



Montenegro ratifies ECN and changes its Citizenship Act

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On 22 June 2010, Montenegro ratified the Council of Europe's *European Convention on Nationality* that it had signed on 05 May 2010. The signature was preceded by a Law on Confirming the European Convention on Nationality, adopted on 02 March 2010. Article 3 of the Law stipulates that 'Montenegro does not accept the implementation of provisions stipulated in article 16 of the Convention'. This reservation clause has its roots in the current Citizenship Act, which allows dual citizenship only under the condition of reciprocity. Moreover, the Montenegrin legislation allows dual citizenship only for those people who have acquired this status prior to the Declaration on Montenegrin Independence of 03 June 2006. Thus the only bilateral agreement that Montenegro has signed so far is the one with Macedonia, and this agreement only refers to dual citizenship obtained before 03 June 2006. The *European Convention on Nationality* will enter into force in Montenegro on 01 October 2010.

On 01 August 2010, the Council of Europe's *Convention on the Avoidance of Statelessness in Relation to State Succession* will enter into force in Montenegro. The state signed this Convention on 11 May 2007, and ratified it on 28 April 2010.

On 09 July 2010, the Parliament of Montenegro adopted the Law on Amendments and Addenda to the 2008 *Citizenship Act*. During the Parliamentary debate, it was emphasised by the Ministry of European Integration and the parliamentary Committee on international affairs and European integration that, while the changes to the Citizenship Act were not formally required in the process of European integration, they are in line with Recommendation No. R(99) 18 of the Committee of Ministers to Member States on the avoidance and reduction on statelessness, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention relating to the Status of Stateless Persons and the Convention Relating to the Status of Refugees.

The Law on Amendments and Addenda to the 2008 *Citizenship Act* contains 13 articles, and makes several significant changes to the current citizenship regime in Montenegro, while retaining its restrictive nature. Pursuant to Article 45a of the amended Citizenship Act, the changes have immediate effect, and decisions on all ongoing cases will be reached in line with the new provisions.

Article 6, which defines the criteria for the acquisition of Montenegrin citizenship by origin, has been streamlined by the addition of the clause 'provided that he or she [the child] does not have the citizenship of the other parent' to all three paragraphs of the provision.

Article 8, related to naturalisation, has slightly been liberalised by the addition of a new provision. Specifically, the adopted changes stipulate that the release from citizenship of another state (as per Article 8, paragraph 1, point 2) is no longer required in three cases: if the person is stateless; if the person submits the proof that by entry into Montenegrin citizenship he or she will lose his or her citizenship of origin by force of law; and if the person was unable to obtain release from the citizenship of origin because he or she did not complete the obligatory military service, provided that he or she signed the statement that should he or she obtain the Montenegrin citizenship the person would renounce the citizenship of the state of origin.

Article 10, related to the naturalisation of expatriates has also been supplemented by a new provision, which points to Article 17 of the Citizenship Act. Viewed in its proper context, the provision stipulates that the criteria for what constitutes a 'lawful and uninterrupted stay in Montenegro of at least two years' are determined by the Government of Montenegro. The same provision, i.e. reference to Article 17, applies to Article 26 (readmission into Montenegrin citizenship), for which one year of 'lawful and uninterrupted stay in Montenegro' is required.

Article 11, related to the naturalisation of spouses of Montenegrin citizens has also been streamlined by an additional line, which specifies that the condition for naturalisation of spouses (three years of marriage, and five years of lawful and uninterrupted stay) is to be fulfilled 'prior to the submission of the application for admission to Montenegrin citizenship'. A completely new provision has also been enshrined in Article 11, and it specifies that the same conditions for naturalisation apply in case a person had been married to a Montenegrin citizen for at least three years, and the marriage was terminated by the death of the spouse.

Article 12 on naturalisation for a particular interest of the state has been supplemented by an additional provision which grants the competence to the Ministry of Interior to naturalise individuals following a proposal by the President of Montenegro, the Prime Minister, or the Speaker of Parliament.

Article 16, which deals with the naturalisation of the child, has been supplemented by a line, which provides that a child will be admitted into Montenegrin citizenship 'if the child does not have citizenship of another state, or if he or she has been released from citizenship of another state', provided that he or she meets the remaining criteria of Article 16.

Given the number of applications received by the Ministry of Interior and Public Administration, the deadline for reaching a decision in individual cases on naturalisation and loss of Montenegrin citizenship has been extended from six months to one year by amending Article 26 of the Citizenship Act.

Article 36, dealing with the electronic Register of Citizens, has also been amended. Gender is now a required category in the Register. In addition, the competent authorities deal with requests related to the admission into Montenegrin citizenship related to the database.

Article 41, dealing with naturalisation of the citizens of the successor states of the former Yugoslavia, has been changed in two respects. First, the deadline for the submission of the application for admission into Montenegrin citizenship (subject to further provisions of Articles 8 and 41) has been extended from three to five years from the date of the enactment of the Citizenship Act. Second, the addition of Article 41a makes explicit reference to the new provisions of Article 8 (see above).