia, France, Bosnia and Herzegovina, Germany, Luxembourg.
Lawful residence	“The former Yugoslav Republic of Macedonia”, Croatia, Belgium, Denmark, Ukraine, Spain, Greece, Finland, Montenegro, Portugal, Slovak Republic, Sweden, The Netherlands, Germany, Luxembourg, Iceland.
Permanent residence	“The former Yugoslav Republic of Macedonia”, Poland, Latvia, Russian Federation, Denmark, Liechtenstein, Ukraine, Estonia, Finland, Czech Republic, Slovak Republic, Bosnia and Herzegovina, Sweden, Luxembourg, Iceland, Azerbaijan, Georgia, Serbia, UK..
Domicile	“The former Yugoslav Republic of Macedonia”, Republic of Moldova, Finland, France, Sweden, Iceland, Hungary, Romania.
Other	“The former Yugoslav Republic of Macedonia”, Belgium (“résidence principale couverte par un séjour legal”), Ukraine (“continuous residence”), Switzerland, Andorra (résidence principale et permanente”), Estonia (“right of residence”, issued to a citizen of the EU and family members), Norway, Bosnia and Herzegovina (“permanent and temporary residence”), The Netherlands, Luxembourg (“résidence légale et effective”), Turkey, Lithuania (“legal permanent residence”).

**(e) Acquisition of nationality by recovery**

The study shows that recovery of the nationality is possible in all of the member states which have replied to the questionnaire.

In most cases (28 countries), there are no special rules applicable to children. In six member states, children wishing to recover their nationality are subject to special rules, which concern mostly minimum age and legal representation. More detail on the answers of each member state can be found on Table 2 of Appendix II.

**(f) Loss of nationality**

In most cases, the countries which have provided a reply to the questionnaire do not prescribe an automatic loss of nationality for children in case of voluntary acquisition of foreign nationality (28 countries). Nevertheless, this automatic loss is still a possibility, even though in some cases with exceptions to the rule, in eight member states (Andorra, Czech Republic, Denmark, Estonia, Germany, The Netherlands, Norway and Ukraine).

In the great majority of cases, the loss of nationality for an adoptee in case of annulment of the decision is not foreseen (28 member states). Only five countries admit to this possibility in specific conditions (Republic of Moldova, Norway, Sweden, and France only in case of weak adoption), and in other four countries there are no specific rules applicable to this possibility (Bosnia and Herzegovina, Greece, Poland and the Russian Federation).

The child's consent for renunciation is necessary in 19 of the respondent countries, while it is not a precondition in 11 other member states. Among the thirteen states which require the consent of the child for renunciation, the average age from when it is asked is 14.

Renunciation is not limited to all family members in 31 of the respondent member states. It is applicable only in Belgium, Romania, Lithuania and Bosnia and Herzegovina, according to the replies to the questionnaire. In Georgia it is not regulated.

More detail on the answers can be found on Table 2 of Appendix II.

### (g) Multiple nationality

The table below describes the cases cited by the member states which may lead to dual or multiple nationality situations. On the left column is cited the possibility mentioned by the member state and on the right column the member states which mentioned it and allow dual/multiple cases resulting from these situations:

Case	Member state
<i>Jus sanguinis</i>	Belgium, Bosnia and Herzegovina, Croatia, Denmark, France, Greece, Latvia, Liechtenstein, The Netherlands, Poland, Russian Federation, Slovak Republic, Spain, Switzerland, "The former Yugoslav Republic of Macedonia", Romania.
<i>Jus soli</i>	Bosnia and Herzegovina, Croatia, France, Greece, The Netherlands, Russian Federation, Spain, "The former Yugoslav Republic of Macedonia".
Naturalisation	Belgium, Bosnia and Herzegovina, Croatia, Czech Republic, France, Greece, Iceland, The Netherlands, Poland, Slovak Republic, Slovenia, Spain, Switzerland, "The former Yugoslav Republic of Macedonia", Azerbaijan, Serbia, Romania.
Recovery	Croatia, France, Greece, Iceland, Latvia, Liechtenstein, The Netherlands, Poland, Slovak Republic, Spain, Switzerland, "The former Yugoslav Republic of Macedonia", Lithuania, Azerbaijan, Romania, Serbia.
At birth	Czech Republic, Denmark, Estonia, Iceland, Republic of Moldova, Norway, Slovenia, Serbia, Lithuania. <sup>44</sup>
Adoption	Czech Republic, Republic of Moldova, Switzerland., Lithuania.
Marriage	Denmark, Republic of Moldova, Lithuania.
Agreements	Republic of Moldova.
Public interest	Republic of Moldova.
Paternity	Czech Republic.
Declaration	Czech Republic.
Acquisition	Czech Republic.
Exception	Lithuania.
Refugee	Lithuania.
Origin	Serbia.
All cases of acquisition or attribution	Portugal.
Various	Finland.
All cases	Germany, Luxembourg, Sweden, Turkey, Hungary.

<sup>44</sup> Denmark and Norway mentioned the possibility of jus soli, but only at birth. The same goes for jus sanguinis in case of Norway only.

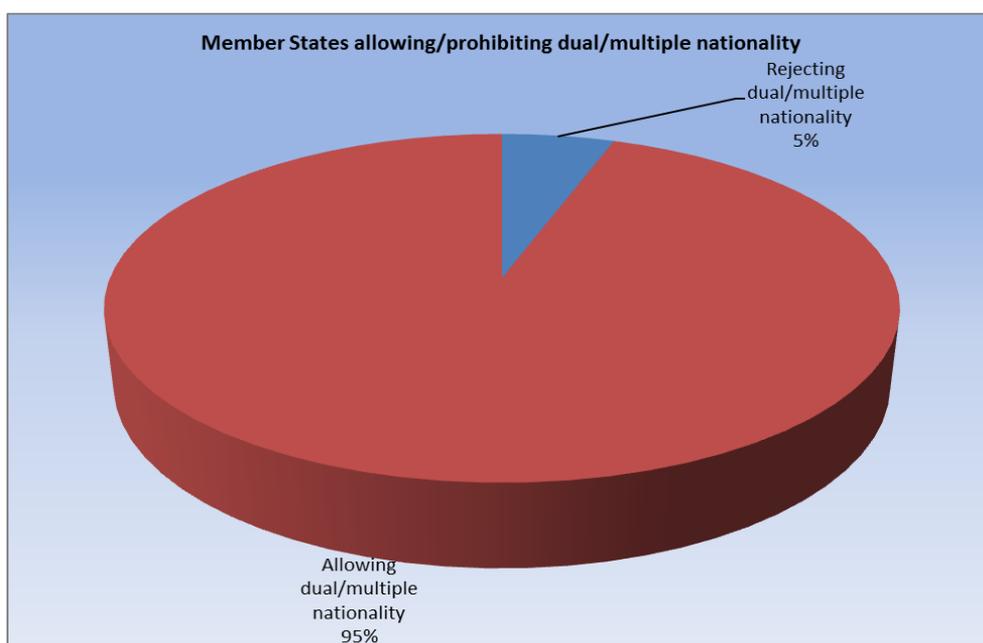
Most cases	UK.
None	Andorra, Ukraine.
None, only exceptions	Georgia.

Naturalisation is the most mentioned reason for dual/multiple nationality cases, referred 17 times. *Jus soli* is a possibility in eight of the member states. *Jus sanguinis* (mentioned 16 times) and recovery (mentioned 16 times) are also widely referred to as being cases leading to dual or multiple nationality.

*Jus sanguinis* is the most mentioned reason for dual/multiple nationality cases, referred 15 times. *Jus soli* is a possibility in eight of the member states. Naturalisation (mentioned 14 times) and recovery (mentioned 13 times), are also widely referred to as being cases leading to dual or multiple nationality.

*Jus sanguinis* and *jus soli* are cases considered simultaneously by Bosnia and Herzegovina, Croatia, Denmark (by birth), France, Greece, The Netherlands, the Russian Federation, Spain and “the former Yugoslav Republic of Macedonia”.

**In total, 35 of the 37 member states which submitted the answers to the questionnaire have responded affirmatively to the question of allowing dual or multiple nationality under some circumstances.** Only Andorra and Ukraine have rejected the possibility of allowing any form of dual/multiple nationality.



Concerning the question on whether the country has concluded any specific treaties allowing or prohibiting dual or multiple nationality, 21 member states have answered “no”. Thirteen other states confirmed having concluded treaties, such as Bosnia and Herzegovina, Croatia (with Bosnia and Herzegovina, for exchange of information), Iceland (with the Nordic Countries), The Netherlands, Norway, Sweden (with Bosnia and Herzegovina, allowing dual nationality), Georgia (with Ukraine, on avoidance), the Slovak Republic, the Russian Federation, “the former Yugoslav Republic of Macedonia” (with Montenegro), Serbia (FRY with Bosnia and Herzegovina) and Ukraine (to prevent). Hungary has concluded in the past some treaties, but none of these remain in force.

Allowing dual nationality on the base of reciprocity is not a possibility or not applicable in 24 of the member states. Only six countries have mentioned that possibility (Bosnia and Herzegovina, Germany, Montenegro, the Slovak Republic, Slovenia and Sweden). This is mainly due to the fact that dual/multiple nationality is covered by other possibilities, mentioned above.

Regarding the exchange of information on the nationality/ies of its nationals with other state/s if the national also possesses the nationality of that state, 19 countries have responded affirmatively. Fifteen other countries have rejected that possibility. Among the countries which do exchange information, it was mentioned by some that it is done infrequently, and some demonstrated concern about personal data protection, or mentioned that it is done in accordance with these rules.

Fifteen member states have stated not to have specific rules regarding military service, while four have considered this question to be inapplicable to their legal system. This is justified by the growing absence of the obligation of military service throughout the member states. Nevertheless, eight countries have responded affirmatively to this question.

More detail on the answers of each member state can be found on Table 1 of Appendix II.

#### **(h) Latest changes of nationality law and de lege ferenda**

There are 14 member states with legislative changes planned: Bosnia and Herzegovina, Czech Republic, Denmark (expected), Estonia, Hungary, Iceland, Latvia (under consideration), The Netherlands, Norway (pending entering into force), Poland (some provisions pending entering into force), Republic of Slovakia, Spain (pending entering into force), Sweden (expected) and Ukraine.

Following the section on national law and Table 1 of Appendix II, most of the nationality acts in force at the moment were adopted or modified between 2005 and 2010 (22 member states). Nine countries have even more recent legislative modifications (2011 and 2012): Croatia, Finland, France, Republic of Moldova, Montenegro, Poland, Switzerland, Hungary and Georgia.

Azerbaijan (1998), Latvia (1998), Sweden (2001), Spain, (2002) Denmark and Estonia (2004) have the legislation which has been less recently modified. However, all these countries have announced to be preparing amendments, and the ones concerning Latvia, Sweden and Denmark are important to highlight.

Latvia has modifications underway concerning naturalisation, acquisition of nationality by registration and introducing dual nationality in some cases. The Swedish act is to be revised in 2013, which is expected to review the criteria for acquisition of Swedish citizenship by children. As for Denmark, the new Government has announced the intention to change the rules for simplifying naturalisation and allowing dual nationality in the near future.

More detail on the answers of each member state, please consult Chapter III on the National legislation of the member states. Summarized descriptions can be found on Table 1 of Appendix II.

### (i) Future challenges

Many of the member states which replied to the questionnaire abstained from making comments regarding problematic issues (Georgia, Serbia, Bosnia and Herzegovina, Iceland, Republic of Moldova, “the former Yugoslav Republic of Macedonia”, Russian Federation and Turkey), or referred to other answers of the questionnaire (Poland, Sweden, Denmark). In some cases, comments were made regarding the benefits that can arise by allowing dual/multiple nationalities, which are greater than the damage that can be caused by prohibiting it (Finland, Czech Republic).

Considering the member states which replied about the challenges, the most frequently mentioned situation was the case of renunciation/automatic loss of nationality in case of single nationality system and to it related lack of exchange mechanisms on data between the states on individuals who changed the nationality or any other circumstance: the latter was considered a challenge by eleven countries, while the former was mentioned by seven member states.

<u>Possible challenges in the implementation of a law based on the principle of single nationality</u>	
Acquisition of nationality by naturalisation	Czech Republic, Slovenia.
Renunciation, automatic loss of nationality	Andorra, Belgium, Liechtenstein, France, Portugal, Slovak Republic, Romania.
Recovery of nationality after naturalisation	Croatia, Liechtenstein.
Lack of exchange mechanisms on data between the states on individuals who changed the nationality or any other circumstance	Croatia, Spain, Switzerland, Greece, Estonia, Montenegro, Liechtenstein, Czech Republic, Slovak Republic, Azerbaijan, UK.
<u>Possible challenges when applying the principle of multiple nationality</u>	
In case of military service or other foreign service	Germany, Switzerland, Slovenia, Montenegro, Portugal, Norway, Slovak Republic, Lithuania, Azerbaijan.
In cases of application of principles of international private law/mixed jurisdiction	Spain, Slovenia, Montenegro, Croatia, Hungary.
In cases of diplomatic protection	Montenegro, Germany.
In cases of abuse of taxation	Slovenia, Montenegro, Lithuania.
In cases of abuse of the legal possibilities of dual identity (different names, multiple residences, etc.)	Croatia, Spain, Switzerland, Greece, Slovenia, Montenegro, Slovak Republic, Luxembourg, Lithuania, Hungary, Romania.

Regarding the factors which could constitute a challenge when applying the principle of multiple nationality, the major concerns were:

- the case of military service or other foreign service and
- the case of abuse of the legal possibilities of dual identity.

The latter was considered a challenge by 11 countries, while the former was mentioned nine times. Cases of application of principles of international private law/mixed jurisdiction and cases of abuse of taxation were mentioned five and three times respectively, while cases of diplomatic protection were the least mentioned (two times). The UK mentioned that there are no such challenges envisaged when applying the principle of multiple nationality.

## V. CONCLUSIONS AND RECOMMENDATIONS:

- Increased international mobility in recent times throughout the member states of Council of Europe contributed to the positive developments of legal standards on acquisition of nationality of a child, on prevention and avoidance of statelessness, as well as to increase of multiple nationality.
- During last 15 years, Council of Europe mostly dealt with development of legal standards on prevention and avoidance of statelessness, while other areas, with exception of promotion of accession to the European Convention on Nationality and to the Convention on the Avoidance of Statelessness in relation to State Succession, have not been explored and developed.
- Specifically, as indicated in answers received on questionnaires, the increase of cases of multiple nationality, related to the acquisition of nationality at birth, by naturalisation or recovery, poses legal challenges to the states primarily related to the lack of exchange of information among the states.
- These challenges are not new and have been already broadly discussed among the experts on nationality participating either in the framework of Committee of experts on Nationality meetings (CJ-NA), all four Council of Europe conferences on nationality, as well as in expert studies supported by Council of Europe.
- With the aim to achieve higher degree of harmonisation and common approach of member states of Council of Europe in development of legal standards and practice in the field of nationality and family law, taking into account the principle of Sovereignty of the state in domains on nationality, in general, the following action is recommended:

### **Feasibility of a new Council of Europe instrument on residence and nationality**

- The participants of the 4th Council of Europe Conference on Nationality, “Concepts of nationality in globalised world”,<sup>45</sup> agreed in the conclusions that the Council of Europe should consider possible new standards, principles and rules *inter alia* also on “the concepts of residence and their relevance in the context of naturalisation”.
- Furthermore, the group of experts on nationality at its 3<sup>rd</sup> meeting<sup>46</sup> on 8<sup>th</sup> of December 2008 under Section VI. Future work, called for a revision of Resolution (72) 1 of the Committee of Ministers on the standardisation of the legal concepts of “domicile” and of “residence”, asking the Secretariat to convey the call to the competent body of the Council of Europe.

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<sup>45</sup> Strasbourg, 17th December 2008

<sup>46</sup> [http://www.coe.int/t/dghl/standardsetting/nationality/CJ-S-NAT%20\\_2008\\_%2023%20E%20report%203rd%20meeting%202008.pdf](http://www.coe.int/t/dghl/standardsetting/nationality/CJ-S-NAT%20_2008_%2023%20E%20report%203rd%20meeting%202008.pdf)

- The Recommendation CM/Rec(2009)13 of the Committee of Ministers to member states on nationality of children in its Section III stipulates the need for measures to facilitate the acquisition of nationality before the age of majority, by children born on the territory of a state to foreign parents lawfully and habitually residing there, **while it does not provide any criterion to determine the content of lawful and habitual residence of the parents.**
- Also both binding instruments of the Council of Europe from the last twenty years, the European Convention on Nationality and the Convention on the Avoidance of Statelessness in relation to State Succession do not provide a specific definition of residence and its content either in the context of acquisition of nationality by *ex lege*, by naturalisation or recovery; only the Convention on the Avoidance of Statelessness in relation to State Succession provides a loose definition of habitual residence in Article 1.d: “Habitual residence” means a strong factual residence”, which leaves to each state to determine the conditions for its internal purpose.
- For acquisition of nationality by naturalisation and by recovery, the European Convention on Nationality in Article 6, ECN, paragraph 3 stipulates that “each State Party shall provide in its internal law for the possibility of naturalisation of persons lawfully and habitually resident on its territory. In establishing the conditions for naturalisation, it shall not provide for a period of residence exceeding ten years before the lodging of an application”. In Article 9 - Recovery of nationality :“Each State Party shall facilitate, in the cases and under the conditions provided for by its internal law, the recovery of its nationality by former nationals who are lawfully and habitually resident on its territory”.
- That the need for some standards in relation to residence criterion exists is also illustrated in the answers provided by the replies of the states to me on questionnaire which was disseminated for the purpose of this study. For acquisition of the nationality of a child born to foreign parents in case of application of principle of *jus soli*, 13 states did not provide any reply, while those which replied indicated that acquisition of the nationality of a child depends of the residence of the parents, and the residence is indicated variously as main and permanent residence, permanent residence for 5 years, lawful permanent residence, domicile, residence on legal ground.
- Concerning the legal concept of residence as a basic precondition for naturalisation, the answers to the questionnaire provided by the states demonstrate that the majority of the states use for the purpose of naturalisation the criterion of “permanent residence, while the others use variously domicile, continuous residence, principal and permanent residence, lawful and effective residence.
- Taking into account the content of nationality as defined by the International Court of Justice in the *Nottebohm case (Liechtenstein v. Guatemala)* (ICJ Reports, 1955, p 23), defining nationality as a “legal bond having as its basis a social fact of attachment, a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties,” and access to it, the precise notion of residence has important legal implications for an individual, whether this be an individual who wishes to be integrated into the society as a citizen by naturalisation or recovery, or a child born on the territory of the state to foreign parent/s lawfully and habitually residing in the state of a birth of a child.

- Furthermore, the access of a child born to foreign parents to the nationality of the state of birth in case of application of jus soli principle, plays a relevant role in some of the member states of the Council of Europe (EU), also in relation to the right of residence of child's parents<sup>47</sup>.
- The variety of different legal concepts of residence used in national legislations of member states thus clearly reflect the fact that the residence of a foreigner, being adult or a child, in relation to acquisition of the nationality, either by naturalisation, recovery or by ex lege, is still a matter of decision of Sovereignty of a State, its internal regulation of residence and its implementation in practice.
- In order to achieve a higher degree of unity by the member states in the implementation of the principles and rules of Council of Europe legislative framework on Nationality, namely the European Convention on Nationality, concerning the use of residence for acquisition of nationality by naturalisation, recovery and jus soli principle for children born to foreign parents who reside lawfully and habitually, the following action is proposed:

To appoint a group of experts on nationality with mandate to prepare recommendation on criterions of habitual residence of the parents of a child born on the territory of a state if the acquisition of nationality is acquired by jus soli, conditions to determine the content of residence for naturalisation and recovery.

The recommendation should, inter alia, address:

- The most frequent circumstances which qualify as justified and unjustified reasons for discontinuity of residence of the parents on the territory of the state of birth of a child (Jus soli), taking into account the best interest of a child.
- The most frequent circumstances which qualify as justified and unjustified reasons for discontinuity of residence for the purpose of naturalisation and recovery.
- The proofs which are used to prove actual presence of applicant for naturalisation and recovery, as well as foreign parents of a child born on the territory of the state, as requested by the law.

In order to accomplish preparation of recommendation, two meetings of the group of experts should be held, where the experts would have also possibility to exchange the information on latest trends and developments of legislation and jurisprudence on matters related to nationality in their respective countries.

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<sup>47</sup> Case C-34/09: Gerardo Ruiz Zambrano v Office national de l'emploi (ONEm) - Judgment of the Court (Grand Chamber) of 8 March 2011; Case C-200/02: Kunqian Catherine Zhu and Man Lavette Chen v Secretary of State for the Home Department - Judgment of the Court (Full Court) of 19 October 2004

## APPENDIX I

### QUESTIONNAIRE TO MEMBER STATES

#### FEASIBILITY STUDY ON A POSSIBLE INSTRUMENT WITH REGARD TO THE ISSUE OF NATIONALITY LAW AND FAMILIES

Dear Madam, Dear Sir,

The European Committee on Legal Co-operation (CDCJ) has entrusted the International Center for Migration Policy Development (ICMPD) to prepare a feasibility study on a possible new instrument of the Council of Europe with regard to the issue of nationality law and families. In order to prepare this study, we would kindly ask you to provide the following information concerning the legal system regulating nationality and/or family law relationship in your state. Whenever appropriate, please feel free to provide additional information (e.g. references to legal provisions, wording of specific provisions).

When providing your answers, please refer clearly to the letter corresponding to each section and to the numbering indicated in each question.

On behalf of International Centre for Migration development Policy we use this opportunity to thank you cordially for taking the time for the answers.

**The deadline for the submission is by 15 April 2012 at the latest.** The submission should be sent by email to [cdcj@coe.int](mailto:cdcj@coe.int), with a copy to [Alenka.Prvinsek@icmpd.org](mailto:Alenka.Prvinsek@icmpd.org) and [Albert.kraler@icmpd.org](mailto:Albert.kraler@icmpd.org).

#### **A. Provisions on nationality in the Constitution**

1. Could you please indicate with **yes or no** if the Constitution contains provisions related to nationality.
2. If the Constitution contains a provision on nationality, could you please provide information concerning whether it prohibits dual nationality (please indicate it with **yes or no**).
3. In case of the provision on prohibition of dual nationality, could you please provide information on whether there exist any exceptions to this provision (e.g. for EU nationals).
4. Could you please indicate with **yes or no** if the Constitution provides for the principle of supremacy of international treaties over domestic legislation.
5. Could you please provide information on whether the Constitution stipulates nationality as a human right (please indicate with **yes or no**).

## **B. Law on Nationality**

1. Please indicate which are the fundamental principles upon which the legislation on nationality is based (please indicate with **yes or no**),

- a) Principle of equality of parents in determination of child's nationality in case of mixed marriage
- b) Principle of equality of children born in wedlock and out of wedlock
- c) Principle of avoidance and prevention of statelessness
- d) Other

## **C. Acquisition of nationality at birth**

- Could you please indicate if the law on nationality is based on *jus sanguinis* or *jus soli* principle?
- In case nationality is acquired according to the principle of *jus soli*, could you please provide information on whether it is limited to only children who are born to parent/s who reside **lawfully and habitually** on the territory of the state or whether it also applies to children of parents who reside lawfully, without additional qualification on residence?
- Could you please provide information on whether acquisition of nationality by children born abroad is preconditioned by mandatory registration of a child's nationality at a diplomatic /consular mission abroad?
- Could you please provide information on the legal requirements in the case of a child born abroad and only one of the parents is a national - does the law require for acquisition of child's nationality (registration) the consent of both parents or only the parent who holds the nationality?
- Is the acquisition of nationality in case of the birth of a child abroad preconditioned by any conditions other than the registration of nationality to the competent authority (diplomatic /consular mission) and if it is, by which?
- Does the law allow the registration of the nationality of a person who is born abroad after having reached the age of majority? If it does, are there any limitations on the period in which such an act can be done?
- Does the law allow acquisition of a nationality to a child whose mother is a foreigner in case of recognition of paternity by a man who is the national of the state of birth of a child? In case that it does, does the law make a difference if a child is born abroad in comparison to a child who is born on the territory of the state?
- Does the law specify acquisition of a nationality for a foundling and if it does, is it limited based on the age of the foundling?
- Does the law provide for acquisition of a nationality for a child who is born to parents who are unknown, stateless, or of unknown nationality?

- Does the law allow for the acquisition of a nationality “ex lege” for adopted children in case of full adoption?
- Does the law allow for the acquisition of a nationality “ex lege” for adopted children in case of partial (weak) adoption?
- Does the law require the option of choice of a nationality for a person when he/she reaches the age of majority or for a certain period after having reached the age of majority, in the case that a person has acquired the nationality of both parents with different nationalities at birth? If it does, please indicate until when the option must be registered and what are the consequences if the conditions for choosing one’s nationality are not met?
- Does the law provide for the possibility to establish a nationality at a later stage, in case the nationality was not registered at birth or after? If so, is there any limitation of time?
- Does the family law provide legal ground for surrogacy? If so, does there exist also legal ground for the acquisition of citizenship of a child in such case?

**D. Naturalisation**

1. Could you please specify if the law facilitates naturalisation by a reduction of the length of time required for naturalisation, and if so, whether it does so for any of the following categories:
  - spouses,
  - registered partners,
  - dependant parents ,
  - dependant adult children,
  - adoptees,
  - refugees,
  - stateless persons,
  - persons born on the territory,
  - persons of special interest for the state ,
  - nationals of certain states (e.g. EU states),
  - other categories.
  
2. If the law requests renunciation of a nationality as a precondition for naturalisation, are there exceptions, and if so, to which categories do they apply?

3. Could you please specify the legal concept of residence as a basic condition for naturalisation used in the law on nationality? If it falls under any of categories listed below, please mark it with **X** in the field next to the category:
  - habitual residence,
  - lawful residence,
  - permanent residence,
  - domicile,
  - other (please, fill in the brackets short description).
4. Could you please specify if the law permits the naturalisation of a child who does not live on the territory of the state?
5. Does the law request the consent of a child for naturalisation once the child reaches certain age (12, 14, 16)?
6. Does the law foresee the possibility of naturalisation of a child whose parents are not alive or are of unknown residence? In this case, can the legal guardian apply for the child's naturalisation?
7. Does the law foresee the possibility of independent acquisition of a nationality by naturalisation if a child is born on the territory of the state (e.g. if a parent is deprived of parental right or if the parent has lost legal capacity)?
8. In case there exists the principle of naturalisation for adopted child/ren, please specify the conditions which would need to be met.

#### **E. Acquisition of nationality by recovery**

1. Could you please specify if the law allows for the recovery of a nationality, and if it does, what are the conditions that need to be met? Specifically - does it allow dual nationality in such cases?
2. Does the law require that a person who claims recovery must lawfully reside on the territory of the state?
3. Are there specific rules for minors who have lost the nationality on request of the parent/s or guardian/s and wish to recover it?

#### **F. Loss of Nationality**

Could you please provide information if the law foresees the loss of nationality in the following cases:

1. Automatic loss of nationality in case of voluntary acquisition of foreign nationality (in which case, is it also applicable in the case of a child having acquired the nationality at birth on the grounds of registration of nationality by a parent who is the national of the state?).
2. Loss of nationality due to of lack of genuine link (if so, what is the length of time provided by law that need to be fulfilled for the loss of nationality?)
3. Does the law prescribe the loss of nationality for an adoptee in such cases that the decision of adoption was annulled or voided?

4. Does the law require the child's consent for renunciation of nationality when reaching a certain age (and if so, please indicate the child's age)?
5. Does the law limit the loss of nationality by renunciation only to cases in which the application covers all the family members (e.g. both parents and all minor children)?

### **G. Multiple Nationality**

1. Could you please specify in which cases your legislation on nationality may lead to dual/multiple nationality? (*jus sanguinis*, *jus soli*, naturalisation, recovery?)
2. Did the state conclude specific Treaty/ies with other states with regard to allowance or prohibition of multiple nationalities, and if it did, do the agreement/s also contain provisions on data protection?
3. Does the law on nationality allow dual nationality in case of reciprocity?
4. Does the state allow entrance into its territory to a national who is in possession of another nationality on the basis of the passport issued by the authorities of another state?
5. Does the state exchange information on the nationality/ies of its nationals with other state/s if the national also possesses the nationality of that state?
6. Does the state exchange information with other state/s on changes in civil status (change of name, marriage, divorce, recognition of paternity, etc.) of the national, if this person also possesses the nationality of that state?
7. Does the state stipulate specific rules concerning military service of a national who is at the same time the national of another state?
8. Do there exist bilateral agreement/s on the exchange of information on dual nationality with respective provisions on data protection?
9. What evidence is used as the proof that the national is also the holder of another nationality/ies?

### **H. Latest changes of nationality law and de lege ferenda**

1. Could you please specify when the law on nationality was last amended and what was the content of the changes?
2. Are there amendments to the present legislation on nationality, in the process of being adopted at the Government/Parliament?
3. Are you considering accession to any treaty regulating nationality (e.g. the Council of Europe European Convention on Nationality or the Convention on Avoidance of Statelessness in relation to State Succession)?

I. Challenges

- Could you please specify whether and where you see major challenges in the implementation of a law based on the principle of single nationality? In this regard could you please indicate if any of the situations listed below presents a challenge in its implementation:
  1. acquisition of nationality by naturalisation,
  2. renunciation, automatic loss of nationality,
  3. recovery of nationality after naturalisation,
  4. lack of exchange mechanisms on data between the states on individuals who changed the nationality or any other circumstance?
  
- Could you please specify where you see specific challenges when applying principle of multiple nationality:
  - a) In cases of military service or other foreign service,
  - b) In cases of application of principles of international private law/ mixed jurisdiction,
  - c) In cases of diplomatic protection,
  - d) In cases of abuse of taxation,
  - e) In cases of abuse of the legal possibilities of dual identity (different names, multiple residences, etc.)

APPENDIX II – TABLES CONTAINING KEY ANSWERS TO THE NATIONALITY QUESTIONNAIRE

Table 1 – Nationality Law, Acquisition and Multiple Nationality<sup>48</sup>

Country	Questions																				
	Nationality in the Constitution				Nationality Law: Fundamental Principles				Legislative Changes	Acquisition at Birth							Multiple nationalities				
	Provision included?	Prohibition of dual nationality?	Supremacy of international treaties?	Nationality as Human Right?	Equality if parents in mixed marriage	Equality in/out wedlock	Avoidance of statelessness	Other			Jus Sanguinis(1) / Jus soli (2) predominance?	Jus soli for children?	Mandatory registration for children born abroad?	Child whose mother is foreigner and father national?	For foundling?	Ex Lege acquisition for full adoption?	For surrogacy?	Cases leading to dual/multiple nationalities?	Specific treaties allowing/prohibiting?	Allowing on base of reciprocity?	Exchange of information?
Albania	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Andorra	Yes	Yes	Yes	Yes	x	x	x	-	2006 (allow for the naturalisation of the adopted child, without need to renounce to his prior nationality)	1.2	Yes	No	Yes	Yes	Yes	NR	None	No	No	No	No
Armenia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Austria	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

<sup>48</sup> Abbreviations/symbols used: 1 – *Jus sanguinis*; 2 – *Jus soli*; 3 – Naturalisation; 4 – Recovery; N/A – Not applicable; NR – Not regulated; W/cond – Conditions apply; W/exc – Exceptions apply; X – Yes.

Azerbaijan	Yes	No	Yes	Yes	x	x	x	-	1998 (Amendments to the law on citizenship, in order to improve the processes of entrance and naturalization)	1,2	Yes	No	Yes	Yes	Yes	No	3,4	No	No	Yes, partially on exit/entry	No
Belgium	Yes	No	No	No	x	x	x	-	2006 (diverse dispositions)	1, 2	Yes	No	Yes	Yes	Yes	NR	1,3	No	N/A	Yes	-
Bosnia and Herzegovina	Yes	No	Yes	No	x	x	x	-	2009 (referring to the BH citizens living in Brcko District)	1.2	-	No	Yes	Yes	Yes	NR	1,2,3	Yes	Yes	Yes	Yes
Bulgaria	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Croatia	Yes	No	Yes	No	X	X	X	Gender equality	2011 (extending the time period for naturalisation from 5 to 8 years, expanding the criteria for acquiring citizenship after renunciation. Amended article 11 of the Act implemented generation limitation by prescribing third degree of kinship with the original Croatian emigrants for their descendant as well as prerequisites of knowledge.	1; 2 (foundlings)	Yes	No	Yes	Yes	Yes	Not recognised	1,2,3,4	Yes (with BH for exchange of info)	N/A	Yes, if personal data requirements are fulfilled	-
Cyprus	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Czech Republic	Yes	No	Yes	No	x	x	x	E,g gender equality	2008 (allowing the Ministry of Interior access to criminal records)	Mainly1	Yes	No	Yes	Yes	Yes (if at least one parent is Czech)	NR	3, Birth, paternity, adoption, declaration, acqui	No	No	Yes (Republic of Slovakia)	Yes

Denmark	Yes	No	No	No	No	No	No	Principle of reduction of DN	2004 (acquisition by declaration limited to Nordic nationals)	1	N/A	No	Out of wedlock, no	Yes	Yes (w/ cond)	No	2 (by birth) 1, marriage	No	No	Yes	Yes
Estonia	Yes	No	Yes	No	x	x	No	-	2004 (conditions for naturalisation process for persons with disabilities/health conditions)	1	-	No	Yes	Yes	Yes	No ground	Birth	No	No	Not regularly	No
Finland	Yes	No	No	No	x	x	x	Principle of multiple Nat	2011 (more flexibility in acquiring citizenship)	1	-	No	Yes	Yes	Yes	No	Various	No	-	Yes	Yes
France	Yes	No	Yes	No	x	x	x	-	2011 (immigration and integration)	1,2	Yes	No	Yes	Yes	Yes	Surrogacy is void	1,2,3,4	No	-	No	N/A
Georgia	Yes	Yes	Yes	Yes	x	x	x	-	June 2012 (legal status of the stateless person)	1, 2 in exceptions	Yes (in case of stateless of unknown parents)	No	Yes	Yes	Yes (request necessary)	Yes	None, only exceptions	Yes, Ukraine on avoidance	No	Ukraine	Yes
Germany	Yes	No	No	Yes	x	X	X (w/exc)	-	2009 (establishing the withdrawal of an unlawful naturalisation)	1,2	Yes	Yes	Yes	Yes	Yes	Not allowed	All cases	No	No	No	No (but bilateral agre)
Greece	Yes	No	Yes	No	x	x	x	x	2010 (acquisition of nationality, conditions for naturalisation, loss, issues of organisation, Council of Nationality)	1,2	Yes (w/cond)	No	Yes (after recogn)	Yes	Acq at date of adoption	No	1,2,3,4	-	N/A	-	-

Hungary	Yes	No	Yes	Yes	x	x	x	-	2011 (naturalization specificities)	1,2	Yes	No	Yes	Yes	No	No	All cases	Yes, but not in force	N/A	No	No
Iceland	Yes	No	No	Yes	X	X	X	-	2007 (conditions for permanent residence permit)	1	-	No	Yes	Yes	Yes	No	3,4, at birth	Yes (Nordic)	No	Yes (Nordic)	N/A
Ireland	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Italy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Latvia	Yes	No	No	No	x	x	x	-	1998 (amended provisions on naturalisation, admission to citizenship for meritorious service, stateless persons and noncitizen children)	Mainly 1	No	No (see comment section III, c), p 16)	Yes	Yes (minors)	Yes	NR	1,4	No	No	Yes	No
Liechtenstein	Yes	No	No	No	x	x	x	-	2010 (additional conditions for naturalisation)	1	-	No	Yes	Yes (under 21)	Yes	No	1,4	No	No	No	No
Lithuania	Yes	Yes	No	No	X	X	X	Principle of retaining the nationality independent of residence or marriage.	2010 (principles of citizenship, dual citizenship (acquired at birth) until 21, citizenship of an adopted child, impossibility for the renunciation of citizenship where this would render the person stateless, right of descendent to acquire citizenship under a simplified procedure.	1	Yes (in some cases)	No, but obligation to inform within 3 months	Yes	Yes	Yes	NR	Birth, marriage, adoption, refugee, exiled and descendants	No	No	Yes, without prejudice of data protection rules	No, only request permission to Gov.

Luxembourg	Yes	No	No	No	X	X	X	Principle of double and multiple nationality	2008	Mainly 1	Yes (if one of the parents was born in Lux)	No	Yes	Yes	Yes	No	All cases	No	N/A	Yes	N/A
Malta	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Republic of Moldova	Yes	No	Yes	Yes	X	X	X	X	2011 (conditions for acquisition of nationality by naturalisation)	1,2	Yes	No	Yes	Yes	Yes	No	Birth, marriage, adoption, agreements, public interest	No	No	Yes	Yes
Monaco	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Montenegro	Yes	No	Yes	No	x	x	x	-	2011 (citizenship by asession and origin)	1	-	Yes	Yes	Yes	Yes (w/cond)	No	-	No	Yes	No	No
The Netherlands	Yes	No	Yes	No	x	x	x	-	2010 (added more conditions for obtaining/losing nationality)	1 + 2 for 3 <sup>rd</sup> Gen Rule	-	No	Yes	Yes	Yes	Yes, rules for adoption	1,2,3,4	Yes	No	Yes	No
Norway	No	-	No	No	X	X	X	-	2006. New amendments have been made in 2012 but have not entered into force yet.	1	-	No	Yes	Yes	Yes	Not allowed	1,2 (at birth)	Yes (CoE, UN)	No	Yes	Yes
Poland	Yes	No	Yes	No	X	X	X	-	2012 (fully into force on 15th August 2012). Main changes: no renunciation as a precondition for naturalisation, introduction of recovery, facilitation in naturalisation.	1	N/A	No	Yes	Yes	Yes	No	1, 3,4	No	No	No	Yes

Portugal	No	-	Yes	Yes	X	X	X	X	2006 (reinforced jus soli, subjective right to naturalisation, new concept of legal residence, and simplification of procedures)	1, 2 in some cases	Yes	No	Yes	Yes	Yes	No ground	All cases of att or acq	No	No	No	-
Romania	Yes	No	Yes	No	-	x	x	-		2010	Jus loci	-	No	Yes	Yes	Yes	N/R	1,3,4	-	N/A	-
Russian Federation	Yes	No	Yes	No	X	X	X	-	2009 (additional basis for acquisition of citizenship)	Mainly 1	Yes in some cases	Yes	Yes	Yes	Yes	Yes, but no legal framework for acq	1,2	Yes	No	No	No
San Marino	-	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-	-	-	-	-
Serbia	Yes	Yes	Yes (may not deviate from Constitution)	No	x	x	x	-	2007 (citizenship without release, citizenship of other ethnic groups)	1,2	Yes	Yes	Yes	Yes	Yes	-	Origin, Birth, 3,4	FRY with BH	N/A	Personal data/citizenship	-
Slovak Republic	Yes	No		Yes	No	X	X	X		-	2010 (introduces loss of nationality <i>ex lege</i> )	1	-	No	Yes	Yes					Yes
Slovenia	Yes	No	No	No	X	X	X	Exclusivity, continuity	2006 (conditions for naturalisation, competent authorities deciding on the acquisition of citizenship, Citizenship Register was established)	1,2	Yes (in some cases)	Yes	-	Yes	Yes	-	3, acq by birth	No	Yes	No (only some cases of reciprocity)	-
Spain	Yes	No	Yes	Yes	X	X	X	Legal reservation, free will, prohibition of arbitrary deprivation of nationality		2002 (Latest amendment to the civil code); New Spanish Civil Registry Act (Act 20/2011, 21 July) will enter into force on 22.7.2014.	Mainly 1	Yes	No	Yes	Yes	Yes					Prohibited

Sweden	Yes	No	No	No	No	No	X	-	2001(allowed dual/multiple citizenship, automatic acquisition for adoption, stateless children, public safety cases)	1, 2	Yes, if father is Swedish	Yes	Yes	Yes	Yes	NR	All options	Yes (allowing with BH)	Yes	Yes	-	
Switzerland	Yes	No	No	No	X	X	X	-		2011 (extension of the deadline for annulment of naturalisation)	1	-	Yes	Yes	Yes	Yes	No ground	1, adoption, 3,4	-	-	Yes	Yes
“The former Yugoslav Republic of Macedonia”	Yes	No	No	No	X	X	X	X			-	1	Yes	Yes	Yes (w/cond)	Yes	Yes		No	1,2,3,4	Yes (Montenegro)	No
Turkey	Yes	No	Yes	Yes	X	X	X	-	2009	Primarily 1	Yes (not acquiring the parents')	No	Yes	Yes	Yes (w/cond)	NR	All cases	No	-	No (personal data protection)	-	
Ukraine	Yes	Yes	Yes	Yes	No	No	X	Various		2005 (improved mechanisms for acquiring and losing citizenship and revised authority of state bodies)	1,2	Yes	No	Yes	Yes	Yes	Yes, but no legal framework for acq	Not recognised	Yes (to prevent)	No	No	No
UK	N/A	N/A	N/A	N/A	x	x	x	-	2009 (Borders, Citizenship & Immigration Act)	Both	Yes	No	Yes	Yes	Yes	Yes (under some conditions)	Most cases	No	No	No	No	

**Table 2 – Nationality Law on the aspects of Naturalisation, Recovery and Loss**

Country	Questions												
	Naturalisation							Recovery		Loss			
	Renunciation as a precondition?	Special interest of the state?	For children not in the territory allowed?	Consent necessary?	Nat. of children with unknown parents?	Independent acquisition?	Nat. for adopted children?	Recovery allowed?	Special rules for minors?	Automatic for children in case of voluntary acquisition of foreign nationality?	Loss for adoptee in case of annulment of decision?	Child's consent for renunciation?	Renunciation limited to all family members?
Albania	-	-	-	-	-	-	-	-	-	-	-	-	-
Andorra	No	No	Yes	Yes 16	Yes	No	Yes	Yes	Yes	Yes	No	Yes 16	No
Armenia	-	-	-	-	-	-	-	-	-	-	-	-	-
Austria	-	-	-	-	-	-	-	-	-	-	-	-	-
Azerbaijan	No	Yes	N/R	Yes 14	N/A	Yes	Yes	Yes	No	No	No	Yes 14-18	No
Belgium	No	No	Not applicable					Yes	No	No	No	Not app	Yes

Bosnia and Herzegovina	Yes w/ exc	X	Yes	Yes 14	Not reg		Yes	Yes	No	No	Not reg.	Yes 14	Yes
Bulgaria	-	-	-	-	-	-	-	-	-	-	-	-	-
Croatia	Yes w/ exc	X	Yes	No	Yes	Yes	Automatic	Yes	Yes	No	No	No	No (but minor can lose it if both parents do)
Cyprus	-	-	-	-	-	-	-	-	-	-	-	-	-
Czech Republic	Yes w/ exc	X	Yes if child has perm residence permission	No	Yes	Yes	Automatic	Yes	No	Yes, unless acqu by spouse in marriage	No	No	No
Denmark	Yes	No	Yes	No but over 12 can co-sign	Yes	Yes	Yes	Yes	No	Yes	No	Not necessary	No
Estonia	Yes	No	No	Yes, 15	Yes	Yes	Yes	Yes	Must be at least 15	Yes, not app by birth	No	Yes, 15	No
Finland	-	No	Yes, w/conditions	-	Yes	Yes	Yes	Yes	No	No	No	-	No
France	-	X	No	-	Yes	N/A	N/A	Yes	Yes (must be represented under 16)	No	No (full), yes in some cases (weak)		No
Georgia	Yes	Yes	No	Yes 14-18 No under 14	Yes	No	Yes	Yes	No	No	No	Yes 14-18 No under 14	N/R

Germany	Yes (w/excp)	X	Yes	No	Yes	Yes	Automatic	Yes	No	Yes (w/excp)	Usually not	No	No
Greece	No	X	Yes	No	No (only after 18)	No (only after 18)	No (only after 18)	Yes	Yes	No	Not reg	-	No
Hungary	No	Yes	Yes	Yes 14	Yes	Yes	Yes	Yes	No	No	No	Yes 14	No
Iceland	No	X	Yes, if one of the parents is a citizen	Only if the child lives abroad	Yes	Yes	Automatic	Yes (currently under debate)	No	No	No	Not nec but done after 12	No
Ireland	-	-	-	-	-	-	-	-	-	-	-	-	-
Italy	-	-	-	-	-	-	-	-	-	-	-	-	-
Latvia	Yes	No	No	Yes 14	No	Yes 15	Yes	Yes	No	No	No	Yes 14	No
Liechtenstein	Yes	X	No	Yes 15	Yes	Yes	Automatic	Yes	No	No	No	No	No
Lithuania	No	No	Yes	Yes 14	Yes	Yes	Automatic	Yes	No	No (w/cond)	No	Yes 14	Yes
Luxembourg	No	No	-	No	No	No	-	Yes	No	No	No	No	No
Malta	-	-	-	-	-	-	-	-	-	-	-	-	-
Republic of Moldova	Yes (w/exceptions)	X	No	Yes 14	No	-	Automatic	Yes	No	No	Yes (in some cases)	N/A (only for over 18)	No
Monaco	-	-	-	-	-	-	-	-	-	-	-	-	-
Montenegro	Yes	X	No	Yes 14	No	No	Yes	Yes	No	No	Yes	Yes 14	No
The Netherlands	Yes (w/exceptions)	X	No	Yes16	Exceptional procedure if the guardian is dutch	No	Automatic	Yes	No	Yes (w/exceptions)	No	Yes 12	No
Norway	Yes	No	No	Yes 12	Yes	Yes12	Yes	Yes	No	Yes	Yes (w/exceptions)	Yes 12	No

Poland	No (under the new act entering into force in August 2012)	No	Yes	Yes 16	Yes	No	N/A (under the new law)	Yes (under the new law)	Yes	No	Not reg	Yes 16	No (but both parents have to agree for the loss of the child)
Portugal	No	No	Yes	No	Yes	Yes	Yes	Yes	No	No	No	No	No
Romania	No	No (famous or investor yes)	Yes	Yes 14	No N/R	No	Yes	Yes	No	No	Yes	Yes 14	Yes
Russian Federation	Yes	X	Not reg	Yes 14	No	No	Yes	Yes	No	No	Not reg	Yes 14	No
San Marino	-	-	-	-	-	-	-	-	-	-	-	-	-
Serbia	Yes, with the exception of former YU	Yes	Yes	Yes 14	-	No	Yes	Yes	No	No	No	Yes 14	No
Slovak Republic	-	X	No	Yes 14	Yes	Yes	Automatic	Yes	No	No	No	No	No
Slovenia	Yes (w/exceptions)	X	Yes	Yes 14	Yes	No	Yes	Yes	No	No	No	Yes 14	No
Spain	No	X	No	Yes 14	Yes	Yes	N/A	Yes	N/A	-	No	N/A	N/A
Sweden	N/A	X	Yes (under 15)	Yes 12	Yes (w/ exc)	Yes	Yes (automatic under 12, natur over 12)	Yes	No	No	Yes (under some cond)	Yes 12	No

Switzerland	No	No	Yes	Yes 16	Yes	Yes	Not necessary	Yes	-	No	No	Yes 16	No
“The former Yugoslav Republic of Macedonia”	-	X	Yes	Yes 15	Yes	No	Same principles for adopted children	Yes	Yes	No	No	No	No (but minor can lose it if both parents do)
Turkey	-	-	Yes	No	-	No	Yes (under 18)	Yes	No	No	No	N/A	No
Ukraine	Yes (except w/ countries w/automatic renunc)	X	Yes	Yes 14	Yes	Yes	Automatic	Yes	No	Yes (except birth)	No	Yes 14	No
UK	No	No	N/A	N/A	N/A	N/A	No	Yes	No	No	No	N/A (only if emancipated)	No

Table 3 – Family Law

Country	Family law implications for nationality
Albania	-
Andorra	Principles of equality of children born in wedlock and out, and of parents. Only consent of the parent who holds the nationality is required. If only the father is a national the nationality is attributed but it affects the capacity of transmission to his/her children. Nationality <i>ex lege</i> for adoption. No legal grounds for surrogacy.
Armenia	-
Austria	-
Azerbaijan	Principles of equality of children born in wedlock and out, and of parents. When only one of the parents is a citizen of Azerbaijan, the child may acquire the citizenship of Azerbaijan upon an application of the parent with citizenship, with the consent of the parent with foreign citizenship. No precondition of registration if the child is born abroad. A child is a citizen of Azerbaijan if one of the parents is a citizen, regardless of the child being born abroad. The law does not provide for the possibility to establish a nationality at a later stage, in case the nationality was not registered at birth or after. The family law provides legal grounds for surrogacy; however, there is no legal ground for the acquisition of citizenship in such case. In case of adoption, the child shall acquire the citizenship of Azerbaijan; if only one of the parents is a citizen of Azerbaijan, the child shall acquire the citizenship with the consent of the adopters. The law does not prescribe the loss of nationality by renunciation only to cases in which the application covers all family members.
Belgium	<p>Principles of equality of children born in wedlock and out, and of parents. According to Article 8, § 1, paragraph 1, 2, a) of the Code, the Belgian nationality is automatically assigned to a child born in a foreign country and one of whose parents, at least, was born in Belgium, and has Belgian nationality at the time of birth. However, if the author is Belgian born abroad, the child shall in principle not be Belgian.</p> <p>It will become the condition that its parents make a declaration of Belgian nationality before five years (Article 8, § 1, 1 °, 2 °, b) CNB). However while the declaration is not made or if it has not been made within the time provided by law, the child may be stateless. In this case, the child will be Belgian if it turns out that he has no other nationality (Article 8, § 1, 1 °, 2 °, c) CNB). It is also possible that the author becomes Belgian after the birth of the child through voluntary acquisition. In this case, the child can be assigned automatically by the Belgian collective effect of an act of acquisition of nationality made by the author or the adoptive parent of the child pursuant to section. No consent of foreign parent is necessary. The Code does not prohibit that a child is given concurrently the foreign nationality of his mother - provided of course that the foreign law in question authorizes the transmission of nationality - and then his father's after recognition.</p> <p>Since the Code was adopted in 1984, all forms of adoption (whether simple or full - made in Belgium or abroad) has immediate effect on the nationality of an adopted minor, provided that the conditions by the provisions in question are fulfilled (cf. Articles 9, 11a and 12 of the Code of Belgian nationality).</p> <p>As it stands, the Belgian legislator has not resolved the issue of surrogacy or children born to a surrogate mother. Several bills are pending in the Senate and House of Representatives. There is no such thing as specific legal basis governing the acquisition of citizenship of a child born to a surrogate mother. The question of whether a child of a surrogate mother, which at least one parent is Belgian intentional, can be given Belgian nationality involves examining first whether the parentage of the child toward the parent "intentional Belgian "was validly established under Belgian law. If the birth has been established abroad and that the intended parents are designated as the child's parents, there will need to consider whether the birth certificate / court decision (establishing this birth) can be recognized (e) by the Belgian authorities on the basis of the provisions relevant to the case of our Code of Private International Law (see: in this respect Articles 18 and 21, 25, 27 and 62). In this particular context, it should be noted that filiation - preliminary question to the determination of Belgian nationality - is frequently assessed by our Courts.</p>

Bosnia and Herzegovina	Principles of equality of children born in wedlock and out, and of parents. Only consent of the parent who holds the nationality is required. If the child is born abroad, he/she must be registered by the age of 23, same conditions for all children. Nationality <i>ex lege</i> for full adoption, not for weak adoption. Surrogacy is not regulated by the nationality law.
Bulgaria	-
Croatia	Principles of equality of children born in wedlock and out, and of parents. Recognised paternity allows the child to get Croatian citizenship by origin. If born abroad, the child has to register before 18. Nationality is <i>ex lege</i> for full adoption. Family law does not recognise surrogacy.
Cyprus	-
Czech Republic	Principles of equality of children born in wedlock and out, and of parents. Mother foreigner and paternity of national recognised allows acq of nationality by the child; also if the child is born abroad. Nationality is <i>ex lege</i> for full adoption, if one parent is Czech. There are no provisions on surrogacy: under the Czech Family Code, mother is the woman who gave birth to the child.
Denmark	Principles of equality of children born in wedlock and out, and of parents are not instituted. A child born abroad to a Danish mother acquires Danish nationality automatically at birth ( <i>ex lege</i> ). A child born abroad to a Danish father acquires Danish nationality automatically at birth ( <i>ex lege</i> ) if born in wedlock. See art. 1 in consolidated act no. 422 of 7 June 2004 on Danish nationality. A child born abroad out of wedlock to a Danish father can acquire Danish nationality by naturalisation if the father shares the parental authority. Cf. art. 16 in circular letter no. 61 of 22 September 2008 on naturalisation. A child born in Denmark to a Danish father acquires Danish nationality automatically at birth, cf. Art. 1 in the law on Danish nationality. It is a precondition for acquisition of Danish nationality that the Danish father is the child's biological father. The law on Danish nationality does not have regulations regarding recognition of paternity. A child born abroad out of wedlock to a Danish father does not acquire Danish nationality automatically at birth. The child can however acquire Danish nationality by naturalisation, cf. art. 16 in circular letter no. 61 of 22 September 2008 on naturalisation, if the father shares parental authority. According to art. 2A (1) in the law on Danish nationality, an alien child, under 12 years of age, who is adopted through a Danish adoption order will become a Danish national by the adoption if the child is adopted by a married couple where at least one of the spouses is a Danish national, or by an unmarried Danish national. Danish nationality is acquired from the time the legal effects of the adoption come into force, cf. art. 2a (2). Subsections (1) and (2) of art. 2A apply correspondingly in cases where the child was adopted by a decision taken abroad which is valid under section 28(2) of the Act on Adoption of Children. Surrogacy: no.
Estonia	Principles of equality of children born in wedlock and out, and of parents. If a child is born abroad and one of the parents is an Estonian citizen, he/she acquires Estonian citizenship by birth. No additional conditions to be met. Adoption needs to be full for nationality to be <i>ex lege</i> . Family law does not provide legal ground for surrogacy.
Finland	Principles of equality of children born in wedlock and out, and of parents. No consent is necessary. Recognition of paternity has to be confirmed, if the child was born abroad, the recognition of paternity has to be valid in Finland. Adoption needs to be full for nationality to be <i>ex lege</i> . Family law does not provide legal ground for surrogacy.
France	Principles of equality of children born in wedlock and out, and of parents. Nationality of the child is based on attribution by filiation, exercise of paternal power. If the adoption is full the nationality is <i>ex lege</i> ; for weak, it can be acquired by 18. Art. 16-7 of the Civil Code determines that all surrogacy is void; there are no rules foreseeing citizenship.

Georgia	<p>Principles of equality of children born in wedlock and out, and of parents. The birth registration of a child and definition of citizenship issues is regulated by the law of Georgia on the registration of civil acts and the law on citizenship. Definition of citizenship is conducted in parallel with the birth registration. The implementation of the law beyond the territory of Georgia is implemented by its authorized consulates. There is no precondition defined, however if a person is not registered, his/her citizenship would not be declared and his/her citizenship will be then established in accordance with the respective rules provided by the Law on Citizenship. The Georgian Legislation does not provide with special provisions for acquisition of citizenship on the basis of established paternity. This case is regulated by article 12 of the Law of Georgia on Citizenship: “c) Either of his parents is a citizen of Georgia at the moment of his birth, regardless of the place of birth, and the other parent is a stateless person or is unknown. Where parents have different citizenships, either of whom at the moment of the child’s birth is a citizen of Georgia, and both of the parents reside outside the territory of Georgia, the matter of citizenship of the child born outside the borders of Georgia shall be solved by agreement of parents. In the absence of such agreement the matter shall be solved according to the legislation of the state of birth. In case of affiliation of a child whose mother is a stateless person and a citizen of Georgia is considered to be the father, the child shall be considered as a citizen of Georgia, regardless of the place of his birth”.</p> <p>Adoption is regulated by Article 20: A child who is a citizen of another state or a stateless person and who has been adopted by the citizen(s) of Georgia may become a citizen of Georgia at the request of the adoptive parent(s). A child who is a citizen of another state or a stateless person and who had been adopted by spouses either of whom is a citizen of Georgia may become a citizen of Georgia at the adoptive parents’ joint request”).</p> <p>Legal ground for surrogacy is the law of Georgia on Legal Acts and the law of Georgia on Public Health. The factual rights of the child born by surrogacy (including the right on citizenship) does not differ from the rights of naturally born child.</p> <p>Loss of nationality by renunciation is not limited to all family members.</p>
Germany	<p>Principles of equality of children born in wedlock and out, and of parents. Mother foreigner and paternity of national recognised allows acq of nationality by the child; also if the child is born abroad. In case of born abroad, and only one parent is a national, only that parent's consent is necessary. No legal ground for surrogacy (contrary to the ordre public). Nationality <i>ex lege</i> for full adoption, not in every case for weak adoption.</p>
Greece	<p>According to the rules of attribution of nationality due to filiation, a person is deemed Greek at birth, regardless of the place in which he/she was born. The rules do not make a distinction between a child born in Greece and a child born abroad, and registration of nationality is not subject to a time limitation. In case only one of the two parents of the child is a citizen, the granting of Greek citizenship to the child is not conditional on the consent of the foreign parent.</p> <p>Section 2 of the Greek Nationality Code states that the minor natural child who was the subject of paternity by a Greek national, becomes Greek from the date of recognition. The law makes no difference between a child born abroad and a child born in the territory. Section 3 of the Code of Greek citizenship provides that an alien who was adopted before his majority as a child of a Greek man or a Greek woman, becomes Greek from the date of adoption. Surrogacy: no.</p>
Hungary	<p>Principles of equality of children born in wedlock and out, and of parents. The acquisition of nationality of a child born abroad is not preconditioned by mandatory registration. To acknowledge/certify the Hungarian citizenship of a child born of a marriage, it is sufficient that one of the parents is a Hungarian citizen. It is enough that only one parent submits the request aiming at acknowledging/certifying the citizenship. Mother foreigner and paternity of national recognised allows acq of nationality by the child; also if the child is born abroad (Article 3, paragraph 2 of the Citizenship Act). Nationality <i>ex lege</i> for full adoption, not for weak adoption. Surrogacy: no. Loss of nationality by renunciation is not limited to all family members.</p>

Iceland	Principles of equality of children born in wedlock and out, and of parents. Art. 12 of the Icelandic Nationality Act no 100/1952: An Icelandic citizen, who was born abroad and has never been domiciled in Iceland or resided in Iceland for any purpose that may be interpreted as indicating that he wishes to be an Icelandic citizen, shall lose Icelandic citizenship on reaching the age of 22 years. However, [the Minister of Justice] may permit him to retain his Icelandic citizenship if he applies for it before that time. [He shall not, however, lose Icelandic citizenship if this would result in his becoming stateless. Art. 2 of the Icelandic Nationality Act: If an unmarried woman who is a foreign national has a child in Iceland, it shall acquire Icelandic citizenship if a man who is an Icelandic citizen is its father under the Children's Act. If an unmarried woman who is a foreign national has a child abroad by a man who is an Icelandic citizen, the father may, before the child reaches the age of 18, apply to the Ministry of Justice for the child to receive Icelandic citizenship; he shall consult the child if it is over the age of 12. If, in the opinion of the ministry, he submits satisfactory evidence concerning the child and his paternity, the child shall acquire Icelandic citizenship on approval by the ministry. Nationality <i>ex lege</i> for full adoption. Surrogacy: no.
Ireland	-
Italy	-
Latvia	Principles of equality of children born in wedlock and out, and of parents. There is of the consent from at least one parent in the case of a child born abroad and the permanent place of residence of the parents, or that parent with whom the child is living, was in Latvia, or other parent is a stateless person or unknown. In other cases there is need of consent of both parents. Nationality <i>ex lege</i> for full adoption. Surrogacy is not regulated. If in the birth certificate is information that at least one of the parents holds the Latvian nationality then the acquisition happens according to the same conditions for all situations of one parent.
Liechtenstein	Principles of equality of children born in wedlock and out, and of parents. No consent of both parents is needed. The child automatically acquires the nationality if the father or mother is a citizen. No difference if the child is born abroad. Nationality <i>ex lege</i> for adoption. Surrogacy: no.
Lithuania	Principles of equality of children born in wedlock and out, and of parents. Acquisition of child's nationality requires the consent of only one of the parents. For a child born from 1 April 2011, both of whose parents or one of them are citizens of the Republic of Lithuania acquires citizenship of the Republic of Lithuania by birth, irrespective of whether he was born in or outside the territory. Citizenship is entered in a document certifying the fact of birth when registering the birth of a child (institution responsible for birth registration is adequate Lithuanian civil registry office). Nationality <i>ex lege</i> for adoption. No legal basis governing surrogacy.
Luxembourg	Principles of equality of children born in wedlock and out, and of parents. Parental consent is not required for a child born abroad to acquire Luxembourg nationality. There is acquisition of nationality if the child is recognized by a Luxembourg father, regardless of place of birth of the child. Nationality <i>ex lege</i> for adoption. No legal basis governing surrogacy.
Malta	-
Republic of Moldova	Principles of equality of children born in wedlock and out, and of parents. No consent is necessary, no distinction if the child is born abroad. Nationality <i>ex lege</i> for full adoption, weak adoption not foreseen. Surrogacy: no.
Monaco	-

Montenegro	Principles of equality of children born in wedlock and out, and of parents. Montenegrin citizenship may be acquired by a child born on the territory of another state, whose one of parents is a Montenegrin citizen at the moment of the child's birth if, by the time the child turns 18 years of age, a request for entering in the Montenegrin birth record book and in the record of Montenegrin citizens is submitted, and if child is not citizen of another state. In case of recognition of paternity by a man who is the national of the Montenegro and whose child is born on the territory of Montenegro, child shall <i>ex lege</i> acquire Montenegrin citizenship through origin. Also Montenegrin citizenship may be acquired by a child born on the territory of another state, whose one of parents is a Montenegrin citizen at the moment of the child's birth if, by the time the child turns 18 years of age, a request for entering in the Montenegrin birth record book and in the record of Montenegrin citizens is submitted, and if child is not citizen of another state. Montenegrin citizenship through origin may be acquired by an adopted child, in case of complete adoption, if one of the adopters is a Montenegrin citizen, and if child is not citizen of another state by other adopter. Surrogacy: no.
The Netherlands	Principles of equality of children born in wedlock and out, and of parents. The child will acquire the Dutch nationality when one parent is Dutch. No distinction if the child is born abroad. Nationality <i>ex lege</i> for adoption. Surrogacy: the procedure for acquisition of nationality follows the rules of adoption.
Norway	Principles of equality of children born in wedlock and out, and of parents. Not relevant. A child becomes a Norwegian national automatically at birth if his or her father or mother is a Norwegian national. Acquisition is not preconditioned by any registration. A child becomes a Norwegian national automatically at birth if his or her father or mother is a Norwegian national. The father is the one who is considered to be the father according to Act No. 7 of 8 April 1981 relating to Children and Parents (The Children Act). The child is considered to be a Norwegian national from the time of birth, even if paternity (by a Norwegian father) is established later on. It does not matter if the child is born in Norway or abroad. According to section 5 in the Nationality Act a child who is adopted by a Norwegian national becomes a Norwegian national automatically by adoption if the child is under the age of 18 at the time of adoption. The adoption order must be issued by Norwegian authorities pursuant to the Adoption Act, or through a foreign adoption that shall be valid in Norway pursuant to the provisions of chapter 4 of the Adoption Act. According to the Norwegian Adoption Act a Norwegian adoption is always a full adoption. In case of partial (weak) adoption, an adopted child may acquire Norwegian citizenship, provided that the adoption is recognized by the Norwegian Adoption Authorities according to the Adoption Act (chapter 4).  The Biotechnology Act regulates the conditions for assisted fertilisation in Norway. Insemination of sperm and own eggs in the birth mother is permitted. The prohibition on the insemination of eggs into the body of another person means that this form of surrogate motherhood cannot be performed pursuant to the Biotechnology Act. Any agreement made on surrogate motherhood, regardless whether egg donation has been used, is not binding pursuant to Norwegian legislation, cf. section 2 of the Children Act. The general rules for maternity and paternity apply, according to the Children Act. This means that the person giving birth to a child is the child's mother (surrogate mother), and that paternity is established in accordance with the provisions in the Children Act. If the child's father (according to the provisions in the Children Act) or the surrogate mother is a Norwegian national at the time of birth the child becomes a Norwegian national automatically.
Poland	Principles of equality of children born in wedlock and out, and of parents. The acquisition of nationality in case of the birth of a child abroad is not preconditioned by any conditions. A child acquires Polish citizenship by birth if both parents are Polish citizens or one parent is a Polish citizen and the other is unknown or his/her citizenship is indefinite or he/she does not have any citizenship. The registration is not needed. Nationality <i>ex lege</i> for full adoption. There are no provisions regarding citizenship for surrogacy.
Portugal	Principles of equality of children born in wedlock and out, and of parents. Portuguese law requires consent of both parents for children born abroad, even if only one of them is Portuguese. If the child, whose mother is a foreigner, is recognised by a Portuguese father, the child may acquire Portuguese nationality. No difference if the child is born abroad. Nationality <i>ex lege</i> for full adoption, not weak. Family law does not provide any legal ground for surrogacy.

Romania	Principles of equality of children born in wedlock and out, unanswered for parents. The condition for the acquisition of nationality of a child born abroad is that at least one of the parents holds the Romanian citizenship, no difference or limits to the attribution. There are no special rules for attribution of citizenship in case of surrogacy, general rules apply (citizenship by birth, in which case the mother is the one who gives birth). Article 7 of Law no. 21/1991 of the Romanian citizenship states that "(1) In the case of the declaration of nullity or annulment of adoption, the child who has not completed the age of 18 is considered to have never been a Romanian citizen, if he resides abroad or if he leaves the country for domicile abroad (2) In the event of the dissolution of the adoption, the child who has not completed the age of 18 lost Romanian citizenship at the time of the dissolution of the adoption, if he lives abroad or leaves the country to reside abroad." Loss of nationality by renunciation is limited to all family members.
Russian Federation	Principles of equality of children born in wedlock and out, and of parents. Consent of the parent who is a Russian citizen required when the child permanently resides in the Russian Federation. Same rule for when the child is born abroad. Nationality <i>ex lege</i> for adoption. No legal framework for surrogacy.
San Marino	-
Serbia	Principles of equality of children born in wedlock and out, and of parents. According to Article 9 of the Law on Citizenship, the citizenship may be acquired by origin when one of the parents is a citizen of Serbia and the other is a foreign national, and, if the child was born abroad, provided that the parent who is a Serbian citizen has registered him/her with the competent diplomatic or consular representation, before the child reaches the age of 18, and the parent submitted a request to the competent authority for registering the child into the Register of citizens of the Republic of Serbia. Article 11 states that the same principle for acquiring citizenship by origin is available to adopted foreign children. Full adoption, <i>ex lege</i> ; no provisions on partial adoption. Surrogacy was left unanswered, for it is not competence of the same Ministry. Acquiring of citizenship through naturalisation for children is conditioned by naturalisation of at least one of the parents regardless of whether the child lives on the territory of Serbia. Parents applying for termination of citizenship can comprise their minor children by the application.
Slovak Republic	Principles of equality of children born in wedlock and out, and of parents. No consent is necessary; the child is a national by law. No distinction for father foreigner nor born abroad Nationality <i>ex lege</i> for adoption. Surrogacy is allowed and there are rules for acquiring citizenship in this case.
Slovenia	Principles of equality of children born in wedlock and out, and of parents. No consent is necessary. Nationality <i>ex lege</i> for full adoption, weak no (naturalisation is then possible).
Spain	Principles of equality of children born in wedlock and out, and of parents. If only one of the parents is a national and the child is born abroad, the child is a national automatically according to Art. 17.1.a) Spanish Civil Code. Registration can be made only with the parent who holds the nationality. Parent-child relationship regarding both parents will be made according to the Spanish domestic law which is the child's nationality law. Recognition of paternity can be made at any moment. Recognition made by a man who is national at birth of a child whose mother is alien, regardless the child was born inside or outside Spain, will have the consequence to transfer the Spanish nationality to the child that has been recognized. Acquisition of nationality for full adoption is possible under Art. 19.1 Spanish Civil Code. There is no partial adoption in Spain and in international cases these situations do not allow for the acquisition of a nationality <i>ex lege</i> according to Act 54/2007 on International Adoption. Surrogacy is prohibited in Spain according to Art. 10 Act. 14/2006.
Sweden	Principles of equality of children born in wedlock and out, and of parents are not instituted. No consent is necessary from either parent. If birth is out of wedlock and abroad, the child can acquire citizenship by notification before the child turns 18. Nationality <i>ex lege</i> for full adoption. The Swedish family law contains no rules for surrogate children, nor the citizenship legislation. This does not mean that the child cannot obtain Swedish citizenship by the Swedish father.

Switzerland	Principles of equality of children born in wedlock and out, and of parents. Article 10 BüG requires only that one of the parents is a national. Article 1 para 2 BüG States that if only the father is a national, the child acquires the nationality by establishment of filiation as if he/she acquired it at birth. Nationality <i>ex lege</i> for full adoption. Swiss family law does not provide legal ground for surrogacy.
“The former Yugoslav Republic of Macedonia”	Principles of equality of children born in wedlock and out, and of parents. Consent is necessary from the foreign parent, if the child is born in the territory of the state. If the child is born abroad, he/she shall acquire citizenship of the Republic of Macedonia if by the age of 18 has declared for registration as a citizen of the Republic of Macedonia or if by the age of 18 permanently settled in Macedonia with a parent who is a citizen of the Republic of Macedonia. If not, he/she can apply for admission to citizenship of the Republic of Macedonia by the age of 23 years. Nationality <i>ex lege</i> for full adoption. Surrogacy: no.
Turkey	Principles of equality of children born in wedlock and out, and of parents. A parent with Turkish nationality is enough for the child to acquire Turkish nationality. According to Article 7 of the Turkish Citizenship Law: “(1) A child born to a Turkish mother or through a Turkish father within the unity of marriage either in Turkey or abroad is a Turkish citizen. (2) A child born to a Turkish mother and through an alien father out of wedlock is a Turkish citizen. (3) A child born through a Turkish father and to an alien mother out of wedlock acquires Turkish citizenship if the principles and procedures ensuring the establishment of descent are met.” The law allows for the acquisition of nationality by an adopted foreign child. According to Turkish Citizenship Law, a minor child adopted by a Turkish citizen can acquire Turkish citizenship from the date of adoption provided he/she has no quality constituting an obstacle in respect of national security and public order. There is not any provision on surrogacy under the law.
Ukraine	No principles of equality of children born in wedlock and out, and of parents. A person entitled for acquisition of the citizenship of Ukraine by birth, shall be treated as the citizen of Ukraine from the date of his/her birth. In some cases to register the acquisition of Ukrainian citizenship by the child that was born abroad and whose parents or of one of parents had Ukrainian citizenship legislation provides for submission of application by a parent of a child. If paternity is established in relation to a child, the mother whereof is a foreigner or a stateless person, and the father of the child is a citizen of Ukraine, the child shall acquire the citizenship of Ukraine notwithstanding the place of his/her birth and the place of his/her permanent residence. Nationality <i>ex lege</i> for full adoption, not for weak adoption. Family Code of Ukraine and Order of the Ministry of Health Care of Ukraine № 771 dated December 23, 2008 provides legal grounds for surrogacy, but it does not provide special procedure for the acquisition of citizenship of a child in such case.

<p>UK</p>	<p>Principles of equality of children born in wedlock and out, and of parents. <u>A child born to a foreign mother can acquire citizenship by transmission from the father (where British) by birth or by descent (depending upon the place of birth) so long as the definition of father is met and the father is a British citizen. Under section 1(5) of the British Nationality Act 1981, as amended, a child who is not already a British citizen becomes a British citizen from the date of an adoption order if either: the adoption is authorised by order of a court in the United Kingdom on or after 1 January 1983 and the adopter or, in the case of a joint adoption, one of the adopters is a British citizen on the date of the adoption order; or it is a Convention adoption under the 1993 Hague Convention on Intercountry Adoptions, effected on or after 1 June 2003, and the adopter or, in the case of a joint adoption, one of the adopters is a British citizen on the date of the Convention adoption. The adopter or, in the case of a joint adoption, both of the adopters are also required to be habitually resident in the United Kingdom.</u></p> <p>Provision as to the legal parentage of children resulting from certain fertility treatments is made by the Human Fertilisation and Embryology Act 1990 and the Human Fertilisation and Embryology Act 2008. The 1990 Act and 2008 Act set out specific conditions that must be fulfilled for the commissioning couple to apply for a parental order. If they do not fulfil these conditions, they cannot apply for a parental order. <u>The provisions apply regardless of whether the surrogate mother was in the United Kingdom or elsewhere when the embryo was placed in her or when, as the case may be, she was artificially inseminated but must be considered together with the definitions of "parent" etc in the British Nationality Act 1981.</u></p> <p>Only those who are of full age (age 18 or over) can make a declaration of renunciation of British citizenship. However, a minor who has been married/in a civil partnership is regarded as being of full age. <u>Applications for the renunciation of British citizenship are made by individuals. Applications are not required to be made by all family members.</u></p>
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