Council of Europe and nationality law

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Council of Europe

- Very active in field of nationality law: already in 1949
- **1963 Convention** on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality
- **1993 Second Protocol** to 1963 Convention
- **1997 European Convention on Nationality** (ECN)
- **2006 Convention on the avoidance of statelessness in relation to State succession**
Art. 1 (1) 1963 Convention

- Nationals of the Contracting Parties who are of full age and who acquire of their own free will, by means of naturalisation, option or recovery, the nationality of another Party shall lose their former nationality. They shall not be authorised to retain their former nationality.

1963 Convention

- Austria 1969
- Belgium 1991
- Denmark 1972
- France 1965
- Germany 1969
- Italy 1968
- Luxemburg 1971
- Netherlands 1985
- Norway 1969
- Sweden 1969
- [Ireland; Spain; UK only chapter II on military service ]
- Therefore ratification by 13 States, 10 States are bound by chapter I
Equal treatment men and women

Realization of equal treatment in nationality law took place in most countries in the 70’s and 80’s

Consequence: Considerable more cases of multiple nationality iure sanguinis due to introduction ius sanguinis a matre et a patre

Question: why avoid multiple nationality in case of voluntary acquisition of foreign nationality, but accept (or even stimulate) multiple nationality in case of birth as child of parents with different nationalities

Second protocol 1993

- Allows exceptions on main rule of 1963 Convention:
  - a) if a person acquires the nationality of another Contracting Party on whose territory either he was born and is resident, or has been ordinarily resident for a period of time beginning before the age of 18
  - b) if a person acquires the nationality of his spouse
  - c) if a minor whose parents are nationals of different Contracting Parties acquires the nationality of one of his parents
**Second protocol 1993**

- Ratified by France, Italy, Netherlands

- Between these countries Art. 1 1963 Convention still applies, but the States involved may that nationality is not lost in the cases covered by the Second Protocol

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**1963 Convention**

- **Austria** (reservation: authorisation to retain nationality possible, if the other State gives consent)
- Belgium denounced convention in 2007
- **Denmark**
- France denounced convention in 2008
- Germany denunciation in 2001
- **Italy**: 2nd prot./ no loss of nationality in Lc
- Luxembourg denounced convention in 2008
- **Netherlands**: 2nd prot./ exceptions loss of nationality
- **Norway**
- Sweden denunciation in 2001
1997 European Convention on nationality

- Codification of customary international law regarding nationality: art. 3-5
- Some rules on acquisition of nationality art. 6
- Exhaustive list of grounds for loss of nationality art. 7/8
- Neutral regarding multiple nationality

Popularity of ECN 1997

- Ratification by 18 States (12 MS EEA: 11 MS EU + Iceland) Norway will ratify soon
- Most States ratified without reservations (9 States) or on 2-4 points (5 States)
- Exception: Austria (11 reservations on all points where Austrian law is not in accordance with ECN)
- Other States modified their nationality law in order to fulfill standards of ECN: harmonization
Popularity ECN

- Albania (2004)
- Austria (2000)
- Bosnia Herzegovina (2009)
- Bulgaria (2006)
- Czech Republic (2004)
- Denmark (2002)
- Finland (2008)
- Germany (2005)
- Hungary (2002)
- Iceland (2003)
- Moldova (2000)
- Netherlands (2001)
- Portugal (2002)
- Romania (2005)
- Slovakia (2000)
- Sweden (2001)
- Ukraine (2007)

Convention avoidance of statelessness in relation to State succession

- In force on 1 May 2009

- Hungary
- Moldova
- Norway
Committee of experts on nationality

- 2008 appointed by Secretary General CoE
- Worked on Recommendation of the Council of Ministers
- Now submitted to CJ CoE 12/13 March 2009
- → Council of Ministers October 2009

Committee of experts on nationality

- Preparation of 4th European conference on nationality law
- Update Nationality Bulletin of the CoE
Recommendation on the nationality of the child

- Reducing statelessness of children
- Nationality as a consequence of a child-parent relationship
- Children born on the territory of a State to a foreign parent
- Position of children treated as nationals
- Rights of children in matters of nationality
- Registration of birth

Recommendation

- Soft law: a non binding instrument
- Prepares discussion on a new treaty
- Interprets some rules of the ECN

Can only be adopted with unanimity

Therefore compromise character