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# EUDO CITIZENSHIP OBSERVATORY

## *COUNTRY REPORT: FINLAND*

Jessica Fagerlund, Sampo Brander

Revised and updated January 2013



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

***Report on Finland***

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EUDO Citizenship Observatory  
**Robert Schuman Centre for Advanced Studies**  
in collaboration with  
**Edinburgh University Law School**  
Country Report, RSCAS/EUDO-CIT-CR 2013/5  
Badia Fiesolana, San Domenico di Fiesole (FI), Italy

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Published in Italy  
European University Institute  
Badia Fiesolana  
I – 50014 San Domenico di Fiesole (FI)  
Italy  
[www.eui.eu/RSCAS/Publications/](http://www.eui.eu/RSCAS/Publications/)  
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[cadmus.eui.eu](http://cadmus.eui.eu)

Research for the EUDO Citizenship Observatory Country Reports has been jointly supported, at various times,  
by the European Commission grant agreements JLS/2007/IP/CA/009 EUCITAC and HOME/2010/EIFX/CA/1774 ACIT  
and by the British Academy Research Project CITMODES (both projects co-directed by the EUI  
and the University of Edinburgh). The financial support from these projects is gratefully acknowledged.

For information about the project please visit the project website at <http://eudo-citizenship.eu>

## Finland

Jessica Fagerlund and Sampo Brander<sup>1</sup>

### 1 Introduction

Finland adopted its current Nationality Act in 2003. This Act, which was substantially amended in 2011, can be seen as an interesting mixture of old and new elements. On one hand, the Act contains many features which have long been characteristic of Finnish nationality legislation (Nordic cooperation, the principle of *ius sanguinis*, gradual evolution of gender equality). On the other hand, the Act has also brought significant changes to some traditional standpoints (multiple citizenship, naturalisation conditions).

Nordic cooperation in the field of nationality legislation can be traced back to the late nineteenth century (Ersbøll 2003): the bases of the current reciprocal rules on facilitated acquisition and reacquisition of citizenship can be found in the Nordic Agreement of 1950, to which Finland acceded in 1969. It is remarkable that in the preparatory work for the 2003 Nationality Act, emphasis was laid on *familiarity with Finnish society* as grounds for acquisition of Finnish citizenship by application or declaration.<sup>2</sup> The exceptions granted to citizens of other Nordic countries (Denmark, Iceland, Norway and Sweden) were accordingly justified by the *similarity of Nordic societies*.<sup>3</sup> In the current Act, Nordic citizens are given the possibility of acquiring Finnish citizenship by facilitated naturalisation (sect. 21) or declaration (sect. 30). In addition, residence in other Nordic countries is considered equal to residence in Finland in certain situations (sect. 28 and 34).

Another traditional feature in the 2003 Nationality Act is that acquisition of Finnish citizenship at birth is based on the principle of *ius sanguinis*, while *ius soli* has a limited application and is related to the prevention of statelessness (sect. 9 and 12), which has been elevated to a constitutional principle: Finnish citizenship may never be lost if it led to statelessness. Thirdly, like almost all earlier major amendments of nationality legislation since the independence of Finland, the 2003 Nationality Act made a step towards gender equality, the difference, however, being that it was now the status of men which was ameliorated (acquisition of Finnish citizenship from the father for children born out of wedlock, sect. 9).

The most important change in the 2003 Nationality Act was the full acceptance of multiple citizenship. International trends and considerable pressure from interest groups of Finnish expatriates made Finland reconsider its traditional critical attitude in the 1990s. With the entry into force of the 2003 Nationality Act, former Finnish citizens and their descendants who had lost their citizenship due to the earlier prohibition of multiple citizenship were given a five years' provisional possibility to reacquire their Finnish citizenship by declaration (sect. 60). In 2011, this

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<sup>1</sup> The original report was written by Jessica Fagerlund in 2005 and has been updated by Sampo Brander in 2009 and 2012. The latter author alone is responsible for the contents of the updated version.

<sup>2</sup> Government proposal (in Finnish, *hallituksen esitys*, abbreviation HE) 235/2002: 20. – A government proposal, which is submitted by the government to parliament for consideration, may concern, among other things, a legislative Act, the Budget or ratification of a treaty. In Finland, when courts are interpreting the law, they normally take government proposals and other preparatory materials of an Act into consideration as an expression of the intention of the legislator. See Section 3.6.

<sup>3</sup> HE 235/2002: 49.

possibility of reacquisition of Finnish citizenship for Finnish expatriates was made permanent.

The amendments of Finnish nationality legislation have been closely connected to the general immigration policy. The 1990s witnessed radical changes to the immigration pattern in Finland, as the number of foreigners and, consequently, applications for citizenship almost quadrupled over a decade. With the adoption of the 2003 Nationality Act, a change towards slightly more restrictive conditions for naturalisation, including stricter residence and language skills requirements (sect. 13), could be observed. In 2011, however, the required period of residence was shortened as a part of the general governmental policy to promote work-related immigration.

The Åland Islands, located in the Baltic Sea between Finland and Sweden, are a region of specific interest with regard to citizenship matters in Finland. Besides being Finnish citizens, the majority of the 28,000 Ålanders also possess a kind of regional citizenship called ‘right of domicile’, acquisition of which is subject to strict rules.

In the Finnish language, both *nationality* and *citizenship* can be translated by one term, *kansalaisuus*. This term means a person’s membership in a state and is mainly a legal concept, although it also has a political connotation, as it implies a person’s ability to participate in societal activities. The dichotomy of the English language does not exist in Finnish: *kansalaisuus* is the only possible translation of *citizenship* and the only possible translation of *nationality*, when nationality is used as a synonym of citizenship.

On the other hand, unlike *nationality* in English, *kansalaisuus* in Finnish has no reference to ethnic origin: the term used in this regard is *kansallisuus*—or, when *nationality* is used as a synonym of *nation*, *kansakunta* or *kansa*—and these terms have nothing to do with citizenship. Since there are so many possible translations of nationality, it is more suitable to translate *kansalaisuus* as citizenship, which is more unambiguous in this regard.

With respect to legislative translation, it is noteworthy that the Ministry of the Interior has used both terms in its unofficial English translation of the Act in force: the term used in the sections of the Act is citizenship,<sup>4</sup> but the name of the Act, *kansalaisuuslaki*, has nonetheless been translated as ‘Nationality Act’. Accordingly, names of Finnish Acts are translated with the term nationality in this report, although the term used in general is citizenship.

## 2 Historical development

### 2.1 Citizenship in Finland before independence

Finland was an integral part of the Swedish Kingdom between the fourteenth century and 1809. Persons inhabiting this eastern part of the Kingdom at that time were consequently subjects of the Swedish King. Persons residing within the Swedish territory enjoyed the civil rights provided for in the Swedish National Law Code of

<sup>4</sup> See e.g. definitions in sect. 2: ‘For the purposes of this Act: 1) citizenship [*kansalaisuus*] means a legislative bond between an individual and the State defining the individual’s status in the State as well as the basic rights and duties existing between the individual and the State [...]’.

1734. Moving abroad led to the loss of these rights (e.g. right to inheritance). Women derived their rights from their husbands (Rosas & Suksi 1996: 268).

At that time, only people born in Sweden or Finland could be appointed to certain governmental offices. The Swedish monarch could, however, appoint foreigners to such offices on grounds of special achievements for the state. This can be regarded as a first kind of naturalisation arrangement (Rosas & Suksi 1996: 268–269).

As a result of the war between Sweden and Russia in 1808–1809, Sweden was forced to relinquish Finland to Russia. In March 1809, the Finnish Estates swore allegiance to the Russian Emperor Alexander I. According to art. 4 of the Peace Treaty of Hamina, signed the next autumn between Russia and Sweden, people residing in the ceded area were freed from their oath of allegiance to the Swedish Crown (Leitzinger 2009).

From 1809 to 1917, Finland was an autonomous Grand Duchy within the Russian Empire. The Russian Tsar assumed the position of Grand Duke of Finland, but the law applicable within the Grand Duchy was still the old Swedish law, most notably the 1772 Constitution Act and the 1789 Act of Union and Security. After the creation of this distinct constitutional and legal order, Finland constituted a political entity of its own, forming a part of Russia in international agreements, but a state under constitutional law for domestic purposes (Rosas & Suksi 1996: 269–270).

In the nineteenth century, Russian law did not recognise nationality or citizenship as a legal concept. The legislation did not talk about citizens; it only mentioned subjects of the Russian Empire (Jussila 1978: 5). However, citizenship was not an unknown concept for the Russians. This is evident from the expression used by the Grand Duke in 1809: he referred to citizens of Finland by using the French expression '*citoyens de la Finlande*' when granting the regulations for the Finnish Governmental Council. This can be considered as the origin of Finnish citizenship as a distinct legal concept. Furthermore, Finnish citizenship and naturalisation possibilities were mentioned in a number of resolutions thereafter (Rosas & Suksi 1996: 269–270).

It was clear from the beginning of the Grand Duchy period that Finns had a special position compared to other subjects of the Russian Empire. The use of the Russian, Swedish and Finnish languages, as well as decrees and acts applicable in Finland imply that being a Finnish subject was something other than being merely a Russian subject (Jussila 1978: 7). Finns were in a sense both Russian and Finnish subjects, while other subjects of the Russian governorate were merely considered subjects of the Russian Empire, and they did not enjoy civil rights in Finland. If they wished to enjoy such rights in Finland they had to become naturalised Finnish citizens. Finns, on the other hand, were not regarded as foreigners in the rest of the Russian Empire where they enjoyed all the same privileges as any other Russian subject (Screen 1978: 21). Foreigners who moved to Finland and became subjects under the Russian Empire were at the same time guaranteed civil rights in Finland, while foreigners moving to the territory of the Russian governorate did not automatically benefit from civil rights in the Grand Duchy of Finland (Jussila 1978: 9).

In 1858, a Decree was promulgated in Finland and Russia simultaneously regarding the registration in Finland of Russian subjects and foreigners residing in

Russia.<sup>5</sup> The Decree introduced a kind of naturalisation possibility by codifying customary procedures for the application for civil rights in Finland. First, an individual application had to be made to the governor. The governor gave his opinion on the application and sent it to the Department of Economy at the Senate. After the Department had delivered its opinion, the application was decided upon by the Grand Duke. If the application was accepted, the applicant was registered in the parish where he wished to reside, and he then enjoyed most of the same rights as a Finnish subject born in Finland. The Russian nobility did, however, not enjoy the same rights as the Finnish nobility; instead they maintained their nobility rights in Russia (Jussila 1978: 14). The main rule was that if an applicant had had his permanent residence in Finland for the last three years, had a good reputation, and was able to support himself he could be naturalised in Finland. Naturalisation was extended to his wife and minor children. *Ius sanguinis* was the principle followed for persons born in Finland, but Finnish citizenship was only derived from a Finnish father, not from a Finnish mother. A Finnish citizen who took up residence abroad lost his Finnish citizenship (Rosas & Suksi 1996: 270–271).

## 2.2 The first Finnish Constitution and the first nationality laws of the Republic of Finland

On 6 December 1917, Finland declared itself an independent state. In the Constitution Act of 1919<sup>6</sup>, which was the newly independent Finland's first Constitution, there were two provisions relevant to the acquisition and loss of citizenship. The principle of *ius sanguinis* was laid down in sect. 4, according to which everyone born to Finnish parents had the right to Finnish citizenship. Spousal transfer of citizenship was explicitly mentioned, i.e. Finnish citizenship was automatically transferred from a Finnish man to his foreign wife upon marriage. Transfer of citizenship was not possible the other way round, meaning that a Finnish woman could not pass her citizenship to a foreign husband. Sect. 4 also provided for legislation on the naturalisation of foreigners. According to sect. 31, the President of the Republic had the power to grant Finnish citizenship to a foreigner and to release a person from Finnish citizenship.

The first Nationality Act<sup>7</sup> was adopted in 1920. The Act laid down the conditions for naturalisation of foreign citizens: a person who had lived for the last five years in Finland, had a good reputation and was able to support himself and his family could upon application acquire Finnish citizenship, provided that he lost or was freed from his former citizenship (sect. 1). A wife and minor children would automatically acquire Finnish citizenship together with the husband/father (sect. 2). A

<sup>5</sup> *Förordning om Ryske undersåtares och i Ryssland vistande utlänningars inskrifning i Finland*, entry into force 20 March 1858.

<sup>6</sup> 94/1919 *Suomen hallitusmuoto*, entry into force 17 July 1919. – Laws, decrees and other statutes are officially published in *The Statutes of Finland* (in Finnish *Suomen säädöskokoelma*, between 1917–1980 *Suomen asetuskokoelma*). The official way to cite the source of laws is to announce the full name of the act, the number of the Statute and year, which with the above-mentioned Act would be '*Suomen hallitusmuoto 94/1919*'. In this report, however, the number of the Statute and year are announced before the name of act.

<sup>7</sup> 33/1920 Act on the Grant of Finnish Citizenship to a Foreigner (*laki ulkomaalaisen ottamisesta Suomen kansalaiseksi*), entry into force 20 February 1920.

person who acquired Finnish citizenship would only be regarded as a Finnish citizen after he or she had taken an oath of allegiance before the county governor (sect. 6).

The 1920 Nationality Act did not contain any provisions on loss of citizenship. Emigrated Finnish citizens consequently often ended up with dual citizenship or were not able to acquire the citizenship of their new country if the new country did not accept dual citizenship. Therefore in 1927 this Act was complemented with an Act on the Loss of Finnish Nationality.<sup>8</sup> Acquisition of foreign citizenship when taking up residence abroad resulted thereafter in the loss of Finnish citizenship (sect. 1). This provision also made the first small step towards gender equality in nationality legislation by putting an end to the practice according to which a Finnish woman who married a foreign man automatically lost her Finnish citizenship: thereafter the loss was conditional on the actual acquisition of a foreign citizenship (Rosas & Suksi 1996: 272–273).<sup>9</sup> A person without any close connections to Finland also lost his or her Finnish citizenship at the age of 22 (sect. 2). The Act furthermore opened up the possibility for Finnish citizens to apply to the President for release from their Finnish citizenship (sect. 4).

In 1941, provisions on acquisition and loss of citizenship were included in one Act, the 1941 Act on Acquisition and Loss of Finnish Nationality.<sup>10</sup> This Act was more detailed than its predecessors and was influenced by the nationality laws of the Nordic neighbours, as well as the 1930 Hague Congress on the Codification of International Law. Prevention of dual citizenship and statelessness were the principal aims of the Act, and gender equality was further promoted: children born out of wedlock and children born to stateless fathers acquired Finnish citizenship from their mother (sect. 1), and facilitated naturalisation of foreign men marrying Finnish women was introduced (sect. 4 (2)). Foundlings were, for the first time, mentioned in the Act (sect. 2), and the oath of allegiance was abolished.

### 2.3 Consequences of the First and Second World Wars on citizenship

The territorial adjustments made with regard to the Finnish-Russian/Soviet border after the First World War as well as after the Winter War of 1939–1940 and the Continuation War of 1941–1944 had consequences for those living in the affected area. The Peace Treaty of Tartu in 1920<sup>11</sup> had resulted in the Pechenga (Petsamo) area becoming part of the Finnish territory. As a consequence, a number of Russians became residents of Finland. The Peace Treaty of Tartu contained a provision on the status of these persons, automatically making them Finnish citizens. Those who had reached eighteen years of age could opt for keeping their Russian citizenship and

<sup>8</sup> 181/1927 *Laki Suomen kansalaisuuden menettämisestä*, entry into force 1 January 1928.

<sup>9</sup> The major reason for this change was the new practice adopted by the United States of America in 1922, prescribing that a foreign woman would no longer automatically acquire the citizenship of her American husband upon marriage. As a consequence, a Finnish woman marrying an American man became stateless. By making acquisition of another citizenship a condition for losing Finnish citizenship when taking up residence abroad, such a situation was avoided.

<sup>10</sup> 325/1941 *Laki Suomen kansalaisuuden saamisesta ja menettämisestä*, entry into force 1 July 1941.

<sup>11</sup> FTS 1/1921. In Finland international treaties are officially published in the *Treaty Series of the Statutes of Finland*, which can be abbreviated as *Finnish Treaty Series* or *FTS* (in Finnish the name is *Suomen säädöskokoelman sopimussarja*, before 1981 *Suomen asetuskokoelman sopimussarja*, and abbreviation *SopS*). The numbering of treaties in FTS is not related to the numbering of domestic acts in the Statutes of Finland.

freely move to Russian territory. Persons who made use of this option were not deprived of their property rights in Pechenga (Rosas & Suksi 1996: 274).

According to the 1940 Peace Treaty of Moscow<sup>12</sup> (which put an end to the Winter War) Finland had to cede territories, most notably Karelian Isthmus and Ladoga Karelia, to the Soviet Union. The few persons who had remained in these areas were regarded as having lost their Finnish citizenship. During the Continuation War, Finland temporarily reacquired areas that had been occupied by the Soviet Union during the Winter War. An Act was consequently adopted in order to make it possible for people who had remained in the occupied areas to regain their lost Finnish citizenship by declaration.<sup>13</sup> Those who had in the meantime been moved to the territory by the Soviet Union were treated as foreigners and did not benefit from the right to facilitated acquisition of Finnish citizenship by declaration (Rosas & Suksi 1996: 274).

A group which was specifically mentioned in the 1941 Nationality Act were Ingrian and East Karelian refugees, who had arrived to Finland after the First World War and during the Second World War. Finland had claimed, in vain, the territories of Ingria and East Karelia in the negotiations of the 1920 Peace Treaty of Tartu. During the Continuation War, Finland temporarily advanced over the old frontier to these territories. According to sect. 13 and 14 of the 1941 Nationality Act, children of Ingrian or East Karelian refugees, who had an ethnic Finnish origin, could acquire Finnish citizenship by declaration: the condition was that they were born in marriage in Finland or out of wedlock to a refugee woman. This is the only time that ethnicity has been of significance to Finnish citizenship law (Rosas & Suksi 1996: 273–274).<sup>14</sup>

## 2.4 Gender equality and Nordic influences

A major change to Finnish citizenship legislation was realised in 1968, as the constitutional provision regarding citizenship was amended and a new Nationality Act and an executive Nationality Decree were adopted. Equality between spouses regarding the acquisition of Finnish citizenship was introduced in the amendment of sect. 4 of the Constitution Act,<sup>15</sup> with the rule on automatic acquisition of Finnish citizenship by a foreign woman marrying a Finnish man finally being abolished. While Finland is seen as a pioneer of women's rights — being the first European country to accept women's right to vote in 1906 — it is remarkable that Finland was one of the last European countries to introduce gender equality in this regard.

<sup>12</sup> FTS 3/1940.

<sup>13</sup> 838/1941 Act on the Citizenship of Certain Inhabitants of Areas Returned to the Realm (*laki eräiden valtakunnan yhteyteen palautetun alueen asukkaiden kansalaisuudesta*), entry into force 6 December 1941.

<sup>14</sup> Under the provisions of the Interim Peace Treaty of 19 September 1944 (FTS 4/1944), which put an end to the Continuation War, all Ingrian and East Karelian Finns who had been Soviet citizens were returned to the Soviet Union. During the war many of these ethnic Finns with Soviet citizenship had joined the Finnish army, as they had been given to believe that they would acquire Finnish citizenship in exchange. The right to facilitated acquisition of Finnish citizenship for descendants of Ingrian and East Karelian refugees was legally abolished with the enactment of the 1968 Nationality Act.

<sup>15</sup> 518/1967 Act amending Section 4 Subsection 1 of the Constitution Act (*laki hallitusmuodon 4 §:n 1 momentin muuttamisesta*), entry into force 1 July 1968.

The 1968 Nationality Act<sup>16</sup> which replaced the previous Act on Acquisition and Loss of Finnish Nationality of 1941, also introduced the possibility of facilitated discretionary naturalisation for the spouses of Finnish citizens, regardless of gender (sect. 4 (2)).<sup>17</sup> The 1968 Act also facilitated acquisition of Finnish citizenship for women who had lost their Finnish citizenship due to marriage to a foreign man or because their spouses had acquired foreign citizenship (sect. 15 (4)): these women could reacquire Finnish citizenship by submitting a declaration within five years of the entry into force of the Act. These amendments made the Finnish accession to the United Nations Convention on the Nationality of Married Women (1957) feasible. Finland ratified the Convention on 15 May 1968.<sup>18</sup>

The prevention of statelessness was also taken one step forward by the 1968 Nationality Act. Children born in Finland who would otherwise become stateless now automatically acquired Finnish citizenship at birth (sect. 1 (1)(4)). The basis for this change is found in the Convention on the Reduction of Statelessness (1961), even though Finland did not ratify the Convention until 40 years later.<sup>19</sup> Finland did however accede to another treaty in October 1968, the United Nations Convention relating to the Status of Stateless Persons (1954),<sup>20</sup> which states in art. 32 that the ‘Contracting States shall as far as possible facilitate the [...] naturalization of stateless persons.’ Due to cooperation with the other Nordic countries on citizenship matters, Finland made a general reservation to this Convention still allowing citizens of the Nordic countries to receive special rights and privileges.

Following the 1962 Nordic Treaty of Co-operation<sup>21</sup> and a recommendation of the Nordic Council (number 1–1964), facilitated acquisition of Finnish citizenship for Nordic citizens was introduced in the 1968 Nationality Act. As a consequence of this change, the normal requirement of five years of habitual residence was not applicable to citizens of the other Nordic countries who wished to be naturalised in Finland (sect. 4 (2)).<sup>22</sup>

Another major reform in the 1968 Nationality Act, the introduction of the declaration procedure for acquisition of citizenship, was also due to Nordic cooperation. In compliance with the Nordic Agreement of 1950, the declaration procedure was made applicable to citizens of the other Nordic countries who for the past seven years had had their habitual residence in Finland (sect. 10 (4)) and to former Finnish citizens who in the meantime had been citizens of another Nordic country and then resettled in Finland (sect. 10 (5)). The Nordic cooperation was also of significance with regard to declaration procedures available to former Finnish citizens who had been continuously resident in Finland until the age of eighteen (sect. 6) and to second-generation immigrants (sect. 10 (3)), for whom residence in

<sup>16</sup> 401/1968 *Kansalaisuuslaki*, entry into force 1 July 1968.

<sup>17</sup> The provision was very vague, stating merely that a person married to a Finnish citizen could be naturalised despite normal requirements not being fulfilled. In 1968, normal requirements included five years of habitual continuous residence in Finland, that the applicant was eighteen years of age or older, and that he or she was living a respectable life and had a secure income (sect. 4 (1)).

<sup>18</sup> FTS 32/1968.

<sup>19</sup> See Section 2.7 below.

<sup>20</sup> FTS 80/1968 and 56/1970.

<sup>21</sup> Treaty of Co-operation between Denmark, Finland, Iceland, Norway and Sweden (the so-called Helsinki Treaty), FTS 28/1962. According to art. 3 of the Treaty, the Parties must facilitate the acquisition of citizenship for citizens of the Nordic countries in another Nordic country.

<sup>22</sup> No specific time of habitual residence for Nordic citizens was mentioned in the law, but in practice two years was sufficient (Rosas & Suksi 1996: 289; HE 235/2002: 6).

another Nordic country was under certain conditions regarded as equal to residence in Finland.<sup>23</sup> Finland consequently acceded to the Nordic Agreement in 1969.<sup>24</sup>

With the adoption of the 1968 Nationality Act and Nationality Decree<sup>25</sup>, the Ministry of the Interior became the main authority involved in decisions on the acquisition and loss of Finnish citizenship. The Ministry was even given the final power of decision in the new declaration procedure (sect. 12 of the Act), but the President of the Republic remained the formal decision-making authority in other modes of acquisition and loss of citizenship.

## 2.5 Major amendments to Finnish nationality legislation in 1984

The 1968 Nationality Act became the subject of major amendments in 1984.<sup>26</sup> Gender equality was again taken one step further as parents were put on a more equal footing than before. Previously, the main principle was that children born in wedlock derived their citizenship from their father. From this point on however, a Finnish mother would always pass her Finnish citizenship to her children (sect. 1). Gender equality was consequently a reality for children born in wedlock. This amendment made possible the Finnish ratification of the International Convention on the Elimination of all Forms of Discrimination against Women on 4 September 1986.<sup>27</sup>

Adopted children were mentioned for the first time in Finnish nationality legislation in 1984. The amended Act introduced the possibility of adopted children acquiring Finnish citizenship by declaration (sect. 3b).<sup>28</sup> Furthermore, the Act elaborated on the prevention of statelessness by making it a condition for being released from Finnish citizenship that the said person would not become stateless (sect. 9). Finally, the amendments introduced a new practice with regard to children of fifteen years or older, who could no longer acquire or be released from their Finnish citizenship against their will (sect. 12a).

In 1985, a new Nationality Decree<sup>29</sup> was consequently promulgated following the amendments of the 1968 Nationality Act. This Decree introduced a new feature by providing that a citizenship application should enclose, among other things, an account of skills in the Finnish or Swedish language (sect. 1 (2)). It is noteworthy that

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<sup>23</sup> The above-mentioned former citizens could reacquire their Finnish citizenship by declaration after two years of residence in Finland. In accordance with the Nordic Agreement, habitual residence in one of the other contracting states before the age of twelve counted as residence in Finland (sect. 10 (3)). As regards the latter group, foreigners who were born in Finland and had lived there continuously could submit a declaration to acquire citizenship between 21 and 23 years of age (sect. 5 (1)). For this group of immigrants habitual residence in another Nordic country was regarded as equal to residence in Finland provided that such residence took place before the age of sixteen and more than five years before the declaration was made (sect. 10 (2)).

<sup>24</sup> Agreement on the Implementation of Certain Rules on Citizenship concluded between Denmark, Finland, Norway and Sweden, FTS 11/1969. Iceland acceded to the agreement in 1998.

<sup>25</sup> 402/1968 *Kansalaisuusasetus*, entry into force 1 July 1968.

<sup>26</sup> 584/1984 Act amending the Nationality Act (*laki kansalaisuuslain muuttamisesta*), entry into force 1 September 1984.

<sup>27</sup> FTS 67-68/1986.

<sup>28</sup> Such a declaration could be made immediately after a child had been adopted, provided that the adoption was valid in Finland and that at least one of the adoptive parents was a Finnish citizen.

<sup>29</sup> 699/1985 *Kansalaisuusasetus*, entry into force 1 September 1985.

the language skills requirement was provided only on the decree level, since there was no mention of language skills in the 1968 Nationality Act.<sup>30</sup>

## 2.6 Institutional amendments during the 1990s and new case law

In 1995, the task of processing of citizenship matters was transferred from the Ministry of the Interior to the Directorate of Immigration, a new administrative agency subordinated to the said Ministry. The Directorate was thereafter in charge of matters related to immigration, residence, refugee issues and Finnish citizenship.<sup>31</sup> In 2008, the name of the agency was changed to Finnish Immigration Service.

The formal decision-making power in citizenship affairs stayed, nevertheless, in the hands of the President of the Republic until 15 August 1998, when this authority too was transferred to the Directorate of Immigration.<sup>32</sup> A major consideration behind this amendment was the need to make the processing of citizenship matters more effective.<sup>33</sup> At the same time, a right of appeal was introduced: according to the new sect. 13a of the Nationality Act, decisions of the Directorate of Immigration could be appealed to an Administrative Court<sup>34</sup> and decisions made by this Court could be further appealed to the Supreme Administrative Court. The relevant case law in citizenship matters in Finland has therefore been developing only since August 1998.<sup>35</sup>

The vast majority of citizenship cases in the Supreme Administrative Court under the 1968 Nationality Act have concerned the conditions of discretionary naturalisation of sect. 4 (1) (18 years of age, five years of habitual continuous residence in Finland, a respectable life and a secure income) and exceptions that could be made to them according to sect. 4 (2). Especially appeals regarding the requirement of respectable life played a central role: in these cases, the Court usually considered the effect of different kind of punishments under criminal law to the requirement, and the importance that should be given to the passage of time after the punishable act. The Directorate of Immigration had in its administrative practice defined a waiting period after the crime, during which the naturalisation was possible only exceptionally. The Supreme Administrative Court made probably its most important decision under the 1968 Nationality Act on 3 August 2000, when it took the view that the waiting period does not run during the appeal proceedings before the Court: all the

<sup>30</sup> Besides the language skills requirement, the Decree included mainly procedural provisions, which were slightly more detailed than in the previous Nationality Decree of 1968, and the language was modernised.

<sup>31</sup> Amendments were made to the 1968 Nationality Act and the 1985 Nationality Decree in this regard: 155/1995 Act amending the Nationality Act (*laki kansalaisuuslain muuttamisesta*) and 223/1995 Decree amending the Nationality Decree 699/1985 (*asetus kansalaisuusasetuksen (699/85) muuttamisesta*), entry into force 1 March 1995.

<sup>32</sup> 480/1998 Act repealing Section 31 of the Constitution Act of Finland (*laki Suomen Hallitusmuodon 31 §:n kumoamisesta*), 481/1998 Act amending the Nationality Act (*laki kansalaisuuslain muuttamisesta*), 482/1998 Decree amending the Nationality Decree (*asetus kansalaisuusasetuksen muuttamisesta*), entry into force of all 15 August 1998.

<sup>33</sup> HE 49/1998.

<sup>34</sup> Before 1 November 1999, Administrative Courts were called *County Administrative Courts*. 430/1999 Act on Administrative Courts (*hallinto-oikeuslaki*), sect. 24 (3).

<sup>35</sup> Before this amendment, an appeal was possible only against decisions made in the declaration procedure by the Ministry of the Interior and, after 1 March 1995, by the Directorate of Immigration: the appeal instance was the Supreme Administrative Court. The decisions of the President were subject to an extraordinary remedy only (Pere 2008: 351; Rosas & Suksi 1996: 294–295).

conditions of naturalisation should be met at the moment when the decision is made by the Directorate of Immigration (Pere 2008: 357–359).<sup>36</sup>

Two other important decisions were made on 3 November 2000, when the Supreme Administrative Court confirmed the administrative practice according to which an established identity was a basic condition for naturalisation.<sup>37</sup> The decree-based language skills requirement, on the other hand, was not specified in case law. In the established administrative practice it had been interpreted to mean satisfactory oral skills in Finnish or Swedish (Pere 2008: 359–360).

The new Constitution of Finland, which repealed the Constitution Act of 1919, entered into force on 1 March 2000.<sup>38</sup> Citizenship issues are treated in sect. 5, according to which Finnish citizenship is acquired at birth and through the citizenship of parents, or upon declaration or application, as determined in more detail by an Act. According to a new provision in subsect. 2, voluntary or involuntary loss of citizenship is possible only if the person concerned is in possession of or will be granted the citizenship of another State. The prevention of statelessness has thereby been elevated to a constitutional principle.

## 2.7 The political and legislative process leading to the enactment of the new Nationality Act

In addition to the above-mentioned amendments, plans of a more general reform of nationality legislation started to evolve during the 1990s. These ideas were partly due to shortcomings of the 1968 Nationality Act which were highlighted by the considerable growth of the immigrant population and, therefore, the number of citizenship applications in Finland. On the other hand, there were also external influences for the reform, as the lobbying work of Finnish expatriate groups and views presented in other Nordic countries created pressure for the acceptance of dual citizenship. New legislation was equally needed to enable Finland's accession to the 1997 European Convention on Nationality and the 1961 United Nations Convention on the Reduction of Statelessness.

A principal consideration behind the reform was that the old Nationality Act was deficient and partly outdated. There were major inadequacies with regard to the legal safeguards and definitions of the requirements for naturalisation, as the provisions of the old Act had a rather general character. The requirements for acquiring Finnish citizenship were not clear enough for an applicant to know beforehand whether he or she would be granted Finnish citizenship upon application.<sup>39</sup> The mandates and duties of the authorities involved in the procedure

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<sup>36</sup> KHO 3.8.2000 T 2096, LRS. 'KHO' is the abbreviation of *korkein hallinto-oikeus*, the Supreme Administrative Court in Finnish. – According to *Pere*, a major argument behind this solution adopted by the Supreme Administrative Court was that if the running of the waiting period during the administrative procedure had been accepted, it would have resulted in a great number of appeals merely due to this procedural advantage. *Pere* nevertheless points out that in Swedish case law the running of the waiting period has been taken into account in similar situations.

<sup>37</sup> KHO 3.11.2000 T 2771 and 2772.

<sup>38</sup> 731/1999 *Suomen perustuslaki*.

<sup>39</sup> It can be added that the shortcomings of the Act were largely compensated by the 1985 Nationality Decree and various ministerial briefs. However, as rules for acquisition and loss of Finnish nationality shall, according to sect. 5 of the new 2000 Finnish Constitution, be provided in a Parliamentary Act, the above-mentioned practice of decrees and ministerial briefs was not legally satisfactory.

were not clearly defined either, which had a negative impact on the efficiency and expediency of the procedure.<sup>40</sup>

When the previous Nationality Act was adopted in 1968, the immigrant population was small, and it was mostly foreign spouses of Finnish citizens who were naturalised. The picture changed in the 1990s when immigration to Finland started to increase considerably. At the beginning of the decade, 26,300 foreigners were living in Finland. The number had grown to 68,600 in 1995, to 91,100 in 2000 and to 103,700 in 2002 (Statistics Finland 2012b), meaning that the number of foreigners almost quadrupled between 1990 and 2002. The increase in the total number of citizenship applications and acquisitions of Finnish citizenship reflected this increase. Between 1991 and 1995, on average only 1,027 applications were submitted and 854 persons were granted Finnish citizenship each year, whereas between 1996 and 2000, the respective figures were 2,637 and 2,829 (Statistics Finland 2012a).<sup>41</sup> It was evident that the rules on acquisition and loss of Finnish citizenship had to be adapted in order to reflect this change in the immigration pattern.

Discussions on a new Nationality Act had already started at the beginning of the 1990s. They evolved largely around the issue of multiple citizenship. A reform of the old Nationality Act was however not initiated until 1997, under a coalition government led by the Social Democratic Party.<sup>42</sup>

The Finland Society<sup>43</sup> and the Finnish Expatriate Parliament<sup>44</sup> were among the driving forces initiating and supporting legislation that would accept multiple citizenship. The Finnish Expatriate Parliament had, ever since it was established in 1997, had the acceptance of multiple citizenship as a central goal (Peltoniemi 2003).

In December 1999, the Social Democrat Riitta Prusti presented an initiative according to which multiple citizenship would be accepted.<sup>45</sup> It was signed by 103 of the 200 Members of Parliament from the whole spectrum of parties. This initiative was later included in the proposition for a new Nationality Act.

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<sup>40</sup> HE 235/2002: 15.

<sup>41</sup> Two important reservations must be made regarding these figures. First, the total number of applications includes also the small number of applications for release from Finnish citizenship. There are no statistics available on the number of naturalisation applications only. Secondly, the number of people who were granted citizenship includes all acquisitions, both by application and declaration. The figures above should therefore be understood only as a general illustration of the trends in the 1990s.

<sup>42</sup> The Ministry of the Interior was at that time headed by Jan-Erik Enestam, a minister from the Swedish People's Party, a party mainly representing the Swedish-speaking population of Finland. He expressed resistance to accepting multiple citizenship and referred to the ongoing debate in the other Nordic countries on the issue. Work on the reform was consequently temporarily interrupted in 1997 in order to follow the developments in the other Nordic countries that had likewise started revising their nationality legislation (Peltoniemi 2003). See also HE 49/1998 and KK 335/2000 ('KK' stands for *kirjallinen kysymys*, written question by a Member of Parliament to the Government), Accepting dual citizenship for persons born in Finland and residing outside the Nordic countries (*Pohjoismaiden ulkopuolella asuville Suomessa syntyneille myönnettävä kaksoiskansalaisuus*), Raimo Vistbacka/True Finns Party.

<sup>43</sup> The Finland Society, founded in 1927, is an interest group providing expertise and service to Finnish expatriates, and Finns moving abroad. The Society furthermore conveys an up-to-date image of Finland to the outside world and raises awareness about Finnish expatriates in Finland.

<sup>44</sup> The Finnish Expatriate Parliament, founded in 1997, is a cooperative forum and promoter of interests for all Finns living abroad. At the Parliament Finnish expatriates living around the world come together and decide collectively on issues that are of importance for them.

<sup>45</sup> LA 180/1999 ('LA' stands for *lakialoite*, legislative motion), Act amending the Nationality Act (*laki kansalaisuuslain muuttamisesta*), Riitta Prusti/Social Democratic Party.

The acceptance of multiple citizenship was further facilitated by Nordic considerations. Sweden, as the country with the greatest number of Finnish expatriates, accepted multiple citizenship in 2001, when the new Swedish Nationality Act entered into force.<sup>46</sup> When the Finnish Nationality Act of 2003 was adopted, the impression was that Norway — which was also working on a new Nationality Act — was going to accept multiple citizenship as well.<sup>47</sup>

As a result of the intense lobbying work of the Finnish expatriates and the above-mentioned Nordic considerations, the political parties were to a large extent in agreement on accepting multiple citizenship. The political debate on the issue was therefore rather tame. The only entity with critical remarks about the introduction of multiple citizenship was the Ministry of Defence which drew attention to the risk that multiple citizenship might cause to national security, e.g. by making espionage easier.<sup>48</sup> All other proposed important changes, for example the introduction of a language requirement in the Act and the strengthened residence requirement (from five to six years) were not debated at all, but tacitly accepted.<sup>49</sup> This almost non-existent political debate can at least partly be explained by the fact that even after the considerable increase in immigration during the 1990s, the number of foreigners in Finland was still quite small compared to many European countries: at the end of 2002, of a total population of 5.2 million, less than 104,000 (approximately 2 per cent) had foreign citizenship (Statistics Finland 2012b).<sup>50</sup> The introduction of new requirements for acquisition of citizenship has therefore consequences for a smaller group of persons in Finland than in many other European countries.

The Bill for the new Nationality Act, drafted by the Ministry of the Interior in cooperation with the Directorate of Immigration<sup>51</sup>, was introduced in Parliament in 2002 and approved in January 2003 after the backing of all major political parties. The new Nationality Act which repealed the 1968 Nationality Act and the 1985 Nationality Decree with their later amendments, entered into force on 1 June 2003.<sup>52</sup> A new Nationality Decree was issued in August 2004.<sup>53</sup> The contents of these two statutes will be explained in detail in Section 3.

<sup>46</sup> *Lag om svenskt medborgarskap*, Swedish Code of Statutes SFS 2001:82.

<sup>47</sup> The Norwegian Parliament adopted the new Norwegian Nationality Act on 8 June 2005. The Act does not accept multiple citizenship. Even though the Norwegian Official Report on a new Nationality Act was in favour of multiple citizenship, the Ministry of Local Government and Regional Development took a negative view. See the proposition to the *Odelsting*: Ot.prp. nr. 41 (2004-2005) *Om lov om norsk statsborgerskap*.

<sup>48</sup> Information provided by researcher Jussi Ronkainen at the University of Joensuu in an e-mail of 7 June 2005.

<sup>49</sup> Information provided by Tiina Suominen, nationality division director at the Directorate of Immigration, in a telephone conversation on 15 September 2005.

<sup>50</sup> It must be added that these figures do not reveal the whole truth of the number of persons with a foreign origin, as the number of first- and second-generation immigrants is a bit higher than the number of persons with a foreign citizenship living in Finland. There are no statistics available on the number of first- and second-generation immigrants in Finland.

<sup>51</sup> Fifty different agencies, organisations, and interest groups were asked to state their views on the government proposal for the 2003 Nationality Act. Among these were the Finnish Expatriate Parliament, the Finland Society, the Refugee Advice Centre, relevant ministries, and the administrative courts. A specific statement on multiple citizenship and its impact on the various branches of the administration was asked for and given by seventeen different agencies, including the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Defence and the Ministry of Labour (HE 235/2002: 26–27).

<sup>52</sup> 359/2003 *Kansalaisuuslaki*.

<sup>53</sup> 799/2004 Government Decree on Nationality (*valtioneuvoston asetus kansalaisuudesta*), entry into

One important aim behind the 2003 Nationality Act had been to provide for Finland's accession to the 1997 European Convention on Nationality and the 1968 UN Convention on the Reduction of Statelessness. This goal was finally achieved in August 2008, when Finland ratified the conventions.<sup>54</sup> After these accessions, Finland is no longer outside any important international convention on citizenship issues.

## 2.8 The 2011 amendment of the Nationality Act

The 2003 Nationality Act became a subject of a major amendment in 2011. The foundations of the reform were established after the 2007 Parliamentary elections when a new centre-right coalition government was formed. In the Government Programme, it was proclaimed as a kind of general principle in immigration matters that work-related immigration would be promoted, taking into account the demographic trends and the resulting need for labour in Finland and the EU. In this regard, it was further stated that the period of residence required for Finnish citizenship would be shortened and naturalisation of foreign students settling in Finland facilitated (Government Programme 2007: 20–21).<sup>55</sup>

In October 2008, the Ministry of the Interior started a project in order to implement the goals of the Government Programme and to investigate the need for other major modifications of the Nationality Act. During the preparation work, 68 different agencies, organisations and interest groups were given a chance to express their opinion on the reform plans.<sup>56</sup>

The government proposal for the amendment of the Nationality Act was submitted to the Parliament in June 2010. During the parliamentary proceedings, no fundamental changes were made to the Bill which was accepted in January 2011 with a large majority of 157 votes for and 5 votes against the proposed reform. The amendment of the Nationality Act entered into force on 1 September 2011.<sup>57</sup>

According to the government proposal, the general objective of the amendment is to promote the social integration of aliens living permanently in Finland by making acquisition of citizenship possible in a more flexible way. Naturalisation is thus seen as a means to support integration of immigrants into society. This can be regarded as an important change, as in the original 2003 Nationality Act, acquisition of Finnish citizenship was perceived rather a reward for successful integration that had already taken place. In this regard, a comparison was made in the government proposal on standpoints adopted by different countries on the relationship between integration and naturalisation, i.e. naturalisation as a means to support integration, naturalisation as a reward for integration and the combination of these two standpoints.<sup>58</sup>

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force 1 September 2004.

<sup>54</sup> FTS 93–95/2008 and 96–97/2008.

<sup>55</sup> Between 2003 and 2011, the Nationality Act had been subject to only some small technical amendments.

<sup>56</sup> Government proposal for the amendment of the Nationality Act, hereafter *HE 80/2010*: 26.

<sup>57</sup> 579/2011 Act amending the Nationality Act (*laki kansalaisuustlain muuttamisesta*). – At the time of writing (in October 2012), the Ministry of the Interior has not yet updated its unofficial English translation of the Nationality Act. All the translations on the amended sections are therefore made by the author who is alone responsible for their accuracy.

<sup>58</sup> *HE 80/2010*: 1, 4, 14.

The discussion in the EU was also taken into consideration in the government proposal. References were made to the Tampere European Council Conclusions in 1999 on the endorsement of the objective that long-term legally resident third country nationals be offered the opportunity to obtain the citizenship of the Member State in which they are resident. The positions taken in the European Commission's Handbook on Integration on the importance of granting citizenship and political rights to long-term resident immigrants were likewise pointed out. Accordingly, one objective of the amendment is to promote active citizenship of permanently resident immigrants by contributing to their participation in different fields in society where they acquire full political rights and duties through naturalisation. It is hoped that the resources of immigrants could thereby be put to use in the way which is optimal for both immigrants themselves and for the surrounding society as a whole.<sup>59</sup>

The essential contents of the 2011 amendment are explained in detail in Section 3.

### **3 The current citizenship regime**

The current citizenship regime in Finland is based on the 2003 Nationality Act with its amendment in 2011 and the 2004 Nationality Decree. The modes of acquisition and loss of Finnish citizenship, as well as the mandate and duties of the responsible authorities are laid down in these statutes which make up the core of Finnish nationality legislation.

#### **3.1 The major principles of the 2003 Nationality Act**

As mentioned in the history Section, political intentions behind the 2003 Nationality Act of 2003 were manifold. Acceptance of multiple citizenship, prevention of statelessness and gender equality were among the principal considerations behind the Act. The need for a more detailed law reducing the different possible interpretations of the old Act was also a factor of significance in the work towards a new Nationality Act.

##### *The acceptance of multiple citizenship*

The main novelty in the Nationality Act of 2003 was the acceptance of multiple citizenship. Loss of Finnish citizenship is no longer a consequence of the acquisition of a foreign citizenship. Nor does the current Act include a requirement of renunciation of former citizenships when acquiring Finnish citizenship. The 2003 Act furthermore facilitated the reacquisition of Finnish citizenship by persons who had lost their Finnish citizenship due to the earlier prohibition of multiple citizenship.

In Finland, multiple citizenship had been considered problematic with regards to voting rights, military service, consular assistance and the security of the Republic. A main argument against multiple citizenship was that it was not considered expedient that a person who took up residence abroad would retain his or her Finnish citizenship when acquiring a foreign citizenship. Nor was it considered appropriate that Finnish citizenship would be passed on from one generation to another for those

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<sup>59</sup> HE 80/2010: 4, 14–15, 19, 24.

with little or no connection to Finland. Security reasons also spoke in favour of non-acceptance of multiple citizenship. Due to the risk of loyalty conflicts, it was not considered recommendable that minorities with multiple citizenship should evolve.<sup>60</sup>

As explained in the history Section, the growing tendency internationally and the increasing willingness nationally to accept multiple citizenship led Finland to reconsider its views on the matter in the 1990s. A major argument for accepting multiple citizenship was the positive implications for the individual. Another argument was that acceptance of multiple citizenship would contribute to preserving contact with emigrant and diaspora populations abroad. Furthermore, it was now considered to be in the interest of the Finnish Republic that immigrants who had taken up permanent residence in Finland should acquire Finnish citizenship. It was considered important that after the integration phase the foreign population would acquire full rights and obligations in order to participate in Finnish society. Despite the arguments against multiple citizenship, the overall picture was still that multiple citizenship would better serve the interests of Finland.<sup>61</sup>

Prior to the law reform, citizens of certain states had difficulty in acquiring Finnish citizenship because the legislation of their state of nationality made renunciation of their citizenship impossible.<sup>62</sup> In practice, however, such citizens were exempted from the requirement to renounce their former citizenship.<sup>63</sup> Even though it was already possible for this group to acquire Finnish citizenship prior to the reform, the reform made the exemption procedure superfluous and acquisition of Finnish citizenship easier.

Other groups benefiting from the acceptance of multiple citizenship were former Finnish citizens, descendants of Finnish citizens and descendants of former Finnish citizens who had lost their Finnish citizenship or had not been granted Finnish citizenship due to the previous prohibition of multiple citizenship. These groups were given a right to (re)acquire Finnish citizenship by declaration during a transitional period of five years (sect. 60) regardless of their country of residence.

During the five-year transitional period, which was in force from 1 June 2003 to 31 May 2008, 19,264 declarations concerning 21,841 persons were submitted to the Finnish Immigration Service<sup>64</sup> on the basis of sect. 60.<sup>65</sup> Among these persons, the five biggest citizenship groups were Swedes (5198), citizens of the United States of America (4222), Canadians (3622), Australians (2898) and Germans (1379), these groups representing almost four fifths (79 per cent) of the total number of persons

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<sup>60</sup> HE 235/2002: 6; KK 335/2000.

<sup>61</sup> HE 235/2002: 17.

<sup>62</sup> These included citizens of Iran, the former Yugoslavia, and Algeria. Information provided by the Refugee Advice Centre, a Finnish non-governmental organisation, in 2005.

<sup>63</sup> HE 235/2002: 6, 38.

<sup>64</sup> Before 2008, the name of the authority was *Directorate of Immigration*.

<sup>65</sup> The number of persons concerned is larger than the number of declarations, since the same declaration could be used to acquire citizenship for children in the custody of the person submitting a declaration. - The number of declarations was not quite as high as was originally expected (5,000 declarations each year) (UVI 2004). It is noteworthy that almost half of the declarations (47.3 per cent) were submitted during the last five months of the transitional period (Migri 2009a: 3). The fact that many former citizens waited so long before submitting a declaration was probably at least partly due to the declaration fee, which was originally €300 and later €240 for adults. This was considered by many to be out of proportion and it was hoped – in vain – that the fee would be reduced before the end of the transitional period.

concerned. By the end of 2010, 21,236 persons had been granted Finnish citizenship on the basis of sect. 60 (Migri 2011: 5).

Even though the information campaign on the provisional declaration procedure was quite extensive, it did apparently not reach all former Finnish citizens and their descendants.<sup>66</sup> Ever since the transitional period ended on 1 June 2008, the Finnish Expatriate Parliament had been lobbying for the restitution of the declaration procedure for former Finnish citizens living abroad (FEP 2009). This goal was finally achieved with the amendment of the Nationality Act in 2011. According to the amended sect. 29 of the Nationality Act, a former Finnish citizen may now acquire Finnish citizenship by declaration, regardless of whether he or she lives in Finland or abroad. However, unlike the provisional declaration procedure of sect. 60, the amended sect. 29 does not concern descendants of former Finnish citizens, whose status was often very hard to verify during the transitional period.<sup>67</sup>

### *Gender equality regarding ius sanguinis*

The 2003 Nationality Act followed the trend of many earlier amendments to Finnish nationality legislation by promoting gender equality: this time, nevertheless, it was the position of men which was improved as both parents were put in a more equal position in cases where a child's citizenship is determined by *ius sanguinis* (sect. 9). A child will always acquire Finnish citizenship from the mother, no matter whether the child is in her custody or not (sect. 9 (1)(1)). The same applies to a Finnish father who is married to the child's mother (sect. 9 (1)(2a) and (3a)). The novelty of the current Act is that a child born out of wedlock to a Finnish father and a foreign mother acquires Finnish citizenship at birth provided that paternity has been established and the child is born in Finland (sect. 9 (1)(2b) and (3b)). A child born abroad, out of wedlock, to a foreign mother and a Finnish father acquires Finnish citizenship after birth through legitimation, that is to say when his or her parents get married, provided that paternity has been established (sect. 11). If the Finnish father and the foreign mother of a child born abroad do not get married, the child can acquire Finnish citizenship by declaration (sect. 26 (2)).

It can be summarised that since 2003 a child born out of wedlock to a Finnish man is always entitled to Finnish citizenship on condition that paternity has been established.<sup>68</sup> By making the acquisition of Finnish citizenship possible in cases where either of the parents is a Finnish citizen, the conditions of art. 6 (1) of the European Convention on Nationality, signed by Finland in 1997, were met. Finland finally ratified the Convention on 6 August 2008.

Another aim of the 2003 Act was to approximate the rights of an adoptive child to that of a biological child. Adopted children under twelve years of age now automatically acquire Finnish citizenship (sect. 10) and older adopted children may acquire Finnish citizenship by declaration (sect. 27).<sup>69</sup>

<sup>66</sup> Information provided by Hanne Lehtonen, Head of Information Services of the Finland Society, in a telephone conversation on 24 May 2009.

<sup>67</sup> HE 80/2010: 21, 38.

<sup>68</sup> According to sect. 51 of the Paternity Act (700/1975 *isyyslaki*), paternity established abroad is normally considered valid in Finland without separate confirmation.

<sup>69</sup> The declaration procedure for adopted children over twelve has little practical use, as it is rather

*Prevention of statelessness behind ius soli provisions*

As a logical consequence of sect. 5 of the 2000 Constitution—which states that loss of Finnish citizenship may not lead to statelessness—the 2003 Nationality Act has as a major aim the prevention of statelessness. The constitutional principle is adopted in sect. 4 of the Act according to which a person cannot lose or be released from Finnish citizenship if this would lead to statelessness. Prevention of statelessness is also behind secondary provisions of *ius soli* in sect. 9. According to sect. 9 (2), children of recognised refugees or parents who have otherwise been provided protection against the authorities of their State of citizenship will acquire Finnish citizenship at birth if they are born in Finland and do not acquire the citizenship of their parents without a procedure requiring the assistance of the authorities of the parents' State of citizenship.

Finnish citizenship is also acquired by a child who would otherwise become stateless, meaning that he or she does not acquire the citizenship of any foreign state at birth, and does not even have a secondary right to acquire the citizenship of any other foreign State (sect. 9 (1)(4)). According to the government proposal, the existence of this secondary right depends on the legislation of the parents' State of citizenship: if citizenship must be applied and the deciding authority has discretionary power, the child does not have a 'right' but only a possibility to acquire his or her parents' citizenship.<sup>70</sup>

A fourth provision promoting prevention of statelessness is sect. 12, which concerns foundlings and children born in Finland to parents of unknown citizenship.<sup>71</sup> These children are considered Finnish citizens as long as they have not been established as citizens of foreign State. If foreign citizenship is established after the child has reached the age of five, Finnish citizenship is retained. The provision on foundlings is based on art. 2 of the UN Convention on Reduction of Statelessness, which was ratified by Finland on 7 August 2008.

The *ius soli* provisions of sect. 9 and 12 have proved difficult to apply. It has happened once that a refugee family who had had a child in Finland was deported, it being later discovered that their child had acquired Finnish citizenship. After this incident the professional training provided for civil servants of the Asylum Unit of the Finnish Immigration Service has been strengthened and a new administrative practice has been created: before a deportation decision is taken, it has to be made sure that the persons concerned do not have a child who would be a Finnish citizen.<sup>72</sup>

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uncommon to adopt older children from foreign countries. The number of these declarations has not been published in the latest statistical reviews of the Nationality Unit of the Finnish Immigration Service. Three declarations of this kind were submitted to the Finnish Immigration Service in 2008 and nine in 2007 (Migri 2009a: 3).

<sup>70</sup> HE 235/2002: 35. – It is noteworthy that there was no additional condition of a secondary right in sect. 1 (1)(4) of the 1968 Nationality Act, which would guarantee that children born in Finland could not be stateless. Under the 2003 Nationality Act it is possible that a child born in Finland may remain 'voluntarily stateless' if the secondary right to a foreign citizenship exists and parents choose not to use it. According to the definition in sect. 2 (1)(4) of the Nationality Act, '[V]oluntarily stateless means a person who has no citizenship in any State and who has remained stateless by his or her own or his or her parents' or guardians' will'.

<sup>71</sup> Unknown citizenship means that there is no information on citizenship or statelessness of the person in question (sect. 2 (1)(5)).

<sup>72</sup> Information provided by Kati Korsman, Senior Adviser, Nationality Unit of the Finnish Immigration Service, in a conversation on 15 May 2009.

*The principle of established identity*

The requirement of established identity, which had originally been set down in administrative practice and confirmed by the Supreme Administrative Court, was expressly written into the law with the adoption of the 2003 Nationality Act (sect. 6). It is a central principle which applies to all decisions about acquisition of citizenship: other conditions for acquisition are not even examined if the identity of an applicant is considered unclear.<sup>73</sup> In the case law of the Supreme Administrative Court, ‘identity’ has been interpreted to include name, date of birth and citizenship.<sup>74</sup>

According to sect. 6 (2), identity can be established ‘by means of documents or by providing other information which is considered reliable on the person’s name, date of birth, family relations, citizenship and other personal data necessary to decide the matter’. If reliable documents are missing, as it is often the case with e.g. asylum-seekers, it has been considered in administrative practice and case law that naturalisation is possible if a party has at all times used the same identity which has been entered to the population information system. If the party has used a forged travel document, he or she should proclaim it when entering the country. The situation is more difficult if a party for whom reliable documents are lacking has used several identities or changed identity information entered to the population information system. In case law of the Supreme Administrative Court, identity was not considered established when a person had proclaimed his identity to be wrong after having used it for four months in Finland, or when an asylum seeker had simultaneously applied for asylum in another country with a different name (Pere 2008: 360–361).<sup>75</sup> Any information that an applicant has earlier provided to the authorities may be taken into account when his or her identity is being established (sect. 6 (2)).

In order to avoid situations where an alien who has at some point used more than one identity could never be naturalised as his or her identity would never be considered established, a new provision was laid down in the 2003 Act. According to sect. 6 (3), identity is considered to be established if an alien has for at least ten years used an identity registered in the population information system, even though he or she had earlier used more than one identity. A particular problem emerged later in the interpretation of this provision: if an alien who has proclaimed some identity at his or her arrival in Finland later provides new information on his or her identity, e.g. by changing his or her date of birth, should this new information be considered only a *correction* of identity which does not interrupt the period of ten years or rather a *change* of identity as a result of which the period of ten years would start again from the beginning? In order to answer this question, sect. 6 was complemented in 2011 with a new subsection 4, according to which a change to the person’s name, date of birth or citizenship interrupts the period of ten years if the change may not be regarded as minor. Also another kind of change of identity may interrupt the period if the change, on the basis of overall consideration, is considered to create a new identity.<sup>76</sup>

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<sup>73</sup> HE 235/2002: 31.

<sup>74</sup> KHO 2004:113.

<sup>75</sup> KHO 11.6.2007 T 1597, KHO 2004:114.

<sup>76</sup> According to the government proposal, in the assessment of the importance of a change attention should be paid to the significance of the changed information for the evaluation of the person’s identity as a whole, as well as to the length of the residence in Finland before new information was

### 3.2 Acquisition of Finnish citizenship by application: conditions for naturalisation

#### *Period of residence*

The number of years of *continuous residence* required for naturalisation was originally increased in the 2003 Act from five to six years (sect. 13 (1)(2a)). At the same time an alternative residency requirement, an *accumulated period of residence*, was introduced, according to which residence in Finland for eight years after the age of fifteen, with the last two years uninterrupted equally qualified for naturalisation (sect. 13 (1)(2b)). However, with the amendment of 2011, both periods of residence were shortened by one year, to five years of continuous residence and seven years of accumulated residence.

The goal behind the prolongation of the period of residence for one additional year in 2003 had been to improve applicants' capacity for full membership in the Finnish society with related rights and duties. Five years were then regarded as quite a short time to sufficiently familiarise oneself with the Finnish society as a condition for naturalisation. However, in the preparation work for the amendment of 2011, the time lived in Finland as a whole and the question whether the applicant had learned Finnish or Swedish while residing in Finland were considered more essential for the importance of the period of residence than the previous increase by one year. It was likewise believed that enabling acquisition of citizenship more quickly would promote social togetherness of aliens living permanently in Finland.<sup>77</sup>

Another and, according to the government proposal, even more important change in 2011 concerned *the starting point of the period of residence*. The traditional view in administrative practice and case law had been that residence in Finland had to be *continuous* in nature in order to count towards the period of residence required for naturalisation. The Supreme Administrative Court took a different view in 2007 when it decided that the period of residence had started on the date the first *temporary* residence permit had been granted to the applicant.<sup>78</sup> In practice, this decision shortened the required time of residence in Finland considerably and led to an exceptional situation on the international scale (Pere 2008: 363–364). It could also result in a curious situation where the period of residence required for naturalisation was met earlier than the period of residence required for a permanent residence permit or a long-time resident's EC residence permit.<sup>79</sup>

The solution adopted with the amendment of 2011 may be regarded as a compromise between the traditional point of view and the stance taken by the

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provided. A change should normally not be considered minor if e.g. the date of birth is corrected with many years or if an alien has resided in Finland for many years before the change. On the other hand, changes of name in accordance with the Names Act (694/1985, *nimilaki*) should be considered minor if they have no significance for the assessment of the established identity (HE 80/2010: 18–19, 28).

<sup>77</sup> HE 80/2010: 16–17, 29.

<sup>78</sup> KHO:2007:31.

<sup>79</sup> HE 80/2010: 5–6, 17, 20. - According to sect. 33 of the Aliens Act (301/2004, *ulkomaalaislaki*), *fixed-term residence permits* are issued for a residence of temporary nature or of continuous nature. An alien may be granted a *permanent residence permit* after he or she has resided in Finland for four years with continuous residence permit (sect. 56 of the Aliens Act). *Long-time resident's EC residence permit* specified in the Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004, p. 44–53) may be granted to a third-country citizen after five years of residence in Finland with continuous residence permit (sect. 56 a of the Aliens Act).

Supreme Administrative Court. It is now expressly mentioned in sect. 14 (1)(2) that the period of residence starts on the date the first *continuous* residence permit is granted if the applicant, when entering Finland, does not have a permit which gives him or her the right to move into the country. However, according to sect. 15 (1), half of the time with a *temporary* residence permit is included in the total period of residence. In order to make sure that residence in Finland has become permanent, it is further required that the applicant has resided in Finland at least a year with a continuous residence permit before naturalisation.

#### *Shorter period of residence on the basis of language skills*

Together with the general shortening of the required period of residence, a new exception to it was also created in the amendment of 2011. According to the new sect. 18a of the Nationality Act, citizenship may be granted already after four years of continuous residence or six years of accumulated residence if the applicant meets the language skills requirement (see below). An additional condition is that the applicant has strong ties with Finland and he or she fulfils other conditions of naturalisation.

The object of this new provision is to encourage active studying of Finnish or Swedish, as knowledge of language has been shown to be of vital importance to integration and social togetherness (and, consequently, to employment) of immigrants. According to government proposal, the new provision may be regarded as an important change as there were no this kind of incentives in the original 2003 Nationality Act.<sup>80</sup>

#### *Other exceptions to the period of residence*

Other exceptions to the period of residence can be based on the particular situation of an individual or on his or her membership in a group which either needs special protection (recognised refugees and involuntarily stateless persons, children) or is better qualified to live in Finnish society (Nordic citizens, spouses of Finnish citizens).

Conditions for individual exceptions to the period of residence are laid down in sect. 18. It is possible to deviate from the requirement if an alien has strong ties with Finland, has been permanently resident and domiciled in Finland for the past two years without interruption and there are special and weighty reasons for exception, e.g. permanent full-time work in Finland in which it would be unreasonably difficult to be engaged without Finnish citizenship.

As regards exceptions pertaining to groups, citizenship may be granted to recognised refugees, persons who have a residence permit on the basis of secondary protection or humanitarian protection and involuntarily stateless persons already after four years of continuous residence or six years of accumulated residence since the age of fifteen, with the last two years uninterrupted (sect. 20). In addition, citizenship applications from these persons are processed expeditiously.<sup>81</sup> The basis for the

<sup>80</sup> HE 80/2010: 20, 24, 26, 34.

<sup>81</sup> In practice, applications from persons who hold a *refugee travel document* are processed in their own queue in the Finnish Immigration Service which tries to process them more expeditiously than applications from persons who hold an *alien's passport* only. The procedure is however the most expeditious for those applicants who hold a *national passport* since there is usually no need to clarify their identity. Information provided by Senior Adviser Karoliina Hyttinen, Nationality Unit of the

facilitated conditions and accelerated procedure is found in three international conventions, the Convention relating to the Status of Refugees<sup>82</sup> (art. 34), the Convention relating to the Status of Stateless Persons (art. 32) and the European Convention on Nationality (art. 6 (4)(g)). It must be added that notwithstanding the recommendations of the first two conventions, the processing fee is not reduced for the persons mentioned in sect. 20.<sup>83</sup>

For a co-applicant child (filial extension of acquisition of citizenship) and a child as an applicant (filial transfer of acquisition of citizenship),<sup>84</sup> the required residence period depends on age: if the child has reached the age of fifteen, the requirement is lowered to the last four years or a total of six years since the age of seven, with the last two years uninterrupted (sect. 23 (2) and 24 (3)). If the child is under 15 years of age, he or she may be granted Finnish citizenship immediately when taking up residence in Finland, notwithstanding the normal requirements for residence and language skills (sect. 23 (1) and 24 (2)).

For the spouse of a Finnish citizen, the required period of residence is likewise uninterrupted residence for the last four years or a total of six years since the age of fifteen, with the last two years uninterrupted. In addition, the spouses must have lived together for a minimum of three years (sect. 22). The definition of a spouse in sect. 2 (1)(8) includes husband or wife, co-habiting partner and registered partner of the same sex, but, according to an interpretation of the Constitutional Law Committee of the Parliament, not co-habiting partners of the same sex.<sup>85</sup> The Finnish Immigration Service could nevertheless take into account even this kind of situation when applying sect. 22.<sup>86</sup>

Facilitated acquisition is also possible for citizens of other Nordic Countries who are required to have been permanently resident and domiciled in Finland only for the last two years without interruption (sect. 21).

### *Language skills requirement*

The residence requirement is closely connected to the language skills requirement. It is presumed that the longer the period of residence in Finland is, the better the language skills will be. The preparatory work for the 2003 Act underlined the importance of satisfactory knowledge of the Finnish or Swedish language for successful integration. Sufficient knowledge in one of these languages was considered important by the government in order to be able to act as a Finnish citizen within

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Finnish Immigration Service, in an e-mail on 15 October 2012. See also Section 3.6 below.

<sup>82</sup> FTS 77/1968.

<sup>83</sup> In the preparatory work for the 2003 Nationality Act this was justified quite laconically: the economic position of persons mentioned in sect. 20 is 'not necessarily' worse than the economic position of other applicants (HE 235/2002: 47–48).

<sup>84</sup> Co-applicant means a child in the custody of the applicant for whom the applicant wishes to acquire Finnish citizenship *on the same application* (or declaration) as for himself or herself (sect. 2 (1)(10)). A child can also be an applicant alone if his or her parent or guardian *who already is a Finnish citizen* wishes to acquire Finnish citizenship for the child (sect. 2 (1)(9)). The latter situation is however quite exceptional (HE 235/2002: 50).

<sup>85</sup> PeVM 8/2002: 4.

<sup>86</sup> Information provided by Senior Adviser Kati Korsman, Nationality Unit of the Finnish Immigration Service.

Finnish society.<sup>87</sup> Consequently, it is required in sect. 13 (1)(6) of the Nationality Act that an applicant must have satisfactory oral and written skills in Finnish or Swedish, or similar skills in the Finnish or Finland-Swedish sign language. The required level of proficiency corresponds to level B1 (Independent User) in the Common European Framework Reference for Languages (CEFR).<sup>88</sup>

The major difference brought about by the 2003 Act is that the language skills requirement as well as the level of required language skills were mentioned explicitly in the Act. Before 2003, there was only a general requirement of sufficient knowledge of Finnish or Swedish stipulated by decree without clear rules on how to prove language proficiency. A language certificate from a teacher was in practice considered as sufficient in order to prove skills in Finnish or Swedish, and civil servants at the Directorate of Immigration experienced that many immigrants who applied for and acquired Finnish citizenship had a very poor knowledge of the Finnish or Swedish language.<sup>89</sup>

After the adoption of the 2003 Act, the documentation accepted as proof of the language skills were outlined in sect. 17 of the Act and sect. 7 of the 2004 Nationality Decree.<sup>90</sup> This did not prove to be a convenient solution, as there were finally quite many ways to show language proficiency, most of which were not enumerated in the Act but only by decree. There was uncertainty among applicants whether the different kinds of certificates they had acquired would meet the language skills requirement. It was also common that the Finnish Immigration Service had to ask for an opinion of the Finnish National Board of Education about whether the different certificates enclosed by applicants were appropriate to show language skills. This additional procedure delayed the processing of citizenship applications. These problems were tried to be tackled with the amendment of 2011 when all possible ways to show language skills came to be expressly mentioned in sect. 17 of the Nationality Act. It was hoped in the preparatory work for the amendment that this change would speed up the processing of citizenship applications considerably.<sup>91</sup>

The most common way to show language skills is to pass a general language examination (National Certificate of Language Proficiency test) at level three (out of six levels, where six is excellent and three is satisfactory).<sup>92</sup> Language proficiency can also be shown by completing different kinds of education (comprehensive school, upper secondary school, vocational qualifications or university studies in Finland) in Finnish or Swedish or by passing the Civil Service Language Proficiency Certificate.

The language skills requirement of the 2003 Nationality Act is without dispute more difficult than under earlier legislation. Fears were later expressed that

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<sup>87</sup> HE 235/2002: 41.

<sup>88</sup> Information provided by Tarja Leblay, counsellor of education at the Finnish National Board of Education, in an e-mail on 15 June 2009.

<sup>89</sup> HE 235/2002: 21. Information provided by Tiina Suominen, nationality division director at the Directorate of Immigration, in a telephone conversation on 15 September 2005.

<sup>90</sup> In sect. 7 of the Nationality Decree, a further reference was made to sects. 15–17 of the Government Decree on the examination of proficiency in the Finnish and Swedish language within the State administration (481/2003 *Valtioneuvoston asetus suomen ja ruotsin kielen taidon osoittamisesta valtioonhallinnossa*, entry into force 1 January 2004), and to Finnish and Swedish Language Examination Boards which can make recommendations to the Finnish Immigration Service.

<sup>91</sup> HE 80/2010: 18, 20, 31–33. Information also provided by Senior Adviser Kati Korsman, Nationality Unit of the Finnish Immigration Service.

<sup>92</sup> HE 80/2010: 32.

the requirement was too strict in general.<sup>93</sup> In the preparation work for the 2011 amendment it was pointed out, however, that the vast majority – almost 90 per cent – of persons applying for Finnish citizenship have met the requirement.<sup>94</sup> Perhaps because of this fact, in the preparation work for the amendment less attention was finally paid to the general level of the language skills requirement than to exceptions that can be made to the requirement on the basis of the particular situation of some applicants (see below).

### *Exceptions to the language skills requirement*

Exceptions to the language skills requirement are laid down in sect. 18b. According to subsect. 1, an exemption from the requirement is possible if (1) it is unreasonably difficult to be engaged in permanent full-time work in Finland without Finnish citizenship, (2) the applicant is 65 years or older and has refugee status, subsidiary protection status or a residence permit on the basis of humanitarian protection in Finland, (3) the applicant cannot meet the language skills requirement because of his or her state of health, sensory handicap or a speech defect, or (4) there is otherwise an extremely weighty reason for an exception.

Since the adoption of the 2003 Nationality Act, the third ground of exemption in particular has been very often invoked in applications for citizenship. The exception has however been applied rather strictly.<sup>95</sup> In the government proposal it was considered in this regard that illness or other health-related problem must be so serious that it would be impossible to fulfil the language skills requirement, or that it would be unreasonable to demand its fulfilment.<sup>96</sup> In case law of the Supreme Administrative Court, an exemption on this ground has been granted e.g. to a 60 year old person who had dyslexia and had actively tried to fulfil the language skills requirement so that his oral skills had been evaluated as sufficient.<sup>97</sup> On the other hand, an exemption was not granted for a 39 year old person who invoked learning difficulties caused by psychiatric problems, as no account had been presented that treatment for the psychiatric problems had been attempted, or that there would have been an obstacle to treatment.<sup>98</sup>

The fourth ground of exemption, an extremely weighty reason, was created with the amendment of 2011. The need for this kind of general clause of exemption was discovered in the application practice where many different kinds of situations had been invoked by applicants in order to get exempted from the language skills

<sup>93</sup> In August 2008, Astrid Thors, Minister of Migration and European Affairs, expressed her concern about suspicions that many applicants for citizenship had failed in the language proficiency test even though their knowledge of language was completely sufficient for everyday life in society. See 'Thors: Maahanmuuttajien kielikokeet saattavat olla liian tiukkoja' [Thors: Language tests for immigrants may be too difficult], *Helsingin Sanomat* [daily newspaper] and *Suomen tietotoimisto* [the Finnish News Agency], 16 August 2008. See also KK (written question) 58/2005, Processing of citizenship applications (*Kansalaisuusasioiden käsittely*), Sari Essayah/Christian Democrats (the answer of Minister of the Interior Kari Rajamäki).

<sup>94</sup> HE 80/2010: 7.

<sup>95</sup> Information provided by Senior Adviser Kati Korsman, Nationality Unit of the Finnish Immigration Service.

<sup>96</sup> HE 235/2002: 46.

<sup>97</sup> KHO 2009:28.

<sup>98</sup> KHO 2009:29.

requirement, and some of these reasons were considered in principle appropriate although they were not legal grounds of exemption under the original 2003 Act. An applicant might e.g. be aged compared to conditions and life expectancy in his or her country of origin even if he or she had not yet turned 65. Learning difficulties and impaired ability to learn caused by insufficient education had also been presented as grounds for exception. On the other hand, mothers with many children and single mothers had often claimed that they were not able to meet the required level of language skills as they had no chance to attend language courses which often require eight hours of study per day.<sup>99</sup> In this regard, the Ombudsman for Minorities had likewise expressed concerns that language tests were discriminatory against women since there had been situations where all members of the family except for the mother had met the requirement and thus been naturalised.<sup>100</sup>

During the preparation work for the amendment of 2011, however, fears were also expressed that exemption of mothers with many children from the language skills requirement might lead to their social exclusion from the Finnish society. Perhaps because of these fears, it is made clear in the government proposal that an exception on the basis of an extremely weighty reason should not be made too easily: an exception is possible if, on the basis of overall consideration of the applicant's particular situation, learning of the language has been *de facto* impossible due to an acceptable reason. It is therefore not possible to grant an immigrant mother an exemption solely on the basis of the fact that other members of the family have fulfilled the language skills condition. There are also plans to improve the current system of integration education available to immigrants in order to meet the needs of families and special groups better.<sup>101</sup>

According to subsect. 2 of sect. 18b, an exception to the language skills requirement is also possible for illiterate persons and persons who are 65 years or older and have been granted a residence permit on other grounds than those mentioned in subsect. 1 (2). An additional condition is that these persons have the basic skills of understanding and speaking Finnish or Swedish or that they have regularly attended studies of these languages. Illiteracy and language skills or language course attendance must be shown by a certificate from a language teacher.

### *Integrity requirement and waiting period for naturalisation*

One further condition for naturalisation is that the applicant has not committed any punishable act nor has had a restraining order issued against him or her (sect. 13 (1)(3)). This *integrity requirement* includes a wide range of acts, even acts for which a court has waived punishment and acts committed before the age of fifteen, the age limit for criminal liability in Finland.<sup>102</sup> Exceptions to the integrity requirement are laid down in sect. 19: according to subsect. 1, naturalisation is possible if it is considered on the basis of an overall consideration of the applicant's situation that there are well-founded reasons for an exception to the integrity requirement, taking account in particular the time passed after the crime, the nature of the act, the severity

<sup>99</sup> HE 80/2010: 7, 17–18.

<sup>100</sup> 'Thors: Maahanmuuttajien kielikokeet saattavat olla liian tiukkoja' [Thors: Language tests for immigrants may be too difficult], *Helsingin Sanomat* [daily newspaper] and *Suomen tietotoimisto* [the Finnish News Agency], 16 August 2008.

<sup>101</sup> HE 80/2010: 26, 34–35, 41.

<sup>102</sup> HE 235/2002: 40.

of the punishment and whether the applicant has repeatedly committed punishable acts.

If a citizenship application is rejected due to non-fulfilment of the integrity requirement, an applicant may be imposed with a *waiting period* during which he or she will not be naturalised without a well-founded reason (sect. 19a). The maximum waiting period is seven years from the date of serving an unconditional sentence of imprisonment, and for more lenient punishments three or four years from the date of the crime (subsect. 2).

A particular problem concerns the length of the waiting period in situations where an applicant has committed several punishable acts. There were no provisions on this question in the original 2003 Nationality Act where it was provided that the Ministry of the Interior might give further instructions on the definition of the waiting period. The Ministry had, nonetheless, given no instructions, but the Finnish Immigration Service had issued an internal guideline on the application of the integrity requirement, including a table on the definition of the waiting period on the basis of different criminal sentences.<sup>103</sup> However, this internal guideline of a civil service department was problematic with regard to the Constitution of Finland as the principles governing the rights and obligations of private individuals shall, according to sect. 80 of the Constitution, be governed by Acts. It was therefore considered appropriate that the length of the waiting period would be defined in greater detail in the Nationality Act and this objective was achieved with the amendment of 2011.<sup>104</sup>

According to the new sect. 19a (3), if an applicant has committed several punishable acts, resulting several waiting periods are not added up. Instead, the waiting period which ends at the latest date is chosen and it is extended by a minimum of two months and a maximum of one year for each other punishable act. The resulting combined waiting period may however not exceed the maximum length of three, four or seven years depending on the type of punishment. This condition is in conformity with a decision taken by the Supreme Administrative Court in 2008.<sup>105</sup>

### *Other conditions for naturalisation*

In addition to the requirements of residence, language skills and integrity, there are also conditions from which no derogation is possible. The applicant must not have

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<sup>103</sup> Finnish Immigration Service: *Ohje* [guideline] 727/0033/2008, in force from 15 October 2008 to 15 October 2010. Information provided also by Senior Adviser Kati Korsman, Nationality Unit of the Finnish Immigration Service.

<sup>104</sup> HE 80/2010: 8–9, 18, 36–37.

<sup>105</sup> KHO:2008:59. – It is noteworthy that the new sect. 19 a (3) is similar to the the essential contents of the earlier guideline of the Finnish Immigration Service. As Nordic cooperation has traditionally been of importance to the Finnish Nationality (and other) legislation, a comparison of Scandinavian legislation with regard to integrity requirement was made in the government proposal for the 2011 Amendment. It was revealed that all Nordic Countries applied a particular table on the basis of which an applicant who has committed punishable acts is imposed a waiting period during which he or she may not be naturalised. The table used in Sweden was quite similar to the one used by the Finnish Immigration Service. In other Nordic Countries the application practice was considerably stricter than in Finland. As a result, the grounds and lengths of the waiting periods defined in the table of the Finnish Immigration Service were considered appropriate in the government proposal (HE 80/2010: 15–16, 37). The above-mentioned problem with the internal guideline of the Finnish Immigration Service was therefore rather formal than material.

materially failed to provide maintenance or to meet his or her pecuniary obligations under public law (sect. 13 (1)(4)).<sup>106</sup> The applicant must also be able to provide a reliable account of his or her livelihood (sect. 13 (1)(5)). This requirement is closely connected to the integrity requirement, since its major aim is to ensure that the source of income is legal. Otherwise it does not impose any condition on the level of income: even a person living on income support may be naturalised.<sup>107</sup>

As a general requirement for naturalisation, an alien applying for citizenship must be 18 years old or married before that (sect. 13 (1)(1))<sup>108</sup> and his or her identity must have been reliably established according to sect. 6, mentioned above.

According to subsect. 3 of sect. 13, an alien will not be naturalised if there are well-founded reasons for suspecting that naturalisation will jeopardise the security of the State or public order, or if the main purpose for acquiring citizenship is to take advantage of the benefits of citizenship without intention to settle in Finland, or ‘if naturalisation conflicts with the best interests of the State for some other reason on the basis of an overall consideration of the applicant’s situation’. It is noteworthy that this last condition was added to the Bill by the Constitutional Law Committee of the Parliament. The original wording proposed by the government for the first clause of sect. 13 was that ‘[a]n alien *may be* granted Finnish citizenship on application if [...]’, expressing the principle that naturalisation is a discretionary procedure (the so-called ‘expediency consideration’ by authorities) and an applicant has no entitlement to citizenship even if he or she meets all the conditions.<sup>109</sup> The Constitutional Law Committee considered, nevertheless, that excessive discretionary power of authorities did not accord with sect. 5 of the Constitution, according to which naturalisation is ‘subject to the criteria determined by an Act’: the decision-making about naturalisation must be completely based on legal provisions. The Committee therefore replaced the expression ‘may be granted’ by the wording ‘*is granted*’ and at the same time added to subsect. 3 the above-mentioned general clause about ‘the best interests of the State’ as an additional basis for rejecting an application.<sup>110</sup>

The stand taken by the Constitutional Law Committee means that there is a kind of ‘right’ to acquisition of citizenship by naturalisation, which is quite exceptional in the international context: in international law, the grant of citizenship has been regarded to include discretion of a political nature. On the other hand, it can not be considered that there would be a same kind of legal entitlement to acquisition of citizenship by naturalisation than there is in situations where declaration is possible (see below). The codification of the decision-making procedure just means that grounds of refusal are limited to those mentioned in sect. 13 (3) if an applicant meets all the conditions laid down in subsect. 1. As a result, when Administrative Courts are applying sect. 13 (3), they may also have to interpret ‘the best interests of the State’, a task which does not fit easily with their jurisdiction (Pere 2008: 354–356).

<sup>106</sup> According to the government proposal, only a failure based on unwillingness, but not inability, to pay should be taken into account: naturalisation is possible if the reason for failure is acceptable, e.g. illness or unemployment or another condition which has damaged the applicant’s economic situation (HE 235/2002: 40–41).

<sup>107</sup> HE 235/2002: 40–41.

<sup>108</sup> This does not apply in the exceptional situation where a child is applicant (filial transfer of citizenship, sect. 24), but in that case the application must be made by a parent or guardian of the child.

<sup>109</sup> HE 235/2002: 20, 38–39. Italicisation added by the author.

<sup>110</sup> PeVM 8/2002 vp: 4. Italicisation added by the author.

### *Statistical developments on naturalisation*

In general, the number of citizenship matters handled by the Finnish Immigration Service and its predecessor Directorate of Immigration has increased rapidly since 1995. This is due in particular to the large immigration flows that reached Finland at the beginning of the 1990s, as explained above. These immigrants began to meet the requirements for naturalisation from 1995, as the residence requirement for discretionary naturalisation at that time was five years and the processing time around three years. The most important increase took place between 1996 and 1998 when the total number of persons who acquired Finnish citizenship (by application and declaration) rose dramatically from less than 1,000 a year to more than 4,000 (Statistics Finland 2012a).

As regards more recent developments, between 2007 and 2011 the annual number of persons applying for citizenship has varied between 4,417 and 5,632, being the lowest in 2009 and highest in 2011. With the exception of 2004 and 2009, the number of applications has been steadily increasing after the adoption of the 2003 Nationality Act. Some annual trends can be explained by legislative changes: in 2004, the number of applications dropped by 23.8 per cent compared to 2003, which was presumably due to the new stricter requirements for periods of residence and language skills which had a discouraging effect for potential applicants.<sup>111</sup> In 2011, on the other hand, the number of applicants increased by over 17 per cent compared to the previous year, from 4,812 to 5,632 persons. The most important reason for the increase was probably the shortening of the period of residence from six years to five (Migri 2012a: 1; Migri 2012d; Migri 2012f: 1). The same trend continued during the first six months in 2012, when the number of applications grew by 42 per cent compared to the same period in 2011 (Migri 2012d; Migri 2012f: 1).

Where do the people who apply for Finnish citizenship come from? The number of applications submitted by citizens of the Russian Federation has for long been considerably bigger than the number of applications from other citizens: in 2011, their number was 1,790 representing 31 per cent of all applicants.<sup>112</sup> Russian applicants, on the other hand, have traditionally been to a considerable extent represented by Ingrians and other persons of Finnish descent residing in the territory of the former Soviet Union.<sup>113</sup> Between 1993 and 2011, these persons could apply a residence permit in Finland with facilitated conditions, an opportunity utilized by some 30,000 people (Ministry of the Interior 2012).<sup>114</sup> As regards other applicant groups, it is remarkable that citizens of an EU Member State—Estonians—are constantly among the 10 biggest nationality groups applying for Finnish citizenship, being even the second-biggest group in 2011 with 359 applicants (6 per cent of all applicants). Other large applicant groups — citizens of Somalia (6 per cent of all applicants in 2011), Afghanistan (5 per cent), Iraq (5 per cent) and Iran (3 per cent) —

<sup>111</sup> The number of applications was 2,630 in 2003 and 2,004 in 2004. These total numbers, once again, include also the small numbers of applications for release from Finnish citizenship. The number of applications for release has been under 100 annually, so the total numbers may be considered to illustrate general trends regarding the number of applications for naturalisation.

<sup>112</sup> The second biggest applicant group in 2011 was Estonians (359 applicants) and in 2010 Somalians (349 applicants).

<sup>113</sup> Information provided by Refugee Advice Center in 2005.

<sup>114</sup> 639/1993 Act amending the Aliens Act (*laki ulkomaalaislain muuttamisesta*), entry into force 15 July 1993: sect. 18.

represent rather quota refugee selections and groups that come to Finland due to family reunifications (Migri 2012a: 2–3).

In recent years, the vast majority of decisions made on applications for naturalisation have been favourable. In 2011, the Finnish Immigration Service made a decision on a total of 4,525 applicants, 91.6 per cent of these decisions being favourable. In 2010, the respective figures were 4,472 applicants and 93.5 per cent. The proportion of unfavourable decisions was 5.1 per cent in 2011 and 4.8 in 2010 (Migri 2012a: 7).<sup>115</sup>

Between January and September 2012, the five most common grounds for unfavourable decisions have been: 1) rejection of an application of a co-applicant child due to rejection of the application of the main applicant (the parent or guardian of the child), 2) the requirement of language skills is not fulfilled; 3) the integrity requirement is not fulfilled, 4) an applicant has not provided all the required information, 5) the requirement of residence is not fulfilled.<sup>116</sup> On the other hand, favourable decisions are quite often based on exceptions that can be made to the requirements of residence, language skills and integrity (Migri 2008a).

### 3.3 Acquisition of Finnish citizenship by declaration

Apart from naturalisation, Finnish law provides for acquisition of citizenship by declaration. This method of acquiring Finnish citizenship was written down in the 2000 Constitution (sect. 5 (1)), although the declaration procedure had already been introduced in the Nationality Act of 1968. It can be summarised that acquisition of citizenship by declaration is based either on a former Finnish citizenship, on the Finnish citizenship of a parent or on a long residence in the Finnish society or in a Nordic society which can be considered similar to the Finnish one.<sup>117</sup>

One group that may acquire Finnish citizenship by declaration and which drew particular attention in the preparation work for the amendment of 2011 are former Finnish citizens. In addition to the provisional possibility of declaration which was available to former Finnish citizens who had lost their citizenship due to the earlier prohibition of multiple citizenship (sect. 60), there were three permanent declaration procedures available to former citizens in the original 2003 Nationality Act. The latter concerned former citizens in general (sect. 29 (1)), former citizens who had lost their citizenship at the age of 22 on the basis of an insufficient connection with Finland (sect. 29 (2)) and former citizens who had become citizens of another Nordic State (sect. 30 (2)). Residence in Finland was required in all these modes of (re)acquisition of citizenship. The Ministry of the Interior considered that these

<sup>115</sup> The remaining part is constituted by decisions on lapse or removal, 3.3 per cent in 2011 and 1.7 per cent in 2010 (Migri 2011: 4, Migri 2012: 7).

<sup>116</sup> Information received from the UMA information system of the Finnish Immigration Service via Senior Adviser Karoliina Hyttinen. The exact time lag is 1 January – 28 September 2012. – There are no general statistics available on the grounds for unfavourable decisions before 2012. According to information provided by Senior Adviser Kati Korsman in 2009, the application of refusal grounds of sect. 13 (3) had been very rare: less than ten decisions had been made in this regard yearly, and they were usually based on an unfavourable statement from the Security Police or on a consideration that the applicant had no aim to settle in Finland.

<sup>117</sup> HE 235/2002: 72.

several different procedures for reacquisition of Finnish citizenship were not necessary and they complicated the status of former citizens in the Nationality Act.<sup>118</sup>

The amendment of 2011 brought an important change to the status of former Finnish citizens by creating one single declaration procedure available to all former citizens regardless of their country of residence. According to amended sect. 29, a former Finnish citizen may acquire Finnish citizenship by declaration, provided that he or she did not lose Finnish citizenship due to annulment of paternity or fraud.

As already mentioned, the declaration procedure is available to children born abroad and out of wedlock to a foreign mother and a Finnish father (sect. 26 (1)(2)) and to adopted children who have reached the age of twelve years (sect. 27). Another category of persons who can acquire Finnish citizenship by declaration are persons born in Finland to foreign mothers and Finnish fathers, if paternity was established after they turned eighteen or got married before that (sect. 26 (1)(1)).

Socialisation-based acquisition of citizenship is provided for in sect. 28: a young person between eighteen and 22 years of age who has had his or her permanent residence and domicile in Finland for ten years with the last two years uninterrupted and who has not been sentenced to imprisonment can also acquire Finnish citizenship by declaration.<sup>119</sup>

Nordic citizens can also acquire Finnish citizenship upon declaration if they are eighteen years of age, have not acquired their other Nordic citizenship through naturalisation, and have lived the last five years in Finland (sect. 30).

The number of declarations submitted to the Finnish Immigration Service was considerably high between 2003 and 2008 when the provisional five years' declaration procedure available to former Finnish citizens and their descendants was in force. Before 2003, the annual number was almost always under 500, compared to over 2,000 since 2003, and the vast majority of declarations (e.g. 94.9 per cent in 2008 and 87.3 per cent in 2007) were submitted by former citizens and their descendants. Over 9,000 these kind of declarations were submitted during the last five months of the transitional period, between January and May 2008, which caused a congestion in the processing of declarations (Migri 2008b: 3, Migri 2009a: 3, 5). Since 2009, the number of declarations has been, as expected, considerably lower: 546 persons in 2009, 573 persons in 2010 and 706 persons in 2011 when the declaration procedure available to former citizens living abroad was restored. In 2011, a total of 233 declarations were submitted by former citizens, 214 of them after the amendment (Migri 2010: 3, Migri 2011: 3, Migri 2012a: 4). It is presumable that the number of declarations will continue to grow in the near future due to the restoration of the declaration procedure for all former citizens (Migri 2012f: 3).

Of other groups entitled to citizenship, young second-generation immigrants (sect. 28) are quantitatively the most important, the number of persons concerned in

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<sup>118</sup> HE 80/2010: 19.

<sup>119</sup> The latter requirement was introduced in the 2003 Nationality Act as it was considered more appropriate that a person who has been sentenced to imprisonment is evaluated in the application procedure, where there is a possibility for the authorities to refuse the granting of Finnish citizenship (HE 235/2002: 53). – If the applicant was born in Finland, the required period of residence in sect. 28 is six years. Residence in other Nordic countries is equivalent to residence in Finland for the five years before the declaration was made and to the extent that the period of residence occurred before the age of sixteen (sect. 28 (2)). Finnish citizenship cannot be acquired under sect. 28 by a person who has lost Finnish citizenship on the grounds that he or she has provided false information nor by a citizen or former citizen of a hostile state after a state of defence has been declared (sect. 28 (3)).

these declarations being around 200 yearly (235 in 2011, 177 in 2010 and 173 in 2009). The number of declarations concerning children of Finnish fathers born out of wedlock (sect. 26) has been relatively lower, 80 in 2011, 87 in 2010 and 78 in 2009. For native-born Nordic citizens, the number of declarations was 94 in 2011, 54 in 2010 and 41 in 2009 (Migri 2012a: 4, Migri 2011: 4, Migri 2010: 3).

As with citizenship applications, the vast majority of decisions on citizenship declarations have been favourable. In 2011, the declarations decided by the Finnish Immigration Service concerned 686 persons, 93.4 per cent of whom were granted citizenship. The respective figures in 2010 were 2,189 persons and 89.4 per cent. The proportion of negative decisions was 2.3 per cent in 2011 and 3.1 per cent in 2010 (Migri 2011: 5, Migri 2012a: 7).<sup>120</sup>

### 3.4 Modes of loss of Finnish citizenship

While a Finnish citizen no longer automatically loses his or her Finnish citizenship when acquiring another citizenship, the 2003 Nationality Act introduced some other new modes for the loss of Finnish citizenship.

One new feature in this regard is the procedure of withdrawal laid down in sect. 33. A person who has been granted Finnish citizenship upon application or declaration may lose his or her Finnish citizenship if he or she has provided false or misleading information to the authorities and such conduct was decisive to the acquisition (sect. 33 (1)).<sup>121</sup> However, only one decision has been made on this basis so far.<sup>122</sup>

Furthermore, a person may lose his or her Finnish citizenship according to sect. 32 if citizenship has been granted on the basis of the father's citizenship and paternity is later annulled.<sup>123</sup> As mentioned above, a foundling or a child with unclear citizenship who has acquired Finnish citizenship at birth will lose Finnish citizenship if he or she is established as a foreign citizen, but since an age limit has been included in the Act, Finnish citizenship is retained if the foreign citizenship is established only after the child reaches the age of five (sect. 12).

As with the old Nationality Act after its amendment in 1984, the 2003 Nationality Act provides for the automatic loss of Finnish citizenship at the age of 22 for persons who also have a citizenship of another State (sect. 34). They retain their Finnish citizenship only if they have a sufficient connection with Finland. A sufficient

<sup>120</sup> The remaining part is constituted by decisions on lapse or removal. According to the Statistical Review of the Finnish Immigration Service, the decisions on removal in 2010 concerned especially declarations which had been made just before the end of the provisional five years' period, as some persons who had not been certain whether their citizenship was in force had submitted a declaration 'just in case' (Migri 2011: 5, Migri 2012a: 7).

<sup>121</sup> A child of a person who loses Finnish citizenship because of fraud may also lose his or her Finnish citizenship transferred or extended by that parent, unless the other parent is a Finnish citizen (sect. 33 (2)). Finnish citizenship will not be lost as a consequence of false or misleading information if more than five years have passed since the citizenship was acquired (sect. 33 (4)).

<sup>122</sup> Information provided by Senior Adviser Karoliina Hyttinen, Nationality Unit of the Finnish Immigration Service, in an e-mail on 15 October 2012.

<sup>123</sup> Loss of citizenship on the basis of annulment of paternity is not automatic: a decision is based 'on an overall consideration of the child's situation'. In the assessment, particular account must be taken of the child's age and ties with Finland (sect. 32).

connection is deemed to exist e.g. if the person concerned has had his or her municipality of residence (home municipality) in Finland or if he or she has been permanently resident and domiciled in another Nordic country for at least seven years.<sup>124</sup> Even if these conditions are not fulfilled, retention of citizenship has been made rather easy: the required connection is equally deemed to exist if the person has, between eighteen and 22 years of age, e.g. given a written notice to a Finnish diplomatic mission of his or her wish to retain citizenship, applied or been issued a Finnish passport or completed military or civil service in Finland (sect. 34 (2)(3)). According to sect. 37, the Finnish Immigration Service is responsible for giving instructions on how to retain citizenship at the age of 22. A letter is sent each year in December to all Finnish citizens who will reach the age of eighteen next year and who have not had a municipality of residence in Finland for seven years. If information is nevertheless not received and Finnish citizenship is lost as a result, citizenship can be easily reacquired by declaration according to sect. 29.

A Finnish citizen may be released from Finnish citizenship upon application, if he or she is a foreign citizen or is about to acquire the citizenship of another state (sect. 35). The applicant must state the reason why he or she wishes to be released from Finnish citizenship: release is not possible if the applicant is domiciled in Finland and the reason for applying for release is to avoid military service or other obligations related to citizenship. As already mentioned, loss of Finnish citizenship is never possible if it leads to statelessness. However, if acquisition of a foreign citizenship is conditioned upon the loss of a previous citizenship, a person may be released from his or her Finnish citizenship even if that means that he or she will be stateless for a short period of time (sect. 35 (2)).

In the preparation work for the 2003 Nationality Act it was anticipated that the number of applications for release from Finnish citizenship would increase due to the acceptance of multiple citizenship.<sup>125</sup> However, the annual number of these applications is still very small, being 50 in 2011 and 19 in 2010 (Migri 2012a: 6). The largest applicant groups have traditionally been Finnish citizens living in Norway and Denmark where multiple citizenship is not accepted (Migri 2009a: 1).<sup>126</sup> In 2011, the number of decisions made on applications for release was 76, all of which were favourable (Migri 2012a: 8).

### **3.5 The Province of Åland and ‘the right of domicile’**

The special status of the Åland Islands dates back to the first years of independent Finland. When Sweden was forced to relinquish Finland to Russia in 1809, this group of islands inhabited by Swedish-speaking people was ‘part of the package’. When Finland declared itself independent in 1917, Åland wished to be reunified with Sweden. The province consequently became the subject of a territorial dispute between Finland and Sweden. The newly formed League of Nations provided a solution in 1921, giving something to each of the three parties involved in the conflict: Finland was granted sovereignty over Åland, the inhabitants of Åland were guaranteed their Swedish culture, language, local customs and system of self-

<sup>124</sup> A sufficient connection is also deemed to exist if the person was born in Finland and has his or her municipality of residence in Finland when he or she reaches the age of 22 years (sect. 34 (2)(1)).

<sup>125</sup> HE 235/2002: 58.

<sup>126</sup> Information also provided by Senior Adviser Karoliina Hyttinen in an e-mail on 15 October 2012 and Senior Adviser Kati Korsman in 2009.

government, and Sweden was assured that Åland would never become a military threat as the islands would remain demilitarised and were in addition declared neutral (The Åland Government 2009a: 9–10). However, despite (or because of) this imposition of Finnish citizenship on Ålanders over 90 years ago, even today they feel a closer affiliation to the Swedes.<sup>127</sup>

Under sect. 120 of the Finnish Constitution, the Province of Åland constitutes an autonomous part of Finland. The Autonomy Act for Åland<sup>128</sup> includes provisions on ‘the right of domicile’ in Åland, with amendments. The right of domicile can be described as a regional citizenship, which is required in order to own or be in possession of real estate, vote in and stand for elections to the provincial parliament, and conduct a business within the province of Åland.<sup>129</sup> The Provincial Government may grant exemptions from the requirement of right of domicile for persons wishing to acquire real estate or conduct a business in Åland. Acquisition of the right of domicile is provided in the Autonomy Act adopted by the Finnish Parliament, while loss of the right of domicile may be provided in Acts adopted by the Provincial Parliament of Åland.

The right of domicile follows the principle of *ius sanguinis* and is acquired at birth if either of the parents is in possession of the right of domicile (Autonomy Act, sect. 6). Others can also acquire the right of domicile if certain requirements are met. According to sect. 7 of the Autonomy Act, a person wishing to acquire the right of domicile in Åland must be a Finnish citizen, have had his or her habitual residence in Åland for the last five years without interruption, and have adequate knowledge of the Swedish language.<sup>130</sup> A person who has lived outside Åland for more than five years loses the right of domicile.<sup>131</sup> Loss of Finnish citizenship also leads to the loss of the right of domicile in the Province of Åland (sect. 8).

In spring 2009, a committee consisting of members of the Parliament of Åland passed a report on the review of the right of domicile. The committee unanimously considered that Finnish citizenship should no longer be a prerequisite for the right of domicile in Åland, and recommended that the provincial government together with the Government of Finland formulate an amendment in this regard (The Åland Government 2009b). The discussion on the subject has continued in the Åland Parliament in 2012.<sup>132</sup> Whether this motion proves successful or not, it is noteworthy that the same question has been on the local political agenda for at least 30 years.<sup>133</sup>

<sup>127</sup> As an example it can be mentioned that almost 80 per cent of Ålandish young people who study outside the Islands choose to be educated in Sweden (Lindholm 2009). It is equally noteworthy that a proposal according to which Åland should change its time zone in order to match Sweden received considerable support in the Parliament of Åland in spring 2008. K. Österman, ‘*Stort stöd i lagtinget för svensk tid på Åland*’ [Broad support in the Parliament for the Swedish time in Åland], *Ålandstidningen* [daily newspaper] 18 August 2008, [www.alandstidningen.ax/article.con?iPage=1&id=8874](http://www.alandstidningen.ax/article.con?iPage=1&id=8874).

<sup>128</sup> 1144/1991 *Ahvenanmaan itsehallintolaki (självstyrelselag för Åland)*, entry into force 1 January 1993.

<sup>129</sup> For a more extensive examination on the right of domicile, see e.g. ‘The right of Domicile on Åland’, a compilation of seminar presentations, published by the Åland Islands Peace Institute ([www.peace.ax](http://www.peace.ax)) in 2007 (English translation 2009).

<sup>130</sup> Swedish is the official language in the Province of Åland (sect. 36 of the Autonomy Act).

<sup>131</sup> Provincial Act (1993:2) on the Right of Domicile in Åland, *Landskapslag om åländsk hembygdsrätt*, sect. 4.

<sup>132</sup> The group speech of the Liberal Party by Deputy Speaker Viveka Eriksson in the Åland Parliament’s Plenary Session on 9 June 2012. *Ålands lagting, plenarprotokoll, plenumprotokoll den 9 juni 2012 kl. 14.00* [The Åland Parliament, Minutes of the Plenary Session of 9 June 2012 at 2:00 PM],

### 3.6 Institutional arrangements

#### *The procedure of acquisition of citizenship*

The processing of citizenship applications and declarations is carried out within the Finnish Immigration Service, an administrative agency that processes and decides on matters related to immigration, residence, refugee issues, and Finnish citizenship. The Service is subordinate to the Ministry of the Interior. Between 1995 and 2007, the name of the agency was the Directorate of Immigration, which took over the role of the Ministry of the Interior as the new immigration agency on 1 March 1995. As mentioned in the history Section, decision-making authority in citizenship matters was transferred from the President to the Directorate on 15 August 1998.

An application for Finnish citizenship can only be submitted in Finland and it shall be submitted in person to the district police where the applicant is residing.<sup>134</sup> An application for release from citizenship, as well as citizenship declarations for which residence in Finland is not required<sup>135</sup> can also be submitted to a Finnish diplomatic mission, consulate, or honorary consulate abroad. Children (co-applicants and children as applicants) are also required to be present when the application of declaration is submitted (sect. 44 (1)). The identity of the applicant is then checked by the police or the diplomatic mission. This goes also for a child who has a travel document or an identity card of his or her own (sect. 44 (2)).<sup>136</sup>

Applications and declarations shall be made on specific application forms. Such forms are available at the Finnish Immigration Service, the District Police and at Finnish diplomatic missions abroad, as well as on the website of the Finnish Immigration Service. Documents shall be attached in accordance with the instructions on the specific form, typically a certificate of language skills and an account of livelihood. Applicants from countries suffering or recovering from war (e.g. Somalia, Iraq, Afghanistan) often have difficulties providing documents regarding their identity. As already mentioned, the identity of a person who has used one and the same identity in the population information system for at least ten years is considered to be established in accordance with the Nationality Act.

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<http://dokument.lagtinget.aland.fi/plenum/2011-2015/2012-06-09/pp20120609-1400.htm>.

<sup>133</sup> M. Andersson, '*Hembygdsrätten bör inte vara knuten till finskt medborgarskap*' [The right of domicile must not be bound to Finnish citizenship], *Ålandstidningen* [daily newspaper] 9 April 2009, [www.tidningen.aland.net/article.con?iPage=392&id=16101](http://www.tidningen.aland.net/article.con?iPage=392&id=16101).

<sup>134</sup> Since October 2012 it has been possible to submit a basic kind of citizenship application (application 'KAN\_1') electronically through the e-services of the Finnish Immigration Service in accordance with provisions of the Act on Electronic Services and Communication in the Public sector (*laki sähköisestä asiointista viranomaistoiminnassa*, 13/2003). After submitting an electronic application, an applicant must however visit a police station in order to verify his or her identity and to present the original copies of supplements needed in the application (Migri 2012b). Information also provided by Senior Adviser Karoliina Hyttinen, Nationality Unit of the Finnish Immigration Service.

<sup>135</sup> This covers children of Finnish fathers (sect. 26), adoptive children who have reached the age of twelve (sect. 27) and former Finnish citizens (sect. 29).

<sup>136</sup> Declarations made according to transitional provisions (sect. 58–60) until 31 May 2008 could also be sent by post with the attachment of a receipt showing that the handling fee had been paid (sect. 61). This possibility was added to the Bill by the Constitutional Law Committee, which considered that the requirement of personal appearance could become an obstacle to submitting a declaration for those Finnish expatriates who live in large countries (e.g. the United States of America, Canada and Australia) or in countries where Finland does not have diplomatic missions, and who would therefore need to travel a long way to reach a Finnish diplomatic mission (PeVM 8/2002: 2–3).

There is a fee for both citizenship applications and declarations that must be paid in order for the application or declaration process to continue after the check on identity. The fee is regulated annually by a decree issued by the Ministry of the Interior. In 2012, the fee is €440 for all citizenship applications, including applications for release from Finnish citizenship, and €240 for citizenship declarations. For children under 18 years of age, the declaration fee is €100. Children who are included in the application of their parents (co-applicants) are exempted from the application and declaration fee. No fee is charged either for two groups of elderly applicants, i.e. persons who can prove that they served in the Finnish army during the Finnish wars of 1939–1945, or were sent as war children to another Nordic country during the same period.<sup>137</sup>

The quantification of fees is closely related to the problem with the long processing times, as outlined below. The intention expressed in the government proposal for the 2003 Nationality Act was that the fee should cover the real costs of processing an application or a declaration.<sup>138</sup> Even though the fees were finally kept lower than the actual procedural costs, they were nevertheless raised considerably in 2003 to reflect the anticipated increase in the workload, the application fee from €336 to €400 and the declaration fee from €100 to €300.<sup>139</sup> This apparently had an unintended effect, as the number of declarations submitted by former Finnish citizens and their descendants was much lower than expected during the first year in force of the new Nationality Act.<sup>140</sup>

At the end of 2003, five Members of Parliament from the Swedish People's Party expressed concerns that the high fees constituted a barrier for many immigrants and former Finnish citizens wishing to (re)acquire Finnish citizenship. In particular, it was regarded as unfair that persons who had lost Finnish citizenship due to the previous non-acceptance of multiple citizenship should pay such a high fee in order to reacquire Finnish citizenship.<sup>141</sup> The declaration fee was lowered to its current level of €240 in 2005.<sup>142</sup> As was explained above, the last-minute rush of transitional period declarations in 2008 indicates that even the current declaration fee was considered too high by many former Finnish citizens.

It can be assumed that the fee of €440 is a hurdle for some applicants who are dependent on social security benefits, especially since the total costs of an application process are often higher: participation in a National Certificate of Language Proficiency test costs €95 and if the application includes documents issued by a foreign authority, the applicant is in principle liable for translation of these documents

<sup>137</sup> 1279/2011 Ministry of the Interior Decree on the fees for the performances of the Finnish Immigration Service (*sisäasiainministeriön asetus Maahanmuuttoviraston suoritteiden maksullisuudesta*), entry into force 1 January 2012.

<sup>138</sup> HE 235/2002: 26.

<sup>139</sup> Ministry of the Interior Decrees 1417/2001 (in force from 1 January 2002 to 31 December 2002), 1123/2002 (in force from 1 January 2003 to 31 December 2003) and 388/2003 (in force from 1 June 2003 to 31 December 2003).

<sup>140</sup> The number expected was 5,000 declarations yearly. During the first year that the 2003 Nationality Act was in force, i.e. from 1 June 2003 until 31 May 2004, the number of declarations made by former Finnish citizens and their descendants was 3,011 (UVI 2004).

<sup>141</sup> Parliamentary motion (*toimenpideoite*, TPA) 89/2002, Fees for granting citizenship (*Kansalaisuuden myöntämistä koskevat maksut*), Eva Biaudet and others, The Swedish People's Party.

<sup>142</sup> 1344/2004 Ministry of the Interior Decree on the fees for the performances of the Directorate of Immigration (*sisäasiainministeriön asetus Ulkomaalaisviraston maksullisista suoritteista*), in force from 1 January 2005 to 31 December 2005.

to Finnish or Swedish at his or her own expense (sect. 47 (2)).<sup>143</sup> The level of costs can be a problem especially for refugees, since the unemployment rate among them has traditionally been significantly higher than among other immigrants.

The application or declaration will be processed by the Nationality Unit of the Finnish Immigration Service where applications are divided into three queues: (1) applicants who hold a national passport, (2) applicants who have been granted a refugee status or a residence permit on the basis of need of protection and (3) applicants who hold an alien's passport. The period within which an application or declaration has to be processed has not been provided by statute, leaving it rather unclear for an applicant as to when to expect a decision.<sup>144</sup> The procedure is usually fastest for applications of group 1 and the slowest for applications of group 3.<sup>145</sup> Since the beginning of 2009, the Finnish Immigration Service has published on its website monthly overviews of the queue of citizenship applications, with general information about processing situation of applications.<sup>146</sup>

Over the past few years, the average processing time of citizenship applications has been roughly over a year, 373 days in 2011 and 385 days in 2010 (Migri 2012a: 9).<sup>147</sup> Even though this may seem quite a long time, it can be regarded as an important improvement compared to the situation in the middle of 1990s when the increase in the number of citizenship applications was not matched by corresponding increase in resources and personnel, leading to unacceptably long processing times, at an average of three years for citizenship applications.<sup>148</sup> The long procedure was the subject of repeated criticism by the public, Members of

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<sup>143</sup> HE 235/2002: 65. Documents in English are accepted without translation (information provided by Senior Adviser Kati Korsman, Nationality Unit of the Finnish Immigration Service).

<sup>144</sup> The new possibility to submit an application electronically via internet should improve this situation as the status of an electronic application can later be checked online by the applicant.

<sup>145</sup> Information provided by Senior Adviser Karoliina Hyttinen, Nationality Unit of the Finnish Immigration Service. – According to the Finnish Immigration Service, within group 1 the procedure is particularly rapid for *accurate applications* submitted by applicants who had a national passport at the time of submitting the application, as well as a residence permit and a national passport or other reliable identity card when they arrived in Finland. Other requirements for an application to be regarded as accurate are that 'there is no need for further clarification' and 'the meeting of citizenship requirements is easy to establish with the documents attached to the application and through registry checks'. Further clarification is needed if not all questions on the application form have been answered, not all required documents are attached to the application or special consideration is required as to whether all requirements are met (Migri 2012e).

<sup>146</sup> As an example it can be mentioned that according to the monthly information of October 2012, the processing had started for *accurate applications* that had arrived at the Finnish Immigration Service in April 2012. For other applications submitted by holders of passports the processing had started for applications that had arrived in October 2010. For refugees, the processing had started for applications arrived in September 2010 and for holders of alien's passports for applications that had arrived in August 2010 (Migri 2012c).

<sup>147</sup> The processing times of 2010 and 2011 are not completely comparable since only the latter is a total processing time including also the time taken by commencement of the application process within the District Police, approximately 30 days (Migri 2012a: 9).

<sup>148</sup> It was expected that the transfer of the decision-making power from the President of the Republic to the Directorate of Immigration in 1998 would lead to a reduction in processing time by 30 per cent. However, the increase in the number of applications for asylum, residence permits and work permits led to a reallocation of resources within the Directorate from citizenship matters to immigration matters, which prevented the anticipated reduction from being realised. HE 49/1998; KK 1265/2001, Processing times for applications within the Directorate of Immigration (*Ulkomaalaisviraston hakemusten käsittelyajat*), Erkki Kanerva and others/Social Democratic Party.

Parliament and the Parliamentary Ombudsman.<sup>149</sup> Ever since there has been a constant effort to speed up the procedure and clear backlogs with a number of different projects. The officials working in these projects have been temporarily released from their other tasks in the Finnish Immigration Service (Migri 2009b).<sup>150</sup>

With citizenship declarations, the trend of processing times has been different as the end of the aforementioned five-year transitional period for former Finnish citizens in 2008 led to a last-minute rush and consequently a considerable backlog of declarations. Between 2007 and 2010, the average processing time of citizenship declarations grew from 2.5 months to almost 15 months (Migri 2009a: 7, Migri 2012a: 9). After 2010, however, the processing times have been decreasing again, being less than four months in 2011 and during the first half of 2012 (Migri 2012a: 9, Migri 2012f: 7).<sup>151</sup>

After making a decision the Finnish Immigration Service notifies the applicant in writing of the result of the application or declaration procedure. If the decision is unfavourable to the applicant, it must be justified (sect. 50). As mentioned above, decisions made by the Finnish Immigration Service can be appealed to an Administrative Court, and decisions made by the Administrative Courts can be further appealed to the Supreme Administrative Court (sect. 41–42).

### *The legislative process*

Enacting legislation is one of the main tasks of the Finnish Parliament. Both the government and Members of Parliament can submit bills to the Parliament. The government, through the Ministry of the Interior, plays a vital role in immigration matters in Finland. Revising nationality legislation is one of the Ministry's tasks. The 2003 Nationality Act and its amendment in 2011 were consequently drafted by the Ministry of the Interior.<sup>152</sup> Several agencies, organisations and interest groups were given a chance to express their opinion on these reforms.<sup>153</sup>

The handling of a government proposal or a Member of Parliament's initiative starts with a preliminary debate in plenary session.<sup>154</sup> No decisions are made at this stage of the legislative procedure as the purpose of the debate is merely to provide a basis for the subsequent committee work. The Members of Parliament are given an

<sup>149</sup> KK (Written question) 1265/2001; the Decision of the Deputy Ombudsman Ilkka Rautio on processing times of asylum and citizenship applications within the Directorate of Immigration (*päätös ulkomaalaisviraston turvapaikka- ja kansalaisuushakemusten käsittelyajoista*), 16 December 2003, 362/2/03.

<sup>150</sup> As an example it can be mentioned that in 2001 the Directorate of Immigration started a project which later became an established practice, according to which the principle 'first in—first out' was partly abandoned and new applications that were considered clearly founded were processed immediately. Old applications were grouped in order to process similar cases simultaneously. – KK 258/2004, Processing time for citizenship applications (*Kansalaisuushakemusten käsittelyajat*), Anne Holmlund/The National Coalition Party (the answer of the Minister of the Interior Kari Rajamäki).

<sup>151</sup> The exact average processing times were 445 days in 2010, 110 days in 2011 and 97 days in the first half of 2012.

<sup>152</sup> HE 235/2002: 26; HE 80/2010: 26.

<sup>153</sup> See Sections 2.7 and 2.8 above.

<sup>154</sup> Information provided in this Section is generally based on the internet page 'Legislative Work of Parliament', published by the Parliament of Finland (<http://web.eduskunta.fi/Resource.phx/parliament/aboutparliament/legislativework.htx>).

opportunity to present their views on the bill as a guide to the committee work. At the end of the debate Parliament decides which committee the further preparation of the bill shall be referred to.

During the committee's handling of the bill, which is the next stage in the legislative procedure, there may be hearings of experts, such as officials, representatives of government agencies, organisations and other interest groups who will present their views on the legislative proposal. The bill is subject to a general debate within the committee where it will be analysed section by section. The committee will present a report with its views and recommendations as to what decision Parliament should take on the bill. The handling of a bill in a committee normally takes a month or two.

The Nationality Act of 2003 and its amendment of 2011 were handled in the Committee for Constitutional Law.<sup>155</sup> This Committee handles all matters concerning constitutional law, but also other related matters such as citizenship, language, political parties, and ministerial responsibilities.

Following the Committee's handling, the bill goes through two readings in plenary session of Parliament. In the first hearing the bill will be decided upon section by section. Voting will be conducted if necessary. At least two days have to pass before the second reading of the bill can take place. At the second reading, the bill can no longer be amended and will be either passed or rejected. If a bill is amended during the first hearing it must be referred to the Grand Committee for scrutiny before it can be voted on in the second hearing. Normally a bill is read within two to four months, however, major legislative projects may require considerably more time.

A simple majority of votes is required for passing or rejecting ordinary legislative bills. Amendments of constitutional provisions must first be passed by a simple majority of votes in the second parliamentary reading. The bill will thereafter be left in abeyance until a new Parliament has been elected. The new Parliament must pass the bill by a two-thirds majority in order for it to become law. If declared urgent by a five-sixths majority of the Parliament, amendment of constitutional provisions may be passed by the same Parliament by a two-thirds majority.

A bill passed by Parliament must be sent to the President of the Republic for approval. If the President does not approve a bill within three months, the bill will be returned to Parliament and handled again. If after this handling Parliament repasses the bill without material alterations, it will enter into force as an Act without approval of the President.

In Finland, legislative acts by Parliament are not subject to judicial review by a constitutional court. Nor does the Supreme Court have an explicit right to declare an act unconstitutional. Instead, the Committee for Constitutional Law has the authority to review the constitutionality of bills and recommend changes. Recommendations of the Committee are not judicially binding, but in practice they are unconditionally followed (Ojanen 2001: 80–81). Consequently, the Constitutional Law Committee may be regarded as fulfilling the task of a constitutional court.

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<sup>155</sup> PeVM 8/2002.

## 4 Conclusions

After the account of historical and present Finnish nationality legislation given in the previous Sections, it is appropriate to finish by providing some thoughts on recent and possible future trends.

As mentioned above, the amendment of the Nationality Act in 2011 brought an important change, not only to legal naturalisation conditions, but also to the way how naturalisation is understood as a social instrument by the legislator. Rather than a reward for successful integration that had already taken place, naturalisation was seen as a means to support integration of immigrants into society. It remains to be seen what kind of an effect this stance – if it is maintained – will have on citizenship legislation in the long term. Presumably the foreign population will continue to grow, which should create a constant need to re-examine citizenship legislation from the point of view of immigration policy, a situation which is probably not as obvious in Finland as it is in many other European countries with more experience with large-scale immigration. It is also noteworthy that the population in Finland is ageing fast and the labour force will, according to the statistics, start to decline in the near future (Ruotsalainen 2012). This structural problem creates long-term need for recruitment of foreign labour and may also create pressure for further facilitation of naturalisation conditions in order to promote immigration.<sup>156</sup>

Important amendments to the Nationality Act are, nonetheless, not to be expected in the near future. Even though immigration issues are given more attention and space in the Government Programme of 2011 than in the one of 2007, citizenship legislation is not mentioned at all in the current programme (Government Programme 2011: 45–49, Government Programme 2007: 20–21). This can be regarded as logical, as the amendment of 2011, during the preparation of which the need for all central modifications to the Nationality Act had been investigated, was adopted by the Parliament only a few months before the Parliamentary Elections of 2011 and the formation of the current Government.<sup>157</sup>

The inclusion of citizenship issues in immigration policy has yet another potential consequence which needs to be taken into consideration. As has been noted, the rather tame political discussion around the 2003 Nationality Act, notwithstanding its major changes, can at least partly be explained by the small immigrant population in Finland.<sup>158</sup> This has also been one reason for the fact that immigration questions in general have not attracted major attention in political debates, and there has not been significant far-right, anti-immigrant opposition parties in Finland (Howard 2009: 79–80). This traditional situation has, however, started to change in recent years as immigration questions have become the subject of a more intense political debate in Finland. At the centre of the debate has been the populist and nationalist party of ‘The

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<sup>156</sup> As an example it can be mentioned that due to labour shortage in health care, certain regions of Finland are currently recruiting nurses from abroad. See ‘2300 espanjalaista hoitajaa haluaa Suomeen’ [2,300 Spanish nurses want to come to Finland], YLE (The Finnish Broadcasting Company), 17 February 2012, updated 9 June 2012, [http://yle.fi/uutiset/2\\_300\\_espanjalaista\\_hoitajaa\\_haluaa\\_suomeen/5064825](http://yle.fi/uutiset/2_300_espanjalaista_hoitajaa_haluaa_suomeen/5064825).

<sup>157</sup> The current government led by Prime Minister Jyrki Katainen is a six-party coalition government composed of the National Coalition Party, the Social Democratic Party, the Left Alliance, the Green League, the Swedish People’s Party and the Christian Democrats.

<sup>158</sup> At the end of 2011, the number of foreign citizens was 183,100, approximately 3.4 per cent of the population (Statistics Finland 2012b). The total number of people of foreign origin (including those who have been naturalised in recent years) is, of course, bigger.

Finns' (formerly known as 'True Finns')<sup>159</sup>, the members and supporters of which have been accused of racism.<sup>160</sup> Whether these accusations are justified or not, it is noteworthy that the support of the party has increased considerably in recent years—from 1.6 per cent in the Parliamentary elections of 2003, to 4.1 per cent in the 2007 Parliamentary elections, 9.8 per cent in the 2009 European elections and, notably, 19.1 per cent in the 2011 Parliamentary Elections (Ministry of Justice 2012). When it comes to citizenship legislation, attention must be paid to the fact that all five MPs who voted against the Bill for the Amendment of 2011 were members of The Finns Party. Three months later this party, which had almost unanimously opposed the reform of the Nationality Act,<sup>161</sup> recorded the biggest election victory in the history of Finland by almost quintupling their vote and becoming the third-largest Parliamentary Group and the largest opposition party with 39 MPs.<sup>162</sup>

It can be concluded that the connection of citizenship affairs to general immigration policy will probably increase public interest in citizenship issues. The future amendments of nationality legislation are therefore likely to attract more attention and stir fiercer political debate than before, especially if conditions for naturalisation are proposed to be made easier.

<sup>159</sup> The English name of the party was changed from 'True Finns' to 'The Finns' in August 2011. See 'True Finns name their party 'The Finns'', YLE (The Finnish Broadcasting Company), 21 August 2011, [http://yle.fi/uutiset/true\\_finns\\_name\\_their\\_party\\_the\\_finns/5410148](http://yle.fi/uutiset/true_finns_name_their_party_the_finns/5410148).

<sup>160</sup> See P. Mykkänen, 'COMMENTARY: True Finns have issues with reality', Helsingin Sanomat (daily newspaper), International Edition, 15 November 2011, <http://www.hs.fi/english/article/COMMENTARY+True+Finns+have+issues+with+reality/1135269867472>. – According to a study produced by the Tampere Research Centre for Journalism, Media and Communication in May 2012, the debate over immigration before the Parliamentary Elections of 2011 remained more subdued than had been anticipated. The debate was dominated by The Finns Party, the views of which were little commented on by large established parties. See 'Public immigration debate remained tepid before last parliamentary election' Helsingin Sanomat (daily newspaper), International Edition, 8 May 2012, <http://www.hs.fi/english/article/Public+immigration+debate+remained+tepid+before+last+parliamentary+election/1329104030926>. See also T. Kinnunen, 'True Finns party sparks immigration debate in Finland', Agence France Press, 27 May 2009. The article published on the internet site of Expatica Communications B.V., an international media company providing news and other information on living abroad, [http://www.expatica.com/de/employment/employment\\_information/True-Finns-party-sparks-immigration-debate-in-Finland-\\_14116.html?ppager=0](http://www.expatica.com/de/employment/employment_information/True-Finns-party-sparks-immigration-debate-in-Finland-_14116.html?ppager=0).

<sup>161</sup> One MP of the six-member Parliamentary Group of True Finns was absent from the vote. Minutes of the Plenary Session 140/2010 on 19 January 2011, Voting Appendix 1 (*PTK 140/2010 vp, äänestysliite I*).

<sup>162</sup> See 'Nationalist True Finns make gains in Finland vote', BBC News, 18 April 2011, <http://www.bbc.co.uk/news/world-europe-13107620>, and 'Many new records set in Parliamentary Elections' Helsingin Sanomat (daily newspaper), International Edition, 19 April 2011, <http://www.hs.fi/english/article/Many+new+records+set+in+Parliamentary+elections/1135265525890>.

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