



**Doc. 13438**

04 March 2014

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

### Committee Opinion<sup>1</sup>

Committee on Migration, Refugees and Displaced Persons

Rapporteur: Mr Rafael HUSEYNOV, Azerbaijan, Alliance of Liberals and Democrats for Europe

### A. Conclusions of the committee

1. The Committee on Migration, Refugees and Displaced Persons welcomes the report by the rapporteur of the Committee on Legal Affairs and Human Rights, Mr Boriss Cilevičs, which highlights the limited number (20) of ratifications of the European Convention on Nationality (ETS No. 166).
2. The committee emphasises the importance of access to naturalisation procedures, and the need for these to be fair and cover common minimal standards across member States.
3. Furthermore, attention should be paid to children, with respect to member States' obligations to prevent and avoid statelessness.
4. In addition, increased mobility also means that people are living ever more transnational lives. Thus, neither partner should be prevented from having full access to their rights as a result of not being able to acquire the nationality of their partner and children of parents with different nationalities should be eligible to access both nationalities.
5. While fully supporting the draft resolution tabled by the Committee on Legal Affairs and Human Rights, the Committee on Migration, Refugees and Displaced Persons proposes several amendments.

### B. Proposed amendments

#### *Amendment A (to the draft resolution)*

In the draft resolution, paragraph 5.2.5, after the words “newborn babies”, add the words “, irrespective of their immigration status,”.

Explanatory note: This is to highlight the particular risk of statelessness linked to immigration status.

#### *Amendment B (to the draft resolution)*

In the draft resolution, paragraph 6, replace the word “aliens” with “migrants”.

Explanatory note: This is to reflect the common terminology of the Assembly on this issue.

---

1. Reference to committee: Doc. [12696](#), Reference 3805 of 3 October 2011. Reporting committee: Committee on Legal Affairs and Human Rights. See Doc. [13392](#). Opinion approved by the committee on 29 January 2014.



*Amendment C (to the draft resolution)*

In the draft resolution, replace paragraph 7.3 with the following paragraph:

*“not discriminate against their citizens on the grounds of how they acquired their nationality, in order to avoid having different classes of citizens;”*

Explanatory note: This is to clarify the message being put across and does not change it.

*Amendment D (to the draft recommendation)*

In the draft recommendation, at the end of paragraph 2.2, add the following text:

*“; and to examine the current and continuous relevance of the Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality (ETS No. 43) and its Protocols (ETS No. 95, ETS No. 96 and ETS No. 149);”*

Explanatory note: This is to highlight the need to examine the relevance of these treaties.

**C. Explanatory memorandum by Mr Huseynov, rapporteur for opinion**

1. The Committee on Migration, Refugees and Displaced Persons welcomes the report by the rapporteur of the Committee on Legal Affairs and Human Rights, Mr Boriss Cilevičs, which highlights the limited number (20) of ratifications of the European Convention on Nationality.
2. The committee notes the many important issues raised in the report and endorses the importance of the right to nationality as the “right to have rights”, and regrets that the numbers of stateless persons remains high among Council of Europe member States.
3. Migration and access to nationality are closely linked and in some cases migration can be the cause of a person’s statelessness. The committee would like to draw attention to three areas: naturalisation, acquisition of nationality at birth and multiple nationalities.
4. With regards to naturalisation policies, the committee wants to emphasise the importance of access to such procedures, and for these to be fair and cover common minimal standards across member States. With increasing numbers of people living outside their country of nationality, ensuring access to naturalisation helps to avoid the creation of a two-tier society with citizens having more rights than non-citizens. Acquisition of nationality also contributes to migrants’ sense of belonging and encourages greater integration.
5. Particular attention should be paid to children, with respect to member States’ obligations to prevent and avoid statelessness. Universal birth registration helps to reduce the risk of statelessness. Access to birth certificates in the child’s country of birth and nationality, either of the country of birth or country of nationality of the parents, should be possible regardless of the parent’s immigration status, gender or other obstacle in law and in practice. Member States should pay particular attention to any legislation that conflicts with this right, such as public servants’ duty to report irregular migrants.
6. Increased mobility also means that people are living increasingly transnational lives, maintaining strong links with their country of birth and their country of main residence. A consequence of this are mixed marriages, where partners have different nationalities. Neither partner should be prevented from having full access to their rights as a result of not being able to acquire the nationality of their partner. Children of parents with different nationalities should be eligible to access both nationalities.