Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 13392
23 January 2014

Access to nationality and the effective implementation of the European Convention on Nationality

Report[1]
Committee on Legal Affairs and Human Rights
Rapporteur: Mr Boriss CILEVIČS, Latvia, Socialist Group

Summary

The "right to a nationality" is enshrined in several international legal instruments, based on the sound principle that nobody should be left stateless. Yet in some Council of Europe member States – notably Latvia, the Russian Federation, Estonia and Ukraine – there are still high numbers of stateless persons. The European Convention on Nationality, adopted by the Council of Europe in 1997, enshrines the right to a nationality, but to date it has been ratified by only 20 member States.

States should sign up to and enforce the European Convention on Nationality as well as the United Nations conventions against statelessness, and follow United Nations guidelines on what constitutes a stateless person. They should enable naturalisation of long-term residents, asking for no more than five years' residency, charging reasonable fees and not discriminating on grounds of gender, race, religion, ethnic origin or language. They should also be more tolerant of multiple nationalities, as mixed marriages become more common and people move around more.

Moreover, procedures for registering births should be tightened up, with newborn children of stateless parents being given the nationality of their country of birth, unless the parents provide proof of immediate acquisition of the nationality of another State.

1. Reference to committee: Doc. 12696, Reference 3805 of 3 October 2011.

Contents **Page**

A. Draft resolution 3
B. Draft recommendation 5
C. Explanatory memorandum by Mr Cilevičs, rapporteur 6
1. Introduction 6
1.1. Procedure 6
1.2. The two motions 6
2. The Assembly's previous work 7
3. Nationality issues in international legal instruments 8
3.1. The notion of nationality 8
3.2. Is there a right to a nationality? 8
3.3. Statelessness 9
3.4. The European Convention on Nationality 10
4. Statelessness in the world 10
4.1. Some figures 10
4.2. Example of groups of stateless persons in Europe 11
4.3. The role of UNHCR 14
4.4. Measures to avoid statelessness 14
5. Multiple nationality 15
6. Acquisition of nationality by migrants and their descendants: naturalisation and application of ius soli 16
7. Possible discrimination on the grounds of the way in which nationality has been acquired and in granting nationality 18
8. Final remarks and proposals 19
8.1. Statelessness 19
8.2. Long-term migrants' access to citizenship 20
8.3. Towards a new convention? 20
8.4. A new expert body? 20
8.5. Conclusion 21

A. Draft resolution[2]

1. The Parliamentary Assembly reiterates the importance of nationality matters. These are closely interrelated with human rights and the rule of law and are therefore a priority for the Council of Europe.

2. The Assembly recalls that the right to a nationality, as the "right to have rights", is enshrined in several international legal instruments, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Whilst it is not directly enshrined in the European Convention on Human Rights (ETS No. 5), the European Convention on Nationality (ETS No. 166) explicitly guarantees the right to a nationality.

3. The Assembly regrets that the European Convention on Nationality has been ratified by only 20 member States of the Council of Europe, most of which have also made reservations or declarations. It therefore calls on all the member States concerned to sign and/or ratify the convention without delay, and without restrictive reservations or declarations.

4. The Assembly considers that statelessness should be prevented and eliminated as soon as possible, as it prevents individuals from enjoying all their human rights and encroaches on their human dignity. It is particularly concerned about the high number of stateless persons, including children, in some member States, and in particular in Latvia, the Russian Federation, Estonia, as well as in Ukraine.

5. In order to prevent and eliminate statelessness, the Assembly calls on the member States, if they have not yet done so, to:

5.1. sign and/or ratify the United Nations Convention relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961;

5.2. implement the provisions of these two legal instruments, and in particular to:

5.2.1. provide for safeguards against statelessness in their national law, particularly by ensuring automatic acquisition of nationality for children born in the territory who would otherwise be stateless, as well as in situations where a person's loss of nationality would lead to his or her statelessness;

5.2.2. establish statelessness determination procedures in line with the guidelines of the United Nations High Commissioner for Refugees (UNHCR) and avoid refusing to recognise a person as stateless when his or her situation meets the definition of a stateless person as set out in Article 1 of the Convention relating to the Status of Stateless Persons, in particular through the introduction of "alternative" definitions of statelessness at the national level;

5.2.3. adopt legislation that facilitates the recognition of nationality via registration and/or facilitated naturalisation of stateless persons on their territory;

5.2.4. provide for access to information, free legal aid and appeal procedures to stateless persons seeking naturalisation;

5.2.5. strengthen procedures for birth registration, if need be, so as to eliminate obstacles to birth registration for newborn babies and raise awareness of such procedures among stateless persons and persons at risk of statelessness;

5.2.6. reconstitute any damaged civil registries, including through facilitating international co-operation between registry offices;

5.2.7. envisage procedures for mandatory registration of newborn babies of stateless parents as nationals of the country of birth, the only exception being when parents provide proof of immediate acquisition of the nationality of another State.

6. The Assembly notes that the possibility of multiple nationalities has become a commonly accepted trend in the last few decades, due to increased international mobility and mixed marriages. The prohibition of multiple nationalities should no longer be an obstacle to the integration of large groups of long-term resident aliens. The renunciation of the nationality of origin should not be a necessary pre-condition for the acquisition of the nationality of the host country.

7. The Assembly therefore calls on member States to:

7.1. review their nationality policies in the light of international legal standards on nationality matters;

---

2. Draft resolution adopted by the committee on 1 October 2013.

7.2. facilitate access to nationality (naturalisation) for long-term residents, according to the following principles:

7.2.1. the period of time required for fulfilling the residence condition shall not exceed five years;

7.2.2. procedural fees as well as those related to language and civic knowledge tests shall be justified and proportionate;

7.2.3. decisions on nationality shall be reasoned and there shall be a right of appeal against them;

7.2.4. conditions for naturalisation as well as their implementation should not be discriminatory on the grounds of gender, race, religion, national or ethnic origin, native language or other grounds;

7.3. not discriminate against their citizens on the grounds of the way in which they have acquired their nationality.

8. The Assembly calls on member States to step up co-ordination among themselves of policies relating to nationality matters in areas which might involve the interests of several States, such as multiple nationals' military obligations, diplomatic protection or voting rights, or issuance of civil registration or identity documents.

B. Draft recommendation[3]

1. The Parliamentary Assembly pays tribute to the work of the Council of Europe's Group of Specialists on Nationality (CJ-S-NA) and its predecessor, the Committee of Experts on Nationality. It regrets that the work of the CJ-S-NA has been discontinued and that no follow-up has been given to the proposals presented in its final report in 2009.

2. Referring to its Resolution ... (2014) on access to nationality and the effective implementation of the European Convention on Nationality, the Assembly recommends that the Committee of Ministers:

2.1. examine ways and means of promoting accession to the European Convention on Nationality (ETS No. 166), as well as its speedy implementation at national level;

2.2. re-establish an expert committee on nationality, which could conduct a study on new trends related to nationality matters, such as the growing acceptance of multiple nationality, acquisition of nationality at birth by children of long-term residents or conditions for naturalisation, including the criterion of residence;

2.3. draft a recommendation on the matters referred to in paragraph 2.1 above.

3. Draft recommendation adopted by the committee on 1 October 2013.

C. Explanatory memorandum by Mr Cilevičs, rapporteur

1. Introduction

1.1. Procedure

1. The motion for a resolution entitled "Access to nationality" (Doc. 12414) was forwarded to the Committee on Legal Affairs and Human Rights on 24 January 2011 for report. The committee appointed me as rapporteur at its meeting in Strasbourg on 26 January 2011. During its meeting in Paris, on 12 November 2012, the committee held a hearing with three experts on the subject:

– Professor Gerard René de Groot, Professor of Comparative Law and International Private Law, Maastricht University, Netherlands

– Ms Ivanka Kostic, Representative of the European Network on Statelessness, Executive Director, Praxis, Belgrade, Serbia

– Ms Inge Sturkenboom, Protection Officer (Statelessness), UNHCR Bureau for Europe, Brussels, Belgium

2. At the same meeting, the committee also appointed me as rapporteur on "The European Convention on Nationality: application and solution proposals" (Doc. 12696),[4] following the departure of the previous rapporteur, Ms Elsa Papadimitriou (Greece, EPP/CD), from the Assembly. The committee then decided to merge this reference with that concerning "Access to nationality", and informed the Bureau accordingly. Subsequently, at its meeting on 11 December 2012, the committee decided – upon my suggestion – that the new title for the joint report should be "Access to nationality and the effective implementation of the European Convention on Nationality". Following the merger of the two motions, on 19 March 2013, the committee held an exchange of views with Professor Zdzisław Galicki, International Law Institute, Faculty of Law and Administration, University of Warsaw, Poland, formerly Chair of the Council of Europe's Committee of Experts on Nationality (CJ-S-NA).

1.2. The two motions

3. The motion for a resolution on "Access to nationality" focuses on access to nationality for immigrants and their descendants and the prevention of statelessness. In most European countries naturalisation of first-generation immigrants faces legal and administrative obstacles and their children do not automatically acquire the nationality (citizenship) of the State of their birth. The trend in several Council of Europe member States in recent years has been to make it more difficult to acquire nationality. The eligibility criteria have become more demanding, including comprehensive tests on language, history and knowledge of the State institutions. Moreover, some countries do not allow multiple nationality, so naturalised immigrants cannot maintain their original nationality.[5]

4. The motion for a resolution on "The European Convention on Nationality: application and solution proposals" stresses the importance of the Council of Europe Convention on Nationality (ETS No. 166, hereinafter "the ECN") for the evolution of nationality legislation at the European level. It calls for a "detailed and precise verification of the ratification and implementation" of this convention in different States Parties. The reason for this is that in certain States Parties national legislation was not fully compatible with the provisions of the convention – that is why States Parties either modified their laws or made reservations to particular articles of the 1997 Convention.[6] The movers of the motion for a resolution were also concerned about the denunciations or reservations made by some States to some provisions of relevant Council of Europe conventions on nationality matters.

5. Bearing in mind the provisions of the European Convention on Nationality, signed on 6 November 1997, and the recent development of the domestic and international legal instruments, I will strive to remind member States of their duty to combat statelessness, which is still a large-scale phenomenon in Europe, and will examine the current trends concerning acceptance of multiple nationality, which is closely related to

4. Reference 3805 of 3 October 2011.

5. For the purposes of this report, I will use the term "nationality", which is used by the European Convention on Nationality, rather than "citizenship", although both terms are synonymous. See, in particular, paragraph 23 of the Explanatory Report to the European Convention on Nationality.

6. For a list of declarations made with respect to this convention, see: http://conventions.coe.int/Treaty/Commun/ListeDeclarations.asp?NT=166&CM=1&DF=13/02/2013&CL=ENG&VL=1.

naturalisation policies. Statelessness is a cause for concern since it encroaches on human dignity and makes individuals vulnerable by depriving them of the protection by any State. It violates core principles of the Council of Europe such as human rights and the rule of law. Therefore, statelessness should be eliminated as soon as possible, emergence of new cases of statelessness should be prevented and, in the meantime, stateless persons should be protected.

6. Multiple nationality is a constantly growing phenomenon due to international mobility and migration, which has become a "total social fact".[7] It is disliked by some States, which see it as an obstacle to full integration of migrants and fear clashes between different States' interests in such areas as compulsory military service or diplomatic protection and the possible manipulation of large groups of voters by foreign governments. Although these concerns may appear valid in some cases, multiple nationality does not appear to be as problematic as statelessness, as appropriate co-ordination between States can minimise conflicting duties stemming from multiple nationality.

7. The Council of Europe has developed regional instruments that address these issues, and in particular the ECN, the first comprehensive convention on matters on nationality in the world. Unfortunately, the number of its States Parties as well as that of other Council of Europe conventions on nationality matters is still very low. That is why I consider that the committee's decision to merge the two motions was well-founded and I will give further thought to the question of the convention's implementation. Moreover, it will also be useful to reflect upon whether the ECN would require further amendments or whether it should be replaced by another convention.

2. The Assembly's previous work

8. The issue of statelessness has been raised in several Parliamentary Assembly resolutions and reports. Already in the 1950s, it noted the gravity of this problem from the human rights perspective and adopted Recommendation 87 (1955) on statelessness[8] and Recommendation 194 (1959) on the nationality of children of stateless persons.[9] This issue was further raised in various other texts of the Assembly, in particular in the context of reports concerning certain minorities groups such as Roma, the Muslim population in Western Thrace or national minorities in Latvia.

9. Moreover, already in 1978 the Assembly noted difficulties for second generation migrants especially with regard to their legal status in the immigration country.[10] Whilst they retain the nationality of their parents, they acquire a dual socio-cultural identity.[11] The Assembly called upon member States "to make it easier for young migrants who so wish to acquire the nationality of the immigration country, when they have either been born or completed most of their schooling in it".[12] The Assembly also addressed the naturalisation of refugees in 1969[13] and 1984[14]. In 1984, it deplored the lack of improvements in national legislation to ensure that they could be naturalised within a reasonable period of time and called on member States to make the naturalisation process more flexible and speedy as well as to ensure that under-age children of refugees acquire the nationality of the receiving country once the parents have acquired it.[15] These principles were later reflected in the ECN.

10. The Assembly has also dealt with the problem of multiple nationality in the context of mixed marriages.[16] Although it reaffirmed, at that time, that States' policy to reduce the number of cases of multiple nationality should continue,[17] it found desirable that each spouse in a mixed marriage should have the right to acquire the nationality of the other without losing his or her own nationality of origin[18] and that their children should be entitled to acquire and keep the nationality of both of their parents.[19]

---

7. For a comprehensive study on migration and citizenship issues, see *Migrants and their descendants. Guide to policies for the well-being of all in pluralist societies*, Council of Europe Publishing, 2010, p. 33.
8. Adopted on 25 October 1955.
9. Adopted on 23 April 1959.
10. Recommendation 841 (1978) on second generation migrants, adopted on 30 September 1978, paragraph 3.
11. Ibid., paragraph 2.
12. Ibid., paragraph 9.vi.
13. Recommendation 564 (1969) on the acquisition by refugees of the nationality of their country of residence, adopted on 30 September 1969.
14. Recommendation 984 (1984) on the acquisition by refugees of the nationality of the receiving country, adopted on 11 May 1984, paragraph 6.
15. Ibid., paragraphs 7.ii and 7.iii.
16. Recommendation 1081 (1988) on problems of nationality in mixed marriages, adopted by the Standing Committee on 30 June 1988.
17. Ibid., paragraph 2.

3. Nationality issues in international legal instruments

3.1. The notion of nationality

11. Nationality is an institution of internal law, which designates the legal bond between a person and a State. The ECN stresses that nationality "does not indicate the person's ethnic origin" (Article 2.*a*). Determining rules on the acquisition of nationality at birth has traditionally been the prerogative of States.[20] There are two main ways of acquiring nationality: either through filiation, whereby children acquire the citizenship of one or both of their parents (*ius sanguinis*), or through birth on a country's territory (*ius soli*). Many countries combine both criteria. Moreover, individuals who have resided legally in a country for a certain length of time and/or who have established particular links, for example through marriage with a national, may acquire citizenship through naturalisation.[21]

12. Although rules on nationality belong to the domestic legal order, several international legal instruments deal with certain aspects, including statelessness and multiple nationality. However, there is very little case law by international courts on nationality matters.[22] The most oft-cited case is perhaps the *Nottebohm (Liechtenstein v. Guatemala)* case,[23] in which the International Court of Justice upheld the principle of "effective nationality", according to which it is the genuine and effective link between a State and an individual which confers upon the State the opportunity to afford diplomatic protection.

3.2. Is there a right to a nationality?

13. An important issue is the right to a nationality as such. It is called a "right to have rights", while statelessness means a negation of a person's legal existence.[24] According to certain international documents, the right to a nationality is a human right – that is the case, in particular, of Article 15 of the Universal Declaration of Human Rights,[25] Article 20 of the American Convention on Human Rights and Article 4 of the European Convention on Nationality. With special regard to children, Article 24 of the International Covenant on Civil and Political Rights[26] and Article 7 of the Convention on the Rights of the Child[27] describe the right of every child to acquire a nationality and Article 8 of the latter stipulates that the child has a right to preserve his or her nationality. In July 2012, the United Nations General Assembly's Human Rights Council adopted two resolutions – on "Human rights and arbitrary deprivation of nationality" (20/5) and on "The right to a nationality: women and children" (20/4),[28] in which it reaffirmed its position on the right to a nationality as a human right.[29] The same position was taken by the High Commissioner on National Minorities ("HCNM") of the Organization for Security and Co-operation in Europe (OSCE).[30] Moreover, in the case of State succession, the 2006 European Convention on the Avoidance of Statelessness in Relation to State Succession (CETS No. 200)[31] provides for the right to a nationality of persons who, at the time of the State succession, had the nationality of

---

18. Ibid., paragraph 5.
19. Ibid., paragraph 6.
20. According to Article 1.*a* of the 1930 Hague Convention on Certain Questions relating to the Conflict of Nationality Laws, "each State shall determine under its own law who are its nationals".
21. UNCHR, Helping the World's Stateless People. 2011, p. 3.
22. L. Pilgram, International Law and European Nationality Laws, EUDO (European Union Observatory on Democracy) Citizenship Observatory, March 2011, p. 3.
23. 1955 ICJ 4, judgment of 6 April 1955. It concerned the question of affording diplomatic protection to an individual having double nationality (of Liechtenstein and Guatemala).
24. See, for instance, A. de Chickera, The Human Rights of Stateless Persons in Europe – Interview with Commissioner Thomas Hammarberg, *European Journal of Migration and Law* 14 (2012), p. 328.
25. Article 15: 1. Everyone has the right to a nationality. 2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.
26. Adopted and opened for signature on 16 December 1966.
27. Adopted and opened for signature on 20 November 1989.
28. www.unhcr.org/refworld/docid/5016631b2.htmlmp;yearto=&coa=&language=&citation; www.unhcr.org/refworld/category,LEGAL,UNHRC,,,503dd5422,0.html.
29. See also Resolution 234 on the Right to Nationality of the African Commission on Human and People's Rights, adopted at its 53rd Ordinary Session held from 9 to 23 April in Banjul, the Gambia.
30. See, in particular, Guideline 34 of the "Ljubljana Guidelines on Integration of Diverse Societies", Recommendation of 7 November 2012.
31. Adopted in Strasbourg on 19 May 2006. To date, only six member States of the Council of Europe have ratified/acceded to this convention. See also the Declaration on the Consequences of State Succession for the Nationality of Natural Persons, adopted by the European Commission for Democracy through Law (Venice Commission) at its 28th plenary meeting, Venice, 13-14 September 1996.

the predecessor State and who have or would become stateless as a result of the State succession (Article 2); this convention also stipulates that States shall take all appropriate measures to prevent such persons from becoming stateless (Article 3).

14. While the European Convention on Human Rights does not expressly refer to such a right, the European Court of Human Rights ("the Court") has found violations of this convention in several cases concerning rights and freedoms of stateless persons.[32] In its recent judgment *Kuric and others v. Slovenia*,[33] the Court considered the issue of the so-called "erased people", some of whom became stateless following the dissolution of the former Socialist Federal Republic of Yugoslavia and whose records were removed from the civil registry, losing their right to residence. The Court found, amongst others, that the Slovenian authorities' prolonged refusal to resolve the applicants' residence status constituted an interference with their right to private and/or family life (violation of Article 8). Interestingly, in another case – *Genovese v. Malta*[34] – concerning acquisition of nationality by descent, the Court ruled that (access to) nationality fell within the scope of protection of the Convention as part of a person's social identity, and therefore his or her private life (Article 8).[35] In this case, the applicant, a British citizen, whose father is Maltese, was prevented from obtaining Maltese citizenship because he had been born out of wedlock. The Court found that there had been no reasonable or objective grounds to justify such difference of treatment of the applicant as a person born out of wedlock. Thus, it concluded that he suffered from discrimination in the enjoyment of his right to private life (violation of Article 14 in conjunction with Article 8). This judgment opens the door to possible further case law relating to the right to a nationality, prohibition of discrimination in access to nationality, and safeguards against statelessness.

3.3. Statelessness

15. A stateless person is a person who is "not considered as a national by any State under the operation of its law"[36] and thus a person without any nationality (citizenship) anywhere. As a corollary to the right to determine the conditions for the acquisition of nationality, States are duty-bound to avoid statelessness through legislative, administrative and other measures.[37] The main international legal instruments against statelessness are the 1954 Convention relating to the Status of Stateless Persons (hereinafter "the 1954 Convention")[38] and the 1961 Convention on the Reduction of Statelessness (hereinafter "the 1961 Convention").[39] The 1954 Convention contains a definition of a stateless person and establishes an international protection regime for stateless persons – there is no equivalent to it at the regional level. The 1961 Convention is important for ensuring the application of common global standards to prevent conflicts between different domestic nationality laws. However, only 78 States (out of which 37 member States of the Council of Europe) are Party to the 1954 Convention and 53 (out of which 28 member States of the Council of Europe) to that of 1961.[40] Moreover, a series of international human rights instruments affirm the right of access to nationality without discrimination and the right of children to acquire a nationality: the 1965 Convention on the Elimination of All Forms of Racial Discrimination,[41] the 1966 International Covenant on Civil and Political Rights,[42] the 1979 Convention on the Elimination of All Forms of Discrimination against Women,[43] the 1989 Convention on the Rights of the Child,[44] the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families,[45] and the 2006 Convention on the Rights of Persons with Disabilities.[46]

---

32. For instance, *Andrejeva v. Latvia*, Application No. 55707/00, judgment of 18 February 2009 (Grand Chamber).
33. Application No. 26828/06, judgment of 26 June 2012 (Grand Chamber). The Court noted that a few similar applications were still pending before it and decided to postpone them for a year, until a domestic compensation scheme is set up.
34. Application No. 53124/09, judgment of 11 October 2011.
35. See also R. de Groot and O. Vonk, Nationality, Statelessness and ECHR's Article 8: Comments on Genovese v. Malta, *European Journal of Migration and Law* 14 (2012), pp. 317-325.
36. As defined in article 1.1 of the 1954 Convention relating to the Status of Stateless Persons.
37. See Guidance Note of the Secretary-General, The United Nations and Statelessness, 28 June 2011, p. 3.
38. UN General Assembly, Convention Relating to the Status of Stateless Persons, 28 September 1954, United Nations, Treaty Series, Vol. 360, p. 117.
39. UN General Assembly, Convention on the Reduction of Statelessness, 30 August 1961, United Nations, Treaty Series, Vol. 989, p. 175. See also the Draft Articles on Nationality of Natural Persons in Relation to the Succession of States, adopted by the United Nations International Law Commission at its 51st session in Geneva, 20 July 1999, whose text has been reproduced in the annex to General Assembly Resolution 55/153 of 12 December 2000.
40. As at 20 January 2014. See:
http://treaties.un.org/pages/ViewDetailsII.aspx?&src=TREATY&mtdsg_no=V~3&chapter=5&Temp=mtdsg2&lang=en
http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-4&chapter=5&lang=en.
41. Article 5.*d*.iii: www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx.
42. Article 24.3: www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx.

16. The Council of Europe has a strong track record in this field, in particular thanks to the European Convention on Nationality of 1997 (Articles 4 and 6) and the Convention on the Avoidance of Statelessness in relation to State Succession of 2006 (see in particular its Articles 2 and 3), the only legally binding instrument, dealing with nationality and succession of States. The Committee of Ministers has also adopted recommendations dealing with this issue, such as Recommendation No. R (1999)18 on the avoidance and reduction of statelessness[47] and Recommendation CM/Rec(2009)13 on the nationality of children.[48]

3.4. The European Convention on Nationality

17. The ECN was drafted following the democratic changes that had taken place in central and eastern Europe since 1989 in order to guide the new democracies in drafting new nationality and aliens' laws.[49] Unfortunately, this legal instrument has only been ratified by 20 member States of the Council of Europe[50].

18. The ECN regulated for the first time all aspects relating to nationality at international level. Articles 4.*a* to 4.*c* of the ECN repeats the message of the Universal Declaration of Human Rights as follows: "The rules on nationality of each State Party shall be based on the following principles: a. everyone has the right to a nationality; b. statelessness shall be avoided; c. no one shall be arbitrarily deprived of his or her nationality". It also contains a principle, according to which "neither marriage nor the dissolution of a marriage between a national of a State Party and an alien, nor the change of nationality by one of the spouses during marriage, shall automatically affect nationality of the other spouse" (Article 4.*d*).

19. The convention contains safeguards against statelessness: Article 6.1.*b* of the ECN prescribes the acquisition of nationality to "foundlings found in its territory who would otherwise be stateless" and regulates the access to nationality for stateless children born on their territory (Article 6.2).

20. Moreover, the ECN covers such issues as discrimination in nationality matters (Article 5), acquisition of nationality (Article 6) and recovery of a former one (Article 9), an exhaustive list of the grounds for its loss (Article 7),[51] procedures governing applications for nationality (Articles 10-13), the legal situation of persons at risk of statelessness as a result of State succession (Articles 18-20),[52] multiple nationality (Articles 14-17), military obligations (Articles 21-22) and co-operation between States Parties (Articles 23 and 24).

21. So far, the ECN has been ratified by only 20 member States of the Council of Europe, most of which made reservations and declarations when adhering to it. Nine other member States have signed but not yet ratified it.[53]

4. Statelessness in the world

4.1. Some figures

22. As the former Council of Europe Commissioner for Human Rights, Mr Thomas Hammarberg, stressed in August 2011, "stateless persons are often marginalised. When they lack birth certificates, identity cards, passports and other documents, they risk being excluded from education, healthcare, social assistance and the right to vote. A stateless person may not be able to travel or work legally. As a result, the stateless have to grapple with inequality and discrimination – and with a heightened risk of being perceived as irregular".[54] His successor, Mr Nils Muižnieks, recently pointed out that statelessness was being transmitted over generations and called on European Governments to end this phenomenon, especially with respect to children.[55]

---

43. Article 9: www.un.org/womenwatch/daw/cedaw/text/econvention.htm.
44. Article 7.1: www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx.
45. Article 29: www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx.
46. Article 18: www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx.
47. Adopted on 15 September 1999 at the 679th meeting of the Ministers' Deputies.
48. Adopted on 9 December 2009 at the 1073rd meeting of the Ministers' Deputies. See also Articles 11 and 12 of the European Convention on the Adoption of Children (ETS No. 58) of 1967, revised by CETS No. 202 on 27 November 2008.
49. Paragraph 13 of the Explanatory Report to the European Convention on Nationality, op. cit.
50. http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=166&CM=1&DF=02/09/2013&CL=ENG.
51. For a more detailed analysis of the issue of loss of citizenship, see EUDO CITIZENSHIP Policy Brief No. 3 (October 2010), Loss of Citizenship, by G.R. de Groot and others.
52. For a comparative analysis with the 1961 United Nations Convention, see EUDO Citizenship Observatory, O.W. Vonk, M.P. Vink and G.-R. de Groot, Protection against Statelessness: Trends and Regulations in Europe, May 2013, pp. 30-31.
53. See: http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=166&CM=7&DF=28/08/2013&CL=ENG .

23. Statelessness exists on a very large scale; according to the United Nations, statelessness is estimated to affect at least 12 million people worldwide.[56] Even in Europe, the number of persons under the UNHCR's statelessness mandate reached over 680 000 in 2012.[57] Media reports abound on the discrimination of groups of stateless persons – for instance many members of the Russian-speaking communities in Latvia[58] and Estonia, as well as Roma groups, particularly in the countries of the former Yugoslavia[59] and in Italy.[60] These problems result mainly from the political upheavals in many parts of Europe after 1989, such as the break-up of the Soviet Union, of Yugoslavia and of Czechoslovakia. According to UNHCR estimates, the number of stateless persons in Latvia in 2012 amounted to 280 584; in the Russian Federation to 178 000,[61] in Estonia to 94 235, in Ukraine to 35 000, in Poland to 10 825, in Sweden to 9 596 and in Serbia to 8 500.[62]

4.2. Example of groups of stateless persons in Europe

4.2.1. The situation of the Roma

24. Many Roma are stateless, although there are no precise statistics.[63] In 2009, estimates in south-eastern Europe indicated that 10 000 stateless Roma lived in Bosnia and Herzegovina,1 500 in Montenegro, 17 000 in Serbia and 4 090 in Slovenia.[64] There are also stateless Roma in western Europe.[65] They often live in very poor conditions, including in substandard housing.[66] This phenomenon is related to the fact that many Roma have never obtained a birth certificate and have difficulties in obtaining proof of their nationality.

25. A flagrant example of depriving Roma of citizenship could be that of the Czech Republic, which made thousands of Roma stateless following the dissolution of the Czechoslovak Federal Republic and the adoption in 1992 of the citizenship law, containing stringent requirements for the acquisition of Czech nationality. As a consequence, approximately 10 000 to 25 000 Roma considered as Slovaks by the Czech Republic and as Czechs by the Slovak Republic, became stateless.[67] The main part of the problem was apparently solved in 1999 following amendments to the Czech citizenship law.

4.2.2. Meshketian Turks

26. The situation of Meshketian Turks is another example of how deportations and changes in the State structure may cause statelessness. Meshketian Turks, who originally inhabited south-west Georgia, were deported in 1944 to Central Asia by the Soviet regime. After an outbreak of violence in 1989, most of them left Uzbekistan and moved to other Soviet republics.[68] Nowadays they are scattered over several countries, mainly Azerbaijan, the Russian Federation, Kyrgyzstan and Turkey. Some 5 000 of them returned to Georgia, which initiated the process of granting them citizenship.[69] However, despite a clearly expressed political will of

---

54. "Several hundred thousand people in Europe are stateless – they need extra protection", Comment by the Council of Europe Commissioner for Human Rights, 2 August 2011.
55. See his Human Rights Comment of 15 January 2013 "Governments should act in the best interest of stateless children".
56. See Guidance Note of the Secretary-General, "The United Nations and Statelessness", 28 June 2011, p. 1.
57. UNHCR, UNHCR Global Trends 2012: Displacement, The New 21st Century Challenge.
58. Moreover, the Assembly itself examined this issue in its Resolution 1527 (2006) on rights of national minorities in Latvia", adopted by the Standing Committee on 17 November 2006.
59. According to the former Commissioner for Human Rights, their number stands at around 22 000, supra note 54.
60. According to the former Commissioner for Human Rights, their number stands at around 15 000, ibid.
61. The situation in the Russian Federation is somewhat controversial. The figure of 178 000 persons is based on the number of self-declared stateless persons during the 2010 population census, while the UNHCR notes that only 31 162 persons are officially registered as stateless persons with the Federal Migration Service. It is worth noting that the 2002 population census gave much higher figure – 430 000 (www.demoscope.ru/weekly/2011/0491/perep01.php).
62. Supra note 57.
63. See viewpoint by former Commissioner for Human Rights, Thomas Hammarberg "Many Roma in Europe are stateless and live outside social protection", 6 July 2009.
64. Ibid. See also "Roma migrants in Europe", report by Annette Groth (Germany, UEL), Committee on Migration, Refugees and Displaced Persons, Doc. 12950, 8 June 2012.
65. Ibid., paragraph 33.
66. Supra note 24, p. 328.
67. www.refugeeresearch.net/node/9293 (posted on 8 March 2012).
68. The situation of the deported Meshketian population, report by Ms Ruth-Gaby Vermot-Mangold (Switzerland, SOC), Committee on Migration, Refugees and Population, Doc. 10451, 4 February 2005.
69. "Georgia realizes program for return of Meskhetian Turks", article in *Vestnik Kavkaza* (Russia), 20 March 2013.

the Georgian authorities, the process of repatriation and restoration of citizenship remains very slow.[70] In practice, repatriates face administrative obstacles. By August 2013, 1 058 repatriation statuses and only seven citizenships have been granted.[71]

27. For a number of years the situation of Meshketian Turks living in the Russian Federation, and especially in the Krasnodar region, gave rise to concern, as, after the collapse of the Soviet Union, they were not recognised as Russian citizens and remained in a legal limbo, being deprived of basic civil, political, economic and social rights,[72] due to the authorities' persistent refusal to register them in their place of residence. According to the Moscow Helsinki Group, their number in the Krasnodar region amounted to between 11 000 and 13 000.[73] The Assembly dealt with this issue, in particular, in the report by Ms Ruth-Gaby Vermot-Mangold on "The situation of the deported Meskhetian population".[74] The problem was largely resolved after the United States decided to grant asylum to the Meskhetians from Krasnodar, which resulted in the resettlement of over 9 000 persons in the United States.[75] Unfortunately, one cannot but admit that the European mechanisms appeared incapable of effectively handling this problem.

4.2.3. Persons deprived of Greek citizenship

28. As it has already been pointed out in one of my previous reports,[76] a significant number of persons of "non-Greek descent" living in Greece or abroad were deprived of their Greek citizenship on the basis of former Article 19 of the Greek Citizenship Code. As a consequence of this provision, between 1995 and 1998, around 60 000 Greek citizens, including those of ethnic Macedonian or Turkish descent, lost their Greek citizenship.[77] Although the above-mentioned provision has been repealed, the repeal has no retroactive effect and a small number of Muslims living in Western Thrace still remain stateless,[78] pending lengthy naturalisation procedures.[79] According to UNHCR estimates, 154 persons under the organisation's statelessness mandate were living in Greece in 2012.[80]

4.2.4. The Russian-speaking population in Estonia and Latvia

29. Following the collapse of the Soviet Union, a significant number of residents, mainly Russian speakers, became stateless in Estonia and Latvia. Although many were born in these countries and a vast majority of them have a status as legal residents, they are still deprived of political rights, such as the right to vote in national elections (in Latvia – also in municipal elections), the right to occupy certain positions in the public and also private sector, as well as some other rights, such as the right to legally possess firearms.[81] In some cases, the non-citizens are entitled to a lower old-age pension than citizens. In Estonia, they are officially referred to as "persons with undetermined citizenship". Latvia granted them a special "non-citizen" status, along with special passports allowing them to travel abroad and benefit from its diplomatic protection; it considers that they have a status which is different from that of stateless persons. Despite the interventions of various international bodies,[82] the situation still remains unresolved.[83] According to the UNHCR, in 2012, Latvia and Estonia had the highest numbers of stateless people in Europe.[84] Although statelessness in the

---

70. "The honouring of obligations and commitments by Georgia", report by Mr Kastriot Islami (Albania, SOC) and Mr Michael Aastrup Jensen (Denmark, ALDE), Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), Doc. 12554, 28 March 2011.
71. Georgia in Transition. Report on the human rights dimension: background, steps taken and remaining challenges. Assessment and recommendations by Thomas Hammarberg in his capacity as EU Special Adviser on Constitutional and Legal Reform and Human Rights in Georgia, September 2013.
72. Ibid., paragraphs 15-17. See also A. Ayşegül Aydingün and others, Meshketian Turks. An Introduction to their History, Culture and Resettlement Experiences, in "Culture Profile" No. 20, September 2006, p. 14.
73. www.mhg.ru/english/1FD0794.
74. Supra note 68.
75. http://worldrelief.org/Document.Doc?id=393.
76. "Minority protection in Europe: best practices and deficiencies in implementation of common standards", Committee on Legal Affairs, Doc. 12109, 20 January 2010.
77. Ibid., paragraphs 91-94. See also Human Rights Watch report of January 1999, "Greece. The Turks of Western Thrace", Vol. 11, No. 1 (D).
78. See also the report of our former committee colleague, Mr Michel Hunault (France, EDG), on "Freedom of religion and other human rights for non-Muslim minorities in Turkey and for the Muslim minority in Thrace (Eastern Greece)", Doc. 11860, 21 April 2009, paragraphs 149-151.
79. See the report of the UN Working Group on the Universal Periodic Review on Greece, 11 July 2011, A/HRC/18/13, paragraph 50; and the report by Thomas Hammarberg, former Commissioner for Human Rights of the Council of Europe, following his visit to Greece on 8-10 December 2008, of 19 February 2009, Section IV.
80. Supra note 57.
81. See the judgment of the European Court of Human Rights in the *Andrejeva v. Latvia* case, op. cit.

Baltic States is gradually decreasing (according to the latest data the number for Latvia was 290 510 in July 2013,[85] and for Estonia 90 014 in June 2013),[86] these numbers are even more appalling when we compare them with the size of the total population of these countries (nearly 2 004 000 in Latvia and nearly 1 340 000 in Estonia). In its last report on Latvia,[87] the European Commission against Racism and Intolerance (ECRI) criticised the difficulties for "non-citizens" to pass the naturalisation tests, including to pay the fees related to them, and the lack of measures to facilitate naturalisation of children born in Latvia after 1991 from "non-citizen parents". While recently adopted amendments to the Latvian Citizenship law somewhat liberalised registration as nationals of children whose both parents have the status of "non-citizens", the law still permits a possibility that, following the parents' refusal to make use of this option, these children may be left without any nationality. Similar provisions still exist in Estonia, where the number of stateless children amounts to nearly 1 200. During his March 2013 visit, the Council of Europe Commissioner for Human Rights, Mr Nils Muižnieks, called on the Estonian authorities to grant citizenship at birth to children who would otherwise be stateless.[88]

4.2.5. Stateless persons in the western Balkans

30. Following the collapse of the former Yugoslavia in the 1990s, many people were displaced and became stateless due to the failure to register as nationals in the successor State, although the successor States avoided large-scale statelessness through the application of the principle of continuity of former republican citizenship and by facilitating access to nationality during a transitional period to former Yugoslav citizens who had permanent residence in the State for a prescribed period of time. According to the UNHCR, there are over 20 000 stateless people or of undetermined nationality in this region – mainly members of the Roma, Ashkali and Egyptian minorities.[89]

31. As stressed at the November 2012 hearing by Ms Kostic, the most vulnerable and socially marginalised minority groups were not able to benefit from the facilitated procedures to obtain citizenship, as they were not able to prove their former republican nationality and/or their permanent residence in the State. Some of them missed the deadline to apply for nationality through a facilitated procedure, not being aware of that opportunity, while others experienced serious difficulties with reconstructing their personal records due to destroyed and missing registers. Moreover, without valid personal records regarding their birth and nationality, registered residence and identification documents, they are not able to register the birth of their own children. In Serbia, although it is now possible, following legislative amendments in 2012, to initiate a court procedure for the determination of the date and place of birth of persons who are not registered in the birth registry, the Ministry of the Interior, which is competent for nationality matters, is not bound by such court decisions.[90]

4.2.6. The "erased" in Slovenia

32. The problem of the "erased" (*izbrisani*), that is aliens or stateless persons illegally residing in Slovenia, was dealt with by the European Court of Human Rights in the case of *Kuric and others v. Slovenia.* Although the judgment concerns only a few applicants, it reveals a structural problem affecting many residents of Slovenia. According to the official data from 2002 cited in the judgment,[91] the number of former citizens of the Socialist Federal Republic of Yugoslavia who lost their permanent residence status in February 1992, after an amendment to the Aliens Act became applicable, amounted to 18 305, of whom nearly 2 400 had been refused citizenship. According to updated information of January 2009, the number of persons removed from

---

82. See, for instance, report by Mr Adrian Severin (Romania, SOC) on «The rights of national minorities in Latvia », Committee on Legal Affairs and Human Rights, Doc. 11094, 8 November 2006, and the comment by former Commissioner for Human Rights Thomas Hammarberg of 2 August 2011, supra note 54.

83. In June 2012, the Secretary General of the Council of Europe, Mr Thorbjørn Jagland, raised this problem during his visit to Latvia. Moreover, in August 2012, the OSCE High Commissioner on National Minorities intervened at the stage of amending the Citizenship Act, calling for citizenship for all children born in Latvia after August 1991, see: www.unhcr.se/en/media/baltic-and-nordic-headlines/2012/september/12-13-september-2012.html.

84. Supra note 57.

85. www.pmlp.gov.lv/lv/assets/documents/statistika/IRD_01_07_2013/ISVP_Latvija_pec_VPD.pdf.

86. http://estonia.eu/about-estonia/society/citizenship.html.

87. See also ECRI, Fourth report on Latvia, 21 February 2012, CRI (2012)3, paragraphs 120-132.

88. See Commissioner's press release "Estonia should eliminate child statelessness" and the report following his visit to Estonia from 25 and 27 March 2013, CommDH(2013)12, both published on 20 June 2013. www.coe.int/t/commissioner/News/2013/130327Estonia-all-children-should-be-citizens_en.asp.

89. Concerning the situation in Serbia, see also ECRI, Second Report on Serbia of 31 May 2011, CRI (2011)21, paragraphs 90-104.

90. The Serbian nationality law at first sight suggests that statelessness is not a problem in this country; supra note 52, p. 107.

91. Supra note 33, paragraph 32.

the Register amounted to 25 671, of whom 7 899 had subsequently acquired Slovenian citizenship and a further 3 630 a residence permit. However, at the same time, 13 426 "erased" persons did not have any regulated status in Slovenia.[92] Further concerns about the lack of visible progress in the re-inclusion into Slovenian society of the "erased" persons have been expressed by the Commissioner for Human Rights, Mr Nils Muižnieks.[93] The Committee of Ministers is now supervising the implementation of the *Kuric and others* judgment and has recently noted that the Slovenian Parliament is examining a special law setting up a compensation scheme for the "erased".[94]

4.3. The role of UNHCR

33. Since 1974, the mandate entrusted to the Office of the United Nations High Commissioner for Refugees by the United Nations General Assembly has evolved to where it is today: a global mandate relating to the identification, prevention and reduction of statelessness and the protection of stateless people. Combating statelessness is indispensable to ensure the rule of law, since it often arises from discrimination and arbitrary laws and practices. Considering the relatively low number of accessions to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, the UNCHR has used the 50th anniversary of the 1961 Convention in August 2011 to launch a special campaign urging States to accede to these conventions.[95] In Europe, the campaign has resulted in the accession to one or both conventions by Lithuania, Ukraine, Portugal, the Republic of Moldova, Bulgaria and Georgia.

4.4. Measures to avoid statelessness

34. Stateless people remain in legal limbo – they cannot enjoy full equality with citizens in any country, may be subject to arbitrary and prolonged detention and face additional difficulties in enjoying basic human rights such as access to health care and education, and are deprived of political rights. The need to avoid statelessness seems to be generally recognised. This is reflected in national legislations by an extended application of *ius soli* or by less restrictive provisions on the requirement to renounce the nationality of origin in case of naturalisation, although some of them make exceptions in cases of fraud or other criminal behaviour;[96] Article 7.3 of the ECN allows the deprivation of citizenship in case of fraud committed during the naturalisation procedure. However, as Ms Sturkenboom from the UNHCR stressed at the November 2012 hearing, safeguards for children born in the territory of a State who are otherwise stateless are still lacking in some European countries (for instance Malta, Norway and Romania) or do not cover all situations where a child is born stateless in the territory of a State (for instance Armenia, Croatia, Lithuania and Slovenia). The UNHCR is helping States to introduce formal statelessness determination procedures in line with its guidelines.[97] Such procedures existed already in France, Hungary and Spain and have recently been established, in particular, in Georgia, the Republic of Moldova and the United Kingdom.[98]

35. According to a EUDO CITIZENSHIP study,[99] much progress has been achieved in the last few decades, by granting political priority to measures to fight statelessness. Concerning the safeguards against statelessness, there is "significant variation in the extents to which States comply with international standards in their nationality legislation".[100] Violations of these standards are often due to the fact the States do not carefully interpret their nationality laws.[101] I agree with our expert Professor Galicki that the issue of statelessness in Europe should be solved through political action rather than legal changes at international level, since a legal basis has already been established.

---

92. Ibid., paragraph 69.
93. Press release of 29 January 2013, CommDH002(2013), "Slovenia: The human rights violations suffered by the 'erased' still not fully redressed".
94. Committee of Ministers, 1179th DH meeting (24-26 September 2013).
95. www.unhcr.org/4e5cec7b9.html.
96. M. P. Vink and G. R. de Groot, "Citizenship Attribution in Western Europe: International Framework and Domestic Trends", *Journal of Ethnic and Migration Studies*, Vol. 36, No. 5, May 2010, pp. 728 and 731. The term "Western Europe" covers here the 15 "old" European Union member States, Iceland, Norway and Switzerland.
97. Guidelines on Statelessness No.2: Procedures for Determining whether an individual is a Stateless Person, 5 April 2012, HCR/GS/12/02, and Guidelines on Statelessness No. 3: The Status of Stateless Persons at the National Level, 17 July 2012, HCR/GS/12/03.
98. For more information concerning trends in 36 European States, supra note 52.
99. Ibid., p. 105.
100. Ibid.
101. Ibid. For a detailed assessment of national law in light of international standards, see Table 18 included therein. According to this table, only four States (out of 36) comply with all standards: Republic of Moldova, Montenegro, Serbia and Slovak Republic.

5. Multiple nationality

36. Multiple nationality, namely simultaneous possession of two or more nationalities by the same person,[102] can arise automatically at birth, when the child acquires a different nationality from each parent by the application of *ius sanguinis* (on the side of the parents' countries) or when *ius sanguinis* and *ius soli* (on the side of the country of birth) apply simultaneously. Later in life, multiple nationalities may arise where a person acquires a nationality by naturalisation without simultaneously giving up his or her existing nationality.[103] In order to avoid conflicting obligations especially in the area of diplomatic protection or military service, States have concluded bilateral or multilateral agreements, but these specific problems have not been solved universally.[104] In practice, States treat persons having several nationalities as their own citizens; such a person cannot therefore refuse to meet his or her obligations vis-à-vis the State of his or her nationality by invoking his or her obligations vis-à-vis another State whose nationality he or she also holds.

37. The Council of Europe's 1963 Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality (ETS No. 43, hereinafter "the 1963 Convention")[105] and the 1997 European Convention on Nationality deal with the issue of multiple nationality. The 1963 Convention aims to reduce as far as possible the number of cases of multiple nationalities and stipulates that the loss of a former nationality is automatic in case of the acquisition of a new nationality by an adult.[106] So far it has been ratified by 13 member States, but six of them have denounced it either entirely (Germany and Switzerland) or partially (Chapter 1 – Belgium, France, Italy and Luxembourg). Moreover, the 1993 second protocol amending this convention added three new situations in which persons can be allowed to retain their nationality of origin: second-generation migrants, spouses of different nationalities and children whose parents have different nationalities.[107] Despite the importance of these amendments, which were aimed at reflecting the evolution of society, only France, Italy and the Netherlands have signed and ratified the second protocol. France, however, denounced it in 2009.

38. Although the 1963 Convention was initially aimed at preventing multiple nationality, the ECN seems to be much less restrictive in this respect.[108] It accepts, in principle, multiple nationality in the case of children who acquired it at birth and in case of a spouse acquiring a second nationality by marriage (Article 14). It also allows a State Party to determine in its internal law whether its nationals who acquire the nationality of another State retain or lose their nationality and whether the acquisition or retention of a State's nationality shall be subjected to the renunciation or loss of another nationality (Article 15). The ECN neither modifies nor is incompatible with the 1963 Convention and the two conventions can co-exist (see in particular Article 26 of the ECN).[109] However, their effects may be different according to the domestic law of the State concerned. This concerns especially multiple nationality – a State, whose internal law allows it in cases other than those mentioned in Article 14 of the ECN and the 1963 Convention, might not wish to be bound by Chapter 1 of the latter (concerning reduction of cases of multiple nationality) but could accept the ECN.[110]

---

102. See, for instance, the definitions included in Article 2.*b* of the European Convention on Nationality.
103. This may be by choice, in order to maintain legal and emotional bonds with the country of origin and to be able to pass the nationality of origin on to future children, or because the country of origin does not allow its nationals to give up its nationality.
104. See, for instance, O. Vonk, Dual Nationality in the European Union, European University Institute, Department of Law, 2010, pp. 50-58. This author is of opinion that issues that may, in theory, pose legal problems in case of multiple nationality – such as loyalty, voting rights, diplomatic protection, military service and personal status – are not that problematic and that the difficulties related thereto may sometimes be overcome through inter-State co-operation.
105. See also Agreement on the interpretation of Article 12; Protocol amending this convention, opened for signature in Strasbourg on 24 November 1977, ETS No. 95, ratified by eight member States (but Sweden denounced it later); Additional Protocol to this convention, opened for signature in Strasbourg on 24 November 1977, ETS No. 96, ratified by four member States and signed by two others.
106. Article 1, section 1.
107. Second Protocol amending the Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality, opened for signature on 2 March 1995, ETS No. 149. According to Article 1 of the Second Protocol to the 1963 Convention, migrants' children should be able to acquire nationality of the country of their birth (and residence) without losing their original nationality. The same applies to minors who have been "ordinarily residents" in the host country before the age of 18. A spouse may also acquire the nationality of the other spouse and retain his or her own nationality.
108. See, in particular, its Preamble, in which it is noted that "each State is free to decide which consequences it attaches in its internal law to the fact that a national acquires or possesses another nationality".
109. See paragraphs 12 and 138 of the Explanatory Report to the European Convention on Nationality, supra note 5.
110. Ibid., paragraph 139.

39. Research has shown a global and European trend of allowing multiple nationality in nationality legislation.[111] This trend has also been confirmed by denunciation of the 1963 Convention by many States Parties. Only two countries (Denmark and Norway) are bound by it without exceptions. A study conducted at the beginning of 2012 shows that in 21 States out of 31 (the European Economic Area (EEA) plus Switzerland), voluntary acquisition of another nationality does not entail an automatic loss of the nationality of origin.[112] The same trend was observed in non-EEA European States and worldwide, with respectively 22 and 127 States accepting voluntary acquisition of another nationality without loss of the other nationality. As stressed by our experts at the November 2012 hearing, this trend has the positive effect of limiting statelessness.[113]

6. Acquisition of nationality by migrants and their descendants: naturalisation and application of ius soli

40. Naturalisation is "the most debated and densely regulated form of access to citizenship" and can be defined as "any acquisition after birth of a citizenship not previously held by the person concerned that requires application to public authorities and a decision by these".[114] One can distinguish between ordinary naturalisation and special naturalisation procedures. As regards ordinary naturalisation, the main criteria used by States are: renunciation of the original nationality (which is, however, less often required in most western European countries),[115] civic knowledge, economic resources, residence and language conditions, as well as a clean criminal record. Special naturalisation procedures apply mainly in case of recovery of previous citizenship, transfer of nationality between spouses, refugees and stateless persons.[116]

41. According to Article 6.3 of the ECN, States Parties shall provide in their internal law for the possibility of naturalisation of persons "lawfully and habitually" resident on their territory. The required period of residence shall not exceed 10 years before the lodging of an application. According to Article 6.4, a State Party shall facilitate the acquisition of its nationality by some categories of persons, *inter alia* spouses of its nationals, children of one of its nationals, "persons who were born on its territory and reside there lawfully and habitually" and those who resided there for some period of time before the age of 18, stateless persons and refugees "lawfully and habitually resident on its territory". Naturalisation procedures and other procedures related to nationality matters shall be conducted according to the rules established in Articles 10 to 13 of the ECN: decisions should contain reasons in writing (Article 11), there should be a right to a review (Article 12) and fees shall be "reasonable" (Article 13).

42. According to EUDO CITIZENSHIP, which conducted research in 33 European countries (all European Union member States, Iceland, the Republic of Moldova, Norway, Switzerland and Turkey), the following trends can be observed as regards naturalisation procedures in these countries:[117]

– residence conditions vary between three years (Belgium) and 12 years (Switzerland, which has not signed the ECN), although most often this requirement amounts to five years. The 10-year condition in a few countries in southern and eastern Europe may be excessive.[118] Many countries require applicants for citizenship to fulfil additional conditions, such as the requirement of uninterrupted residence or by counting only years with a permanent residence permit;

---

111. See, for instance, M.P. Vink and R.-G. de Groot, supra note 96, p. 731.
112. Supra note 52, see in particular Table 1. See also M.P. Vink and de Groot, supra note 96, p. 721. As noted by these authors, western European citizens are also increasingly less often faced with the loss of citizenship of origin due to voluntary acquisition of another nationality or continuous residence abroad.
113. See also "Variation in dual citizenship policies in the countries of the EU", Marc Morjé Howard, *International Migration Review* Volume 39 Number 3 (Fall 2005); Dual citizenship: Policy trends and political participation in EU member States, European Parliament, Directorate General Internal Policies of the Union, April 2008; Joachim K. Blatter, Stefanie Erdmann and Katja Schwanke, Acceptance of Dual Citizenship: Empirical Data and Political Contexts, University of Lucerne, February 2009.
114. EUDO CITIZENSHIP Policy Brief No. 2, Naturalisation, R. Bauböck and S. Wallace Goodman, October 2010.
115. M.P. Vink and G.R. de Groot, supra note 96, p. 721.
116. Other cases are: cultural affinity, socialisation, citizens of certain countries. Few countries facilitate naturalisation for stateless persons – mainly Belgium and the Netherlands; R. Bauböck and K. Jeffers, Legal obstacles and opportunities for access to citizenship.
117. Supra note 114, p. 1.
118. Supra note 116. See also Access to citizenship and its impact of immigrants integration. European summary and standards, August 2013.

– 15 States out of 33 still require renunciation of a previously held citizenship (for instance, Bulgaria and the three Baltic States – however, recent amendments to the Latvian legislation allow a previous nationality to be retained provided that it is a nationality of a European Union or NATO member State, Australia, New Zealand or Brazil). Some of these States do not enforce this rule in practice (like Spain) or make many exceptions (for instance, Germany or the Netherlands);

– there is a trend towards introducing formal tests of language skills and civic knowledge (in 18 States in October 2010): the number of countries testing the applicant's language skills and knowledge of the country's history, constitution, public values and social customs has increased since 2000.[119] Interestingly, there has been very little research on the efficiency of such tests, which might be considered, on one hand, as incentives for acquiring language and civic skills, and, on the other hand, as deterrents from applying for naturalisation, as, *inter alia*, they often imply additional costs[120] or, depending on the level of their difficulty, might be aimed at or having the effect of slowing down the naturalisation of some minority groups (like ethnic Russians in Latvia or Estonia);[121]

– naturalisation is still considered as a discretionary decision of public authorities (only five States out of 33 – Croatia, Germany, the Netherlands, Portugal and Spain – define it as a legal entitlement, if all conditions are met);

– many States (16 out of 33) offer facilitated naturalisation not only to close relatives of citizens, but also to persons who are perceived as ethnically or linguistically related to the majority of the population (for example, Denmark for South Schleswig Danes or Hungary for members of Hungarian minorities in neighbouring countries).[122] Some of them also give priority access to citizenship for citizens from countries with which they are linked by a political union (like the Nordic countries on the basis of the Agreement on the Implementation of Certain Provisions Concerning Nationality; however, the number of European Union member States facilitating naturalisation for citizens of other European Union member States is small – these are Austria, Greece and Italy).[123]

43. According to the latest EUDO CITIZENSHIP data, several countries still do little to facilitate the naturalisation of spouses of citizens (for instance, certain central European States, Denmark, Finland, Greece or Luxembourg). Furthermore, as regards general conditions for naturalisation, nearly half of them make naturalisation conditional on having a job or regular income (Austria, Denmark, France, Germany, Hungary, Italy and Switzerland).[124]

44. As noted by the EUDO CITIZENSHIP study, the rule of law in naturalisation procedures needs to be strengthened, as some States do not foresee written justification for negative decisions (Belgium, Bulgaria, Cyprus, Denmark, Iceland, Malta and Poland), while others do not provide avenues for appealing against such decisions (for instance Croatia, Hungary and the United Kingdom).[125] The procedure itself is often costly for applicants, who may have to pay fees for processing applications (such fees are extremely high in Austria, Greece and Switzerland), languages courses, and official translations of documents.[126]

45. Depending on the State, naturalisation is handled by various bodies – very often it is a specialised administrative body, but in some States, central State authorities, including the government as a whole (Estonia, Latvia and Turkey), the Head of State (Bulgaria, Hungary, Italy, Lithuania and the Republic of Moldova) or even parliament (Belgium and Denmark) are involved in the decision-making process. This demonstrates that naturalisation is still perceived "as an exceptional privilege granted only if it is in the general interest of the state".[127] Public ceremonies with newly naturalised citizens are meant to highlight the value of the newly acquired citizenship.[128]

46. According to EUDO CITIZENSHIP experts,[129] the *ius sanguinis* principle is still prevailing in most European countries. There is a strong variation in inclusiveness of citizenship laws in Europe, especially with regard to *ius soli* for 2nd and 3rd generations of immigrants and conditions for ordinary naturalisation. There is

119. For more details, see, for instance, M.P. Vink and de Groot, supra note 96, pp. 725-727.
120. Supra note 114, p. 8.
121. Ibid., pp. 4-5.
122. Ibid., p. 7.
123. Ibid.
124. Supra note 116.
125. Supra note 114, p. 8.
126. Ibid.
127. Ibid.
128. Ibid., p. 10. The United Kingdom was the first European country to introduce such a ceremony in 2002, see M.P. Vink and G.-R. de Groot, supra note 96, p. 726.

no common model for making citizenship accessible to second-generation immigrants in western Europe: while some countries[130] like Belgium and Germany have introduced *ius soli* provisions at birth for the second generation, in the case of Germany combined with a requirement to make a definitive choice upon reaching the age of majority; others have only introduced provisions for the attribution of nationality based on the *ius soli* principle after birth, usually from the age of 18. With regard to the descent-based transmission of nationality, one can notice a trend towards the equal treatment of men and women.[131]

47. Committee of Ministers Recommendation CM/Rec(2009)13 on the nationality of children contains a Principle 17 on access to nationality of children born on the territory of a State to a foreign parent. According to this principle, member States of the Council of Europe should facilitate the acquisition of nationality by such children, before the age of majority, if their parent was lawfully and habitually residing there. Enhanced facilitation should be offered if that parent was also born on their territory.

7. Possible discrimination on the grounds of the way in which nationality has been acquired and in granting nationality

48. According to Article 5.*d*.iii of the 1965 United Nations Convention on the Elimination of All Forms of Racial Discrimination,[132] States should guarantee "the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law" in the enjoyment of the right to a nationality.

49. Similarly, Article 5 of the ECN provides that States' rules on nationality "shall not contain distinctions or include any practice which amount to discrimination on the grounds of sex, religion, race, colour or national or ethnic origin" (paragraph 1) and that States Parties "shall be guided by the principle of non-discrimination between its nationals, whether they are nationals by birth or have acquired its nationality subsequently" (paragraph 2). As stressed by the OSCE High Commissioner on National Minorities, "multiple citizenships, per se, should not be considered an obstacle to integration"[133] and States should not discriminate against persons with dual citizenship[134] If there might be a conflict of loyalties, especially in case of taking up high political positions, States can legitimately ask to relinquish other citizenship(s).[135]

50. Conferring nationality on the basis of different criteria depending on the characteristics of the individual concerned or on those of the group to which he or she belongs might also amount to discrimination. It is worth recalling in this context the "Ljubljana Guidelines on Integration of Diverse Societies" (the "Ljubljana Guidelines") of the OSCE High Commissioner on National Minorities of 7 November 2012, based on the experience of the HCNM and the advice of internationally recognised experts.[136] The Ljubljana Guidelines stress that whilst States have a wide margin of appreciation in granting citizenship, this discretion is subject to some limitations. The conferral of citizenship should be based on the "genuine link" criterion and should neither violate the principles of sovereignty and friendly, including good neighbourly, relations nor amount to discrimination.[137] Discrimination includes any "differential treatment that directly or indirectly excludes specific groups from access to citizenship due to their characteristics and does not pursue a legitimate aim or is not proportional to such an aim";[138] it should be distinguished from "justified distinctions" (such as a language requirement for naturalisation or facilitated acquisition of citizenship due to descent or place of birth) or "preferential treatment" in conferring citizenship by so-called "kin-States".[139] However, as stressed by the HCNM in the Bolzano Recommendations, granting citizenship to persons living abroad on preferred linguistic competencies, cultural, historical or familial ties, can be a highly sensitive issue, especially when it is done *en masse.*[140] It can also lead to differential treatment for these persons as compared with other residents who may be denied access to citizenship.[141]

---

129. Supra note 116.
130. Supra note 96, p. 730.
131. Ibid., p. 731.
132. Ibid.
133. "Ljubljana Guidelines on Integration of Diverse Societies", supra note 30, paragraph 37, p. 44.
134. The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations and Explanatory Note, OSCE HCNM, June 2008, p. 21.
135. Ibid., p. 20.
136. Supra note 30.
137. Ibid., p. 41.
138. CERD, General Comment No 11 on discrimination on the ground of citizenship, 1993, and CERD Geneva; Comment No 30 on discrimination against non-citizens, 2004.
139. Supra note 30, pp. 41 and 43.
140. Supra note 134, p. 19.
141. Ibid.

8. Final remarks and proposals

8.1. Statelessness

51. The prevention and elimination of statelessness is crucial for the strengthening of the concept of the right to a nationality as a human right. Very often, and especially in the case of recently emerged States in Europe, this problem should be treated jointly with the issue of State succession. In such a case, statelessness occurs mainly due to the failure to include all residents in the body of citizens when a State becomes independent, and not only because of discrimination or conflict of laws.[142]

52. All States should foresee statelessness determination procedures. In some States (like in the western Balkans), it is particularly important to amend the administrative birth registration procedures in order to ensure that all children are registered immediately upon birth, regardless of the status of their parents, and to raise awareness about the importance of birth registration among socially vulnerable groups. Moreover, a person who has not been registered in the birth registry should be able to initiate an administrative or court procedure "for proving the fact and place of birth" for the purpose of a subsequent registration of birth; a court decision on the date and place of birth should be binding on the administration. States with a high number of stateless people, people of undetermined nationality or people at risk of statelessness due to lack of civil registration should make efforts to reconstitute destroyed civil registries and to ensure the registration and documentation of these populations. Stateless persons should be granted effective access to justice, including with free legal aid.

53. Safeguards against statelessness should be provided in case of a change of nationality, as withdrawal of nationality may lead to statelessness. Involuntary loss of nationality should be avoided. I agree with Professor de Groot that in case of multiple nationality some of the controversial issues touching upon the interest of the State, like multiple voting rights, may be regulated through co-ordination between the States in question (as is the case with multiple military obligations). Naturalisation of stateless persons should be facilitated through, for example, waiving language proficiency requirements and reducing the number of years of lawful residence required for applying for naturalisation.

54. Children born in the territory of a State, who do not acquire at birth another nationality, should be granted citizenship in line with international legal instruments, including the 1961 Convention, the ECN and Recommendation CM/Rec(2009)13. But I agree with our experts that the ECN is not perfect in this respect. Although it requires granting nationality to such children, it also accepts the condition of "lawful and habitual residence" for a period not exceeding five years in case the State does not provide for the acquisition of nationality at birth *ex lege* and an application has to be lodged on behalf of the child with the appropriate authority (Article 6.2.*b*). The cases of Estonia and Latvia, as explained above, show that the procedure for granting nationality to stateless children upon application does not necessarily lead to the prevention of statelessness and, thus, granting nationality at birth *ex lege* appears to be the only effective tool to achieve this goal. Moreover, as noted by Ms Sturkenboom at the November 2012 hearing, the requirement of "lawful residence" is not in line with the 1961 Convention.[143] In countries that impose a lawful or permanent residence requirement, children in an irregular migration situation remain stateless, even if they have resided habitually in the country where they were born for an extended period of time and have no relevant link to any other country. The parents' wish not to register their children, who are otherwise stateless, as citizens of the State of birth could be respected only if they provide proof that the children will immediately obtain nationality of another State, since under no circumstances can an option of remaining stateless be in the best interest of the child.

55. In this context, we as parliamentarians have a key role to play, by persuading our fellow parliamentarians to adopt laws in line with the above-mentioned principles, and holding our governments accountable for implementing them. Therefore, I call on national parliaments to adopt legislation that would allow acquisition of citizenship by stateless persons without undue obstacles and that would prevent children from being stateless at birth. But it is not enough to have good laws in line with international standards; what is important is to implement them so as to guarantee genuine protection against statelessness. I also invite all national authorities to define and implement policies that would address the lack of civil registration and/or documentation or any other circumstances which may contribute to statelessness, by removing obstacles.

---

142. Supra note 52, p. 107.

143. States may stipulate that an individual who would otherwise be stateless, born on its territory, fulfils a period of "habitual residence" in the territory of the State of birth in order to acquire that State's nationality, see Article 1.2.*b* of the 1961 Convention.

8.2. Long-term migrants' access to citizenship

56. As stressed by the HCNM in his Ljubljana Guidelines, "an inclusive and non-discriminatory citizenship policy is an important aspect of integration policy" and access to nationality is an "essential element of integration".[144] The trend towards excluding long-term immigrants from access to the nationality of the country of residence hinders their full integration in that country. In particular, it prevents them from enjoying full political rights, as they depend traditionally on nationality. It also generates discrimination in different walks of life. Long- term immigrants may often feel treated as second-class individuals. The situation of their children is even more worrying: they may become stateless (in cases where they acquire neither the nationality of their parents nor that of their country of birth) or face disadvantages in the country of their birth and residence because they only have the nationality of their parents' country, with which they may not have any genuine link. Sometimes, the only reason why children have not acquired the nationality of the country where they were born and where they live is their parents' omission to fulfil the complex requirements of applying for citizenship within the prescribed deadline. In view of the increasing numbers of immigrants in recent decades, this is worrying.

57. Multiple nationality is becoming an undeniable fact in many European societies, due to increasing movement of persons across borders, intra-family diversity across generations and States' efforts to retain legal ties with emigrant populations abroad. Therefore, I consider that for long-term immigrants and their descendants one should not impede their access to the nationality of the host country, at least in cases in which relinquishing the nationality of origin is not feasible, which is also reflected in Article 16 of the 1997 European Convention on Nationality concerning the conservation of previous nationality.[145] Granting citizenship to long-terms residents without requiring the renunciation of a previous nationality may only encourage their integration with the country of their residence. As regards naturalisation procedures, States (at least those which adhered to the ECN) should implement the principles stemming from the ECN: the period of residence required for naturalisation should under no circumstances exceed ten years, and desirably five years. The procedural requirements should be observed and there should be no discrimination of naturalised citizens. Rules on nationality matters should not contain distinctions leading to discrimination.

8.3. Towards a new convention?

58. Taking into account the current tendencies concerning naturalisation of migrants, the acceptance of multiple nationality, the number of existing international legal instruments and the low number of ratifications of the main ones, such as the ECN, one could wonder whether a new convention is needed. One could also argue that the ECN could be enhanced, for example by defining the criterion of "legal and habitual residence" or dealing specifically with the nationality of children born out of wedlock abroad.[146]

59. According to Professor de Groot, a new comprehensive convention on nationality matters or a protocol to the ECN based on Recommendation CM/Rec(2009)13 would be desirable, but its elaboration could entail some risks, as some of the existing *acquis* could be called into question in the negotiation process. Moreover, such a new convention/protocol could meet the same ratification problems as the ECN. Thus, I tend to agree with Professor Galicki that the existing legal framework is sufficient, but its implementation should be enhanced.

8.4. A new expert body?

60. The ECN and the 2006 Convention on the Avoidance of Statelessness in relation to State Succession were drafted by the Committee of Experts on Nationality, which was established in 1995 and suddenly ended its activities in 2005, having finalised its work on the latter convention. Subsequently, there was an attempt to continue its activities in the form of the Group of Specialists on Nationality (CJ-S-NA), which after three meetings in 2008 ceased its activities in 2009 with the adoption of its final report.[147] The latter contained a recommendation to the CDCJ to reinstate as soon as possible the Committee of Experts on Nationality, composed of representatives of all member States and mandated, *inter alia,* with:

– regularly reviewing and promoting adherence to the Council of Europe conventions and other instruments in the field of nationality;

144. Supra note 30, paragraph 32, p. 40.
145. "A State Party shall not make the renunciation or loss of another nationality a condition for the acquisition or retention of its nationality where such renunciation or loss is not possible or cannot reasonably be required."
146. See, in particular, Nationality of the Child – Feasibility study, CDCJ-BU, prepared by Z. Galicki, CDCJ-BU(2006)29, Strasbourg, 12 December 2006.
147. Final Report of the Group of Specialists on Nationality, CJ-S-NAT(2008)24.

– examining issues of relevance in the field of nationality where future Council of Europe work – not limited to standard-setting –, if necessary;

– proposing and undertaking relevant activities in the field of nationality, also in co-operation with partner institutions;

– preparing, promoting and following up of the European Conferences on Nationality.

61. Although a (fourth) European Conference on Nationality took place in December 2010, the above recommendation to reactivate the Committee of Experts on Nationality has never been put into practice. I am of the opinion that in view of the importance of nationality matters in contemporary societies due to international mobility and the scale of statelessness in Europe, the reactivation of that committee would be very useful, as such a body could regularly follow the implementation of the ECN and other conventions on nationality, promote adherence to these instruments and propose new standards, if need be.

62. As rightly pointed out by an expert, for the last 15 years, the Council of Europe "mostly dealt with the development of legal standards, while other areas, with the exception of promotion of accession to the European Convention on Nationality and to the Convention on the Avoidance of Statelessness in relation to State Succession, have not been explored and developed".[148] It would therefore be useful to explore other legal issues related to the increase of cases of multiple nationality, such as the acquisition of nationality at birth, by naturalisation or recovery.[149] Especially in the context of naturalisation, one could carry out further reflection work on the concepts of "residence"[150] for naturalisation or recovery or, more precisely, of the "habitual residence" of the parents of a child born on the territory of a State, if the acquisition of nationality is acquired by *ius soli*[151] (see Recommendation CM/Rec(2009)13). A 2012 expert study proposed that such issues (including how to qualify discontinuity of residence or how to prove actual presence) be elaborated in a new recommendation of the Committee of Ministers.[152]

8.5. Conclusion

63. Although for a long time the question of granting nationality has been seen as the prerogative of States, nowadays nationality is increasingly seen as a human rights issue. These two tendencies have to be harmonised. There is a now a compromise that the right to a nationality is an individual right, but the conditions for granting it are established by States. However, three key principles should be observed by States: i) everyone has the right to a nationality; ii) statelessness shall be avoided; and iii) no one shall be arbitrarily deprived of their nationality.

64. The ECN and the 2006 Convention on the Avoidance of Statelessness in Relation to State Succession contain some core provisions, the implementation of which is of utmost importance for the effective enjoyment of the right to nationality in the Council of Europe area. These are:

i. the principle of non-discrimination, in law and practice;

ii. the special protection that must be provided by States to children born on their territories and who do not acquire another nationality at birth;

iii. restrictive conditions under which individuals may lose their nationality *ex lege*;

iv. the duty of States to provide written reasons for their nationality-related decisions.[153]

65. However, practice shows (and, in particular, the above-mentioned research conducted in European Union and EFTA countries) that the implementation of these norms encounters obstacles in many Council of Europe member States. Moreover, the ECN and other Council of Europe instruments on nationality matters have only been ratified by a minority of its member States and the United Nations 1954 and 1961 Conventions aimed at preventing statelessness are still missing ratifications from some Council of Europe member States.

---

148. Study for the Feasibility of a Legal Instrument in the Field of Nationality Law and Families (including the promotion of acquisition of citizenship), report prepared by A. Prvinšek Persoglio and the International Center for Migration Policy Development, CDCJ (2012) 11 Fin, Strasbourg, 11 February 2012, p. 78.
149. Ibid.
150. See also the conclusions of the 4th Council of Europe Conference on Nationality, "Concepts of nationality in a globalized world", Strasbourg, 17 December 2008.
151. Supra note 147, p. 79.
152. Ibid.
153. Supra note 24, p. 330.

66. Thus, more emphasis should be placed on the need to ratify and implement these instruments to ensure that the "right to have rights" is guaranteed in the whole Council of Europe area. The ECN should be ratified by all member States and implemented, because it is the principal document capable of filling the lacuna stemming from the absence of the right to a nationality in the European Convention on Human Rights. As mentioned above, the ECN is neutral towards multiple nationality and its ratification would not automatically entail full acceptance of this phenomenon. Neither would it give unlimited access to nationality to long-term immigrants, as it allows member States to naturalise them after a maximum period of 10 years of "lawful and habitual" residence and States still have a wide margin of appreciation in implementing this criterion in practice.

67. Nationality matters have always stood at the centre of interest of the Council of Europe. They were even placed on the list of its priorities during the 2005 Summit of Heads of the State and Government in Warsaw.[154] Therefore, work on nationality issues should be resumed, possibly through an expert body which could promote accession to the ECN and reflect on further ways to improve it.

68. Avoiding statelessness in general, and granting access to nationality for long-term legal residents, is certainly a political issue as well as a legal one, since both issues fall within the competence of States. The scale of immigration in many (western) European countries has led to an instrumentalisation of citizenship attribution as a part of integration policies and the importance of citizenship as an identity status has increased in the last few years.[155] States have to find ways to use naturalisation as an integration measure in a non-discriminatory manner in order to improve the integration of large groups of non-citizen long-term residents. When such groups are stateless, legally or *de facto*, their long-term presence "runs counter to the integration of society and potentially poses risks to cohesion and social stability".[156]

69. Without political will, progress is impossible. Thus, these problems should be given higher priority and further action should be taken at the governmental level, by ombudspersons, national human rights institutions and civil society. Moreover, governments should step up co-operation with international expert bodies in order to provide a framework to resolve problems concerning nationality matters and also improve inter-State exchange of information on nationality matters.

---

154. "Nationality laws in all its aspects, including the promotion of acquisition of citizenship, as well as family law are focus points of the Council of Europe. The Council of Europe, as the suitable international organisation, will continue to develop its action in these fields of law", Ministers' Deputies CM Documents, CM(2005)80 final, 17 May 2005, Action Plan.
155. Supra note 96, p. 714.
156. Ibid., p. 43.